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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1217

[Doc. No. AMS–SC–25–0023]

Softwood Lumber Board Assessment Rate Clarification and Changes to Membership

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements changes to the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order). The changes include clarifying the assessment rate for softwood lumber imported into the United States and revising the membership of the Softwood Lumber Board (Board or SLB).

DATES: Effective October 22, 2026.

FOR FURTHER INFORMATION CONTACT: Katie Cook, Marketing Specialist, or Alexandra Caryl, Chief, Mid-Atlantic Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; telephone: (202) 720–8085; or email: Katie.Cook@usda.gov or Alexandra.Caryl@usda.gov.

SUPPLEMENTARY INFORMATION: This final rule affecting the Order (7 CFR part 1217) is authorized by the Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411–7425) (Act).

Executive Orders 12866

This action is exempt from the Office of Management and Budget (OMB) review process required by Executive Order 12866. This rule amends an existing research and promotion program and is necessary for the continued operation of the Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order. Additionally, this action is exempt from the requirements of

Executive Order 14192, “Unleashing Prosperity Through Deregulation,” pursuant to section 5(c).

Executive Order 13175

This action was reviewed in accordance with the requirements of Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” which requires agencies to consider whether their rulemaking actions will have Tribal implications. AMS determined this rule is unlikely to have substantial direct effects on one or more Indian Tribes, or the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. Executive Order 12988

This action was reviewed under Executive Order 12988, “Civil Justice Reform.” The Act provides that it shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under section 519 of the 1996 Act (7 U.S.C. 7418), a person subject to an order may file a petition with the Secretary of Agriculture (Secretary) stating the order, any provision of the order, or any obligation imposed in connection with the order, is not established in accordance with the law and requesting a modification of the order or an exemption from the order. Any petition filed challenging the order, any provision of the order, or any obligation imposed in connection with the order, shall be filed within 2 years after the effective date of the order, provision, or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. Thereafter, the Secretary will issue a ruling on the petition. The Act provides the district court of the United States for any district in which the petitioner resides or conducts business shall have jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary’s final ruling.

Background

The Board administers a nationally coordinated program of research, promotion, and information designed to strengthen the softwood lumber industry. The program is financed by

assessments on manufacturers for the U.S. market who manufacture and domestically ship or import softwood lumber. The Board, which is composed of manufacturers for the U.S. market who manufacture and domestically ship or import softwood lumber in the U.S., unanimously recommended these actions at a public meeting on March 12, 2025.

Clarifying Assessment Rate

The assessment rate on softwood lumber is \$0.41 per thousand board feet (MBF) for both domestically manufactured and imported softwood lumber. The Order defines a board foot as the unit of measurement of softwood lumber represented by a board 12-inches long, 12-inches wide, and 1-inch thick, or its cubic equivalent. The definition goes on to say that a board foot calculation for softwood lumber 1-inch or more in thickness is based on its nominal thickness and width and actual length. Nominal size or count is standard for lumber in the U.S., Canada, and Mexico, but lumber from European countries is often measured by its “net” size or count. While nominal size is based on the thickness and width of a board when it is first cut prior to drying and planing, net size is the actual size after processing. According to the Board, the difference between net and nominal size of a board is significant. For example, a 2-inch by 4-inch nominal board (8-inch volume) has an actual or net size of 1 1/2-inch x 3 1/2-inch (5 1/4-inch volume), a volume difference of 2.75-inches. Therefore, when softwood lumber is reported and the assessments calculated with net size, less assessments are paid. This discrepancy in volume measurements has resulted in an imbalance in assessment payments between North American, European, and other importing countries.

Assessments from importers are collected by U.S. Customs and Border Protection (Customs or CBP) when the lumber enters the country. The unit of measurement used for most imported softwood lumber is cubic meters (m³) with a small amount imported in square meters (m²). The North American wood products industry converts the nominal size into board feet, the measurement commonly used for lumber in the U.S. and Canada. Historically, this has been

done using the following calculation: 1,000 m³ nominal/2.3597 = 423.8 MBF. In 2021, the Board identified a reporting discrepancy and engaged with AMS. In January 2023, the Forest Economic Advisors (FEA), an independent lumber and wood industry consulting firm, released a study that quantified the impact of net size versus nominal size on imports and provided a calculation to be used for board feet on the net count. To attempt to resolve the issue without rulemaking, in May

2023 the Board worked with AMS and Customs to issue a U.S. Customs and Border Protection Cargo Systems Messaging Service (CSMS) bulletin to all U.S. importers and brokers. Misreporting persisted and Customs advised the Board to revise the Order language to make assessment collection on the nominal size explicit. FEA's 2023 analysis shows net volume can be converted to board feet through application of the appropriate factor: 1,000 m³ net/1.57 = 636.9 MBF.

Using this calculation, 1,000 m³ on a net count equates to 636.9 MBF of softwood lumber, 1.503 times more than when a nominal count is used (636.9 MBF/423.8 MBF = 1.503). To properly calculate the assessment rate for softwood lumber imported on a net count, the nominal assessment rate of \$0.41/MBF must be multiplied by 1.503, which computes to a rate of \$0.62/MBF on a net count. The table below demonstrates the different conversion rates.

	\$/thousand board feet	\$/cubic meter	\$/square meter
Nominal	0.41	0.1737	0.004412
Net	0.62	0.2611	0.006631

Therefore, this action adds a definition of net size or count, revises § 1217.52(b) and (c) to specify assessment calculations shall be on the nominal count, adds nominal and net calculations to the table in § 1217.52(h), clarifies that exemptions from assessment are calculated using the nominal count in § 1217.53(a) and (b), revises § 1217.70(a) to clarify reports should include information on a nominal count, and lastly, amends § 1217.101(d) and (e) to clarify eligibility to vote in a referendum is calculated using the nominal count.

Changes in Membership

The Board is required to review membership at least every five years to determine if the distribution of members accurately reflects the makeup of the industry. The Board analyzed Customs and industry geographical data from 2022 through 2024 and found the U.S. South's proportion of manufactured lumber increased during the period. The data shows the U.S. South Region

manufactured almost 22.1 billion board feet, the U.S. West Region manufactured over 13.6 billion board feet, the Northeast and Lake States Region manufactured 1.6 billion board feet, and importers had an average volume of nearly 15.2 billion board feet. Therefore, this action adds one seat of any size to the U.S. South Region in § 1217.40 to reflect increased production in the geographic region. Industry seats on the Board will increase from 14 to 15, for a total of 16 Board members. Final Regulatory Flexibility Analysis

Final Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS is required to examine the impact of this action on small entities. Accordingly, AMS has considered the economic impact of this action on such entities and conducted the following analysis using the most recent data. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to the actions so

small businesses will not be disproportionately burdened. The Small Business Administration (SBA) defines, in 13 CFR part 121, small firms which engage in “Support Activities for Forestry” (domestic softwood lumber manufacturers and importers) as those having annual receipts of no more than \$11.5 million.¹ According to data from Fastmarkets Random Lengths, the 2022–2024 three-year average framing lumber composite price was \$523 per thousand-board-feet. Dividing the \$11.5 million threshold that defines a small firm which provides “Support Activities for Forestry” by this price results in a maximum threshold of about 22 million board feet (MMBF) of softwood lumber per year a domestic manufacturer may ship to be considered a small entity for purposes of the RFA. Table 1., based on shipment data from FEA and import data from CBP, shows the number of entities and the amount of volume they represent may be categorized as small or large based on the SBA definition.

¹ SBA does have a small business size standard for “Sawmills” of 550 employees (see https://www.sba.gov/sites/sbagov/files/2023-06/Table%20of%20Size%20Standards_Effective%20March%2017%2C%202023%20%282%29.pdf). Based on

USDA's understanding of the lumber industry, using this criterion would be impractical as sawmills often use contractors rather than employees to operate and, therefore, many mills would be deemed small businesses under this

criterion while being, in reality, a large business. Therefore, USDA used the definition of a small firm which engages in “Support Activities for Forestry” as a more appropriate criterion for this analysis.

Table 1. Domestic Manufacturers and Importers by SBA Size Standards Based on 2022-2024 Average Volume			
	SBA Size	Number of Entities	Volume (MMBF)
Domestic Manufacturers	Small <i>shipments $\leq$ 22 MMBF</i>	185	1,521
	Large <i>shipments $>$ 22 MMBF</i>	143	35,744
	Subtotal	328	37,265
Imports	Small <i>import value $\leq$ \$11.5 M</i>	1,434	1,274
	Large <i>import value $>$ \$11.5 M</i>	118	13,969
	Subtotal	1,552	15,242
Grand Total		1,880	52,508
Data sources: FEA; CBP.			

As illustrated in Table 1., 185 domestic manufacturers, or 56 percent of the total number of domestic manufacturers, were considered small per the SBA size standard. These 185 entities represented a three-year average of 1,521 MMBF in shipments, or 4 percent of total shipments by domestic manufacturers. Small importers accounted for 92 percent of the total number of importers at 1,434 entities. These small importers represented a three-year average of 1,274 MMBF in import volume, or 8 percent of total import volume. In all, small businesses accounted for 86 percent of the grand total of entities, and 5 percent of the grand total of volume. The final rule will not disproportionately burden small domestic manufacturers and importers of softwood lumber.

Assessments on Imports Reported in Net Volume

In January 2023, FEA published a report detailing its discovery of and solution for miscalculations of imported lumber volumes from European countries. While the U.S., Canada, and Mexico record lumber volumes in nominal terms, European countries measure lumber volumes in net terms. A piece of lumber that would be recorded by the U.S., Canada, or Mexico as two inches thick by four inches wide would be recorded by European countries as 1.5 inches thick by 3.5

inches wide. This is because North American countries record lumber volume based on unfinished dimensions, while European countries measure lumber volume based on post-milled actual finished size. This discrepancy in volume measurements results in an imbalance in assessment payments between North American and European countries.

Imports of softwood lumber into the U.S. are mostly reported in cubic meters. These are converted to board feet, which is the standard unit of measurement for lumber in the U.S., Canada, and Mexico. The conversion factor in nominal terms is 423.8 MBF to 1,000 cubic meters of lumber. Based on its January 2023 analysis, FEA concludes the conversion factor for imports from countries who report in net terms should be 636.9 MBF to 1,000 cubic meters of lumber. The FEA conversion rate of net cubic meters to thousand-board-feet shows that volume reported in net terms is about 1.5 times the volume reported in nominal terms (636.943 MBF [from net cubic meters] divided by 423.776 MBF [from nominal cubic meters]), resulting in an imbalance in assessments paid based on these volumes. Therefore, the SLB proposed clarification of the assessment rate for lumber volume reported in net terms, using the conversion factors recommended in the FEA January 2023 report.

The clarification that the assessment rate is based on nominal volume will impact importers who measure softwood lumber based on net volume, as their imports will need to be converted to nominal terms. Importers of softwood lumber from European countries will primarily be affected. Based on data from Customs and Border Protection, there were 388 importers of softwood lumber from European countries between 2022 and 2024. Of these, 27 had average volume exceeding the de minimis quantity of 15 MMBF in nominal terms. Clarifying that the assessment rate is based on nominal volume will add more than \$367,000 to the SLB budget.

Board Restructuring

According to FEA data, production of softwood lumber in the U.S. South has increased in recent years; warranting an additional board seat to accurately represent the industry. Table 2. shows the three-year average volume of both softwood lumber produced domestically and imported softwood lumber, further segregated by regions and the number of board seats allocated to these regions as proposed by the SLB. This rule adds one board seat to the U.S. South Region, bringing the total number of seats across all regions from its current level of 14 to 15 industry seats, with an additional seat for a public member, for a total of 16 members.

Table 2. Board Seat Restructuring Based on Average Volume					
	2022-2024 Average Volume (MMBF)			Board Seats	
	Regions	Volume (MMBF)	Portion of Grand Total	Tied to Volume portions	Board Seats
Domestic Production	U.S. West	13,579	26%	3.9	4
	U.S. South	22,128	42%	6.3	6
	NE & Lake States	1,558	3%	0.4	1
	Subtotal	37,265	71%	10.6	11
Imports	Canada West	6,928	13%	2.0	2
	Canada East	5,502	10%	1.6	1
	Importer (Offshore + Mexico)	2,813	5%	0.8	1
	Subtotal	15,242	29%	4.4	4
Grand Total		52,508	100%	15.0	15
Data sources: FEA; CBP.					

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements imposed by the Order were approved previously under OMB control number 0581–0093. This final rule will not result in a change to the information collection and recordkeeping requirements previously approved and will not impose additional reporting and recordkeeping burden on domestic manufacturers and importers of softwood lumber.

As with all Federal promotion programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule.

Regarding alternatives, the Board considered not making changes to the Order in reference to nominal and net sizes, and Board makeup. Leaving it as-is would mean continued imbalance in assessment payments and inaccurate representation of Board members. The Board also considered providing additional education and notice to importers of record on declaring import volumes on a nominal size count. A CSMS bulletin issued on May 12, 2023, had no noticeable effect, positive or negative, on reporting; therefore, releasing another CSMS bulletin is not seen as a viable or worthy effort.

Lastly, through AMS, the Board requested Customs enforce assessment collection on a nominal size count. Customs informed the Board that the current regulatory language in the Order was not explicit or specific enough for them to take such action against importers reporting on the incorrect net size. Ultimately, the actions recommended by the Board were to add one member to the Board for the U.S. South Region and to clarify assessments are to be collected on the nominal size.

Regarding outreach efforts, the Board raised the assessment issue in 2021 and had initial conversations with AMS. FEA released their analysis of nominal shipments versus net shipments in January 2023, notifying the industry of the issue. Throughout the remainder of 2023 and all of 2024, the Board discussed the nominal/net issue at every quarterly meeting as well as in quarterly committee meetings. After attempts to solve the issue without rulemaking through a CSMS bulletin, the Board voted in March 2025 to recommend rulemaking to clarify the assessment rate in the Order.

USDA published a proposed rule concerning this action in the **Federal Register** on March 30, 2026 (91 FR 15545). A copy of the proposed rulemaking was also made available through the internet by AMS via <https://www.regulations.gov>. A 30-day comment period ending April 29, 2026, was provided for interested parties to respond to the rule as proposed. AMS

received no comments during the comment period. Accordingly, AMS made no changes to the rule.

After consideration of all relevant material presented, including the information and recommendations submitted by the Board and other available information, USDA has determined this rule is consistent with, and will effectuate the purposes of the Act.

List of Subjects in 7 CFR Part 1217

Administrative practice and procedure, Advertising, Agricultural research, Confidential business information, Consumer protection, Forests and forest products, Inventions and patents, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service amends 7 CFR part 1217 as follows:

PART 1217—SOFTWOOD LUMBER RESEARCH, PROMOTION, CONSUMER EDUCATION AND INDUSTRY INFORMATION ORDER

■ 1. The authority citation for part 1217 continues to read as follows:

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

§§ 1217.16 through 1217.30 [Redesignated as §§ 1217.17 through 1217.31]

■ 2. Redesignate §§ 1217.16 through 1217.30 as §§ 1217.17 through 1217.31, respectively.

■ 3. Add new § 1217.16 to read as follows:

§ 1217.16 Net size or count.

Net size or count means the volume of softwood lumber based on its actual dimensions. It is used in certain jurisdictions as the quantity by which the softwood lumber is sold. Net size or count differs from the nominal size or count as it is based on the thickness and width of a board after it has been dried and planed.

■ 4. Revise newly redesignated § 1217.17, including the section title, to read as follows:

§ 1217.17 Nominal size or count.

Nominal size or count means the size by which softwood lumber is known and sold in the marketplace that differs from actual or net size and is based on the thickness and width of a board when it is first cut from a log, or rough cut, prior to drying and planing.

■ 5. Revise and republish § 1217.40(a) (b) introductory text, and (b)(1) to read as follows:

§ 1217.40 Establishment and membership.

(a) *Establishment of the Board.* There is hereby established a Softwood Lumber Board to administer the terms and provisions of the Order and promote the use of softwood lumber. The Board shall be composed of manufacturers for the U.S. market who manufacture and domestically ship or import 15 million board feet or more of softwood lumber in the United States during a fiscal period. Seats on the Board shall be apportioned based on the volume of softwood lumber production that is manufactured and shipped within the United States by domestic manufacturers and the volume of softwood lumber imported into the United States. Seats on the Board shall also be apportioned based on size of operation within each geographic region, as specified in paragraphs (b)(1) and (2) of this section. For purposes of this section, “large” means manufacturers for the U.S. market who account for the top two-thirds of the total annual volume of assessable softwood lumber and “small” means those who account for the remaining one-third of the total annual volume of assessable softwood lumber. If there are no eligible nominees for a large or small

seat within a region, that seat may be filled by a nominee representing an eligible manufacturer for the U.S. market of any size. Should the size of a manufacturer for the U.S. market change during a member’s or alternate’s term of office, that member or alternate may serve for the remainder of the term.

(b) *Composition of the Board.* The Board shall be composed of 16 members and four alternates, as follows:

(1) *Domestic manufacturers.* Domestic manufacturers must reside in the United States. Eleven members and two alternates shall represent domestic manufacturers who reside in the following three regions:

(i) Six members and one alternate shall represent manufacturers of softwood lumber in the U.S. South Region, which consists of the states of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia. Of these six members, two members must represent large, two members must represent small, and two members may represent domestic manufacturers of any size. The region’s alternate may represent domestic manufacturers of any size;

(ii) Four members and one alternate shall represent manufacturers of softwood lumber in the U.S. West Region, which consists of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming. Of these four members, two members must represent large, one member must represent small, and one member may represent domestic manufacturers of any size. The region’s alternate may represent domestic manufacturers of any size; and

(iii) One member shall represent manufacturers of softwood lumber in the Northeast and Lake States Region, which consists of the states of Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin and all other parts of the United States not listed in paragraph (b)(1)(i), (ii), or (iii) of this section. This member may represent domestic manufacturers of any size.

* * * * *

■ 6. In § 1217.52:

■ a. Revise and republish paragraphs (b), (c), (h), and table 1 to paragraph (h);

■ b. Redesignate paragraphs (i) through (n) as paragraphs (j) through (o), respectively; and

■ c. Add new paragraph (i).

The revisions and republications and addition read as follows:

§ 1217.52 Assessments.

* * * * *

(b) Subject to the exemptions specified in § 1217.53, each manufacturer for the U.S. market shall pay an assessment to the Board at the rate of \$0.41 per thousand board feet of softwood lumber on a nominal count, except that no person shall pay an assessment on the first 15 million board feet of softwood lumber on a nominal count otherwise subject to assessment in a fiscal year. Domestic manufacturers shall pay assessments based on the volume of softwood lumber shipped within the United States and importers shall pay assessments based on the volume of softwood lumber imported to the United States.

(c) At least 24 months after the Order becomes effective and periodically thereafter, the Board shall review and may recommend to the Secretary, upon an affirmative vote by at least a majority of Board members plus two (exclusive of vacant seats), a change in the assessment rate. In no event may the rate be less than \$0.35 per thousand board feet on a nominal count nor more than \$0.50 per thousand board feet on a nominal count. A change in the assessment rate is subject to rulemaking by the Secretary.

* * * * *

(h) The HTSUS categories and assessment rates on imported softwood lumber are listed in the following table. The current assessment rate is \$0.41 per thousand board feet and is based on a nominal count. This equates to \$0.62 per thousand board feet based on a net count. For softwood lumber that is imported on a nominal volume, the assessment rates are computed using the following conversion factors: One cubic meter (m³) equals 0.42377601 thousand board feet, and one square meter (m²) equals 0.010763104 thousand board feet. For softwood lumber that is imported on a net (actual) volume, one cubic meter (m³) equals 0.6369 thousand board feet, and one square meter (m²) equals 0.016175132 thousand board feet. Accordingly, the assessment rates per cubic meter and square meter on a nominal and net volume are as follows.

TABLE 1 TO PARAGRAPH (h)

Softwood lumber (by HTSUS number)	Assessment-nominal volume			Assessment-net volume		
	\$/thousand board feet	\$/cubic Meter	\$/square meter	\$/thousand board feet	\$/cubic meter	\$/square meter
4407.11.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.12.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.13.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.14.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4407.19.00	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.05	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.10	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.20	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4409.10.90	0.41	0.1737	0.004412	0.62	0.2611	0.006631
4418.99.10	0.41	0.1737	0.004412	0.62	0.2611	0.006631

(i) If Customs collects excess assessments from an importer, the Board shall issue a refund to the importer given the importer provides appropriate documentation to verify the excess assessments collected.

* * * * *

■ 7. Revise and republish § 1217.53(a) and (b) to read as follows:

§ 1217.53 Exemption from assessment.

(a) *Manufacturers for the U.S. market who domestically ship and/or import less than 15 million board feet on a nominal count annually.* (1) Domestic manufacturers who ship less than 15 million board feet of softwood lumber on a nominal count within the United States in a fiscal year are exempt from paying assessments. Such manufacturers must apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the fiscal year. This is an annual exemption and domestic manufacturers must reapply each year. Such manufacturers shall certify that they will ship less than 15 million board feet of softwood lumber on a nominal count during the fiscal year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption may be granted. The Board may request past shipment data to support the exemption request. The Board will then issue, if deemed appropriate, a certificate of exemption to the eligible domestic manufacturer. It is the responsibility of the domestic manufacturer to retain a copy of the certificate of exemption.

(2) Importers who import into the United States less than 15 million board feet of softwood lumber on a nominal count in a fiscal year are exempt from paying assessments. Such importers must apply to the Board, on a form provided by the Board, for a certificate of exemption prior to the start of the fiscal year. This is an annual exemption,

and importers must reapply each year. Such importers shall certify that they will import less than 15 million board feet of softwood lumber on a nominal count during the fiscal year for which the exemption is claimed. Upon receipt of an application for exemption, the Board shall determine whether an exemption is granted. The Board may request past import data to support the exemption request. The Board will then issue, if deemed appropriate, a certificate of exemption to the eligible importer. It is the responsibility of the importer to retain a copy of the certificate of exemption. The importer may be requested to submit a copy of the certificate to Customs. If Customs collects the assessment, the Board shall refund such importers their assessments no later than 60 calendar days after receipt of such assessments by the Board. No interest shall be paid on the assessments collected by Customs.

(3) Domestic manufacturers who did not apply to the Board for an exemption and shipped less than 15 million board feet of softwood lumber on a nominal count within the United States during the fiscal year shall receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year. Board staff shall determine the assessments paid and refund the amount due to the domestic manufacturer accordingly.

(4) Importers who did not apply to the Board for an exemption and imported less than 15 million board feet of softwood lumber on a nominal count during the fiscal year shall receive a refund from the Board for the applicable assessments within 30 calendar days after the end of the fiscal year.

(5) If an entity is both a domestic manufacturer and an importer, the sum of such entity's domestic shipments and imports during a fiscal year shall count towards the 15 million board feet exemption on a nominal count.

(6) Domestic manufacturers and importers who received an exemption certificate from the Board but domestically shipped or imported 15 million board feet or more of softwood lumber on a nominal count during the fiscal year shall pay the Board the applicable assessments owed on the domestic shipments or imports over the 15 million board foot-exemption threshold within 30 calendar days after the end of the fiscal year and submit any necessary reports to the Board pursuant to § 1217.70.

(7) The Board may develop additional procedures to administer this exemption as appropriate. Such procedures shall be implemented through rulemaking by the Secretary.

(b) *Manufacturers for the U.S. market who domestically ship and/or import 15 million board feet or more on a nominal count annually.* (1) Domestic manufacturers who domestically ship 15 million board feet or more per fiscal year on a nominal count shall not pay assessments on their first 15 million board feet of softwood lumber on a nominal count shipped during the applicable fiscal year.

(2) Importers who import 15 million board feet or more per fiscal year on a nominal count shall be exempt from paying assessments on their first 15 million board feet of softwood lumber imported during the applicable fiscal year on a nominal count. Such importers shall receive a refund from the Board for the applicable assessments collected by Customs. The Board shall refund such importers their assessments no later than 60 calendar days after receipt by the Board.

* * * * *

■ 8. Revise and republish § 1217.70(a) to read as follows:

§ 1217.70 Reports.

(a) Each manufacturer for the U.S. market will be required to provide periodically to the Board such

information as the Board, with the approval of the Secretary, may require. Such information may include, but not be limited to:

- (1) For domestic manufacturers:
 - (i) The name, address and telephone number of the domestic manufacturer;
 - (ii) The board feet of softwood lumber on a nominal count shipped within the United States;
 - (iii) The board feet of softwood lumber on a nominal count for which assessments were paid; and
 - (iv) The board feet of softwood lumber on a nominal count that was exported.
- (2) For importers:
 - (i) The name, address and telephone number of the importer;
 - (ii) The board feet of softwood lumber on a nominal count imported;
 - (iii) The board feet of softwood lumber on a nominal count for which assessments were paid; and
 - (iv) The country of export.

* * * * *

■ 9. Revise and republish § 1217.101(d) and (e) to read as follows:

§ 1217.101 Definitions.

* * * * *

(d) *Eligible domestic manufacturer* means any person who manufactured and shipped 15 million board feet or more of softwood lumber on a nominal count in the United States during the representative period.

(e) *Eligible importer* means any person who imported 15 million board feet or more of softwood lumber on a nominal count into the United States during the representative period as a principal or as an agent, broker, or consignee of any person who manufactured softwood lumber outside of the United States for sale in the United States, and who is listed as the importer of record for such softwood lumber. Importation occurs when softwood lumber manufactured outside of the United States is released from custody by Customs and introduced into the stream of commerce in the United States. Included are persons who hold title to foreign-manufactured softwood lumber immediately upon release by Customs, as well as any persons who act on behalf of others, as agents or brokers, to secure the release of softwood lumber from Customs when such softwood lumber is entered or withdrawn for use in the United States.

* * * * *

Erin Morris,
Administrator, Agricultural Marketing Service.

[FR Doc. 2026–19389 Filed 9–21–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TREASURY

Office of the Comptroller of the Currency

12 CFR Part 4

[Docket ID OCC–2025–0174]

RIN 1557–AF35

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 305

RIN 3064–AG16

Unsafe or Unsound Practices, Matters Requiring Attention; Correction

AGENCY: Office of the Comptroller of the Currency, Treasury, and the Federal Deposit Insurance Corporation.

ACTION: Final rule; correction.

SUMMARY: The Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) published a final rule in the **Federal Register** of September 1, 2026, to define the term “unsafe or unsound practice” for purposes of section 8 of the Federal Deposit Insurance Act and to revise the supervisory framework for the issuance of matters requiring attention and other supervisory communications. The document contained an incorrect agency docket number for the OCC.

DATES: The final rule is effective November 2, 2026.

FOR FURTHER INFORMATION CONTACT:

OCC: Eden Gray, Assistant Director, Marjorie Dieter, Special Counsel, Harry Naftalowicz, Attorney, Chief Counsel’s Office, 202–649–5490, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

Correction

In the September 1, 2026, issue of the **Federal Register**, in FR Doc. 2026–17823, on page 56004, in the second column, in the OCC’s agency heading, the agency docket number is corrected to read as set forth below:

[Docket ID OCC–2025–0174].

Adam J. Cohen,
Senior Deputy Comptroller and Chief Counsel, Comptroller of the Currency.

[FR Doc. 2026–19312 Filed 9–21–26; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2026–8548; Airspace Docket No. 26–AGL–16]

RIN 2120–AA66

Establishment of Class E Airspace; Ottawa, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at OSF St Francis Medical Center Heliport, Ottawa, IL. This action supports new instrument procedures and instrument flight rule (IFR) operations.

DATES: Effective 0901 UTC, December 24, 2026. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Raul Garza Jr., Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5874.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the surface at OSF St Francis Medical Center Heliport, Ottawa, IL, to support IFR operations.

History

The FAA published an NPRM for Docket No. FAA–2026–8548 in the **Federal Register** (91 FR 46759; July 24, 2026) proposing to establish Class E airspace at OSF St Francis Medical Center Heliport, Ottawa, IL. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received, which expressed support for the NPRM.

Incorporation by Reference

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11M, dated July 30, 2026, and effective September 15, 2026. These amendments will be published in the next update to FAA Order JO 7400.11. FAA Order JO 7400.11M, which lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points, is publicly available as listed in the **ADDRESSES** section of this document.

The Rule

This action modifies 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.8-mile radius of OSF St Francis Medical Center Heliport, Ottawa, IL. This action is the result of instrument procedures being developed for this heliport to support IFR operations.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Order 2100.6B, “Rulemaking and Guidance

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

Environmental Review

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

Lists of Subjects in 14 CFR 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11M, Airspace Designations and Reporting Points, dated July 30, 2026, and effective September 15, 2026, is amended as follows:

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

* * * * *

AGL IL E5 Ottawa, IL [Establish]

OSF St Francis Medical Center Heliport, OH (Lat. 41°21'30" N, long 88°49'30" W)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of the OSF St Francis Medical Center Heliport.

* * * * *

Issued in Fort Worth, Texas, on September 18, 2026.

Jerry J. Creecy,

Acting Manager, Operations Support Group, ATO Central Service Center

[FR Doc. 2026–19391 Filed 9–21–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 312, 314, 315, 361, and 601

[Docket No. FDA–2026–N–5347]

RIN 0910–AJ27

Nonclinical Testing Terminology

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is issuing a direct final rule that substitutes references to “animal” tests or studies with “nonclinical” tests or studies, adds a definition of the terms “nonclinical test” and “nonclinical study,” and makes other comparable or conforming amendments in certain safety and reporting sections of its regulations. The direct final rule also substitutes “nonclinical” for “preclinical” and “in vitro” for consistency in terminology. The Agency is issuing these amendments directly as a final rule because we believe they are noncontroversial changes in terminology that are not expected to affect industry practice and FDA anticipates no significant adverse comments. These amendments align with recent amendments to the Federal

Food, Drug, and Cosmetic Act (FD&C Act) and the Public Health Service Act (PHS Act) and are intended to remove an emphasis, in certain places, on the use of animal testing as the only scientific methodology to assess the safety of a drug in the nonclinical setting. These changes may also foster the development and use of scientifically valid new testing methodologies, potentially improving predictive accuracy of product safety testing while replacing, reducing, or refining animal use. The rule adds no new requirements.

DATES: This rule is effective February 4, 2027. Either electronic or written comments on the direct final rule or its companion proposed rule must be submitted by December 7, 2026. If FDA receives no significant adverse comments within the specified comment period, the Agency intends to publish a document confirming the effective date of the direct final rule in the **Federal Register** within 30 days after the comment period on this direct final rule ends. If timely significant adverse comments are received, the Agency will publish a document in the **Federal Register** withdrawing this direct final rule within 30 days after the comment period on this direct final rule ends.

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 December 7, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is 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-5347 for “Nonclinical Testing Terminology.” 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.” We will review this copy, including the claimed confidential information, in our 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: Shena Arellano, Office of Policy, Office of Policy, Legislation, and International Affairs, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301-796-8353.

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I. Executive Summary

A. Purpose of the Direct Final Rule

FDA recognizes that some provisions of its human drug and biological product safety testing and reporting regulations refer only to the use of animal tests where alternatives may be available. FDA is updating these regulations by replacing the terms “animal test” and “animal study” with “nonclinical test” or “nonclinical study,” terms which are defined to encompass a broad variety of tests or studies in addition to animal testing, including scientifically valid new approach methodologies (NAMs) that do not use animals. NAMs have the potential to improve predictivity while replacing, reducing, or refining the use of animal testing for evaluating medical product safety. For consistency in terminology, we are also substituting the term “nonclinical” for the terms “preclinical” and “in vitro.” We also replace “animal” with “nonclinical” in regulations that use the terms “animal testing,” “animal data,” “animal findings” and “animal models” to refer to testing, data, findings and models that are performed with, derived from, or made using nonclinical tests or studies.

Because we believe the rule contains noncontroversial changes and we do not expect significant adverse comment on the rulemaking, we are using direct final rulemaking procedures, as described in this document. We are also publishing elsewhere in this issue of the **Federal Register** a companion proposed rule proposing to take the actions described in this direct final rule. The companion proposed rule provides a procedural

framework within which the rule may be finalized if the direct final rule is withdrawn because of any significant adverse comments. The comment period for the direct final rule runs concurrently with the comment period for the companion proposed rule. Any comments received in response to the companion proposed rule will be considered as comments regarding the direct final rule.

B. Summary of the Major Provisions of the Direct Final Rule

This direct final rule substitutes the terms “nonclinical test” or “nonclinical study” for the terms “animal test,” “animal study,” “preclinical test,” and “in vitro test,” and makes other comparable or conforming changes in sections addressing human drug and biological product safety and reporting within parts 312, 314, 315, 361 and 601 of Title 21 of the Code of Federal Regulations (21 CFR). It also adds a definition for “nonclinical test” and “nonclinical study” to part 312 and a definition for “nonclinical study” to parts 314, 315, 361, and 601. The definitions are adapted from the definition of “nonclinical test” in section 505(z) of the FD&C Act (21 U.S.C. 355(z)).¹

C. Legal Authority

FDA is issuing this rule under the authority granted to it by the FD&C Act (21 U.S.C. 301 *et seq.*) and the PHS Act (42 U.S.C. 201 *et seq.*). By delegation from the Secretary of the Department of Health and Human Services, FDA is authorized to issue regulations for the efficient enforcement of the FD&C Act (section 701; 21 U.S.C. 371), including provisions addressing the regulation of drug products to ensure their safety and effectiveness, and to regulate biological products to ensure that they are safe, effective, pure, and potent (PHS Act section 351; 42 U.S.C. 262). This direct final rule will help with the efficient enforcement of provisions relating to the following: (1) investigational use of human drugs and biological products and (2) safety of human drugs and biological products.

D. Costs and Benefits

This direct final rule substitutes “nonclinical” for “animal” in phrases like “animal test” and “animal study;” substitutes “nonclinical” for “preclinical” and “in vitro” for

consistency in terminology; and adds a definition of “nonclinical test” and “nonclinical study” to the definitions section of several of FDA’s drug and biological product regulations. This rule imposes no new requirements on industry and so is expected to generate no costs. The rule may foster the development and use of scientifically valid new testing methodologies and so may yield benefits, but we do not anticipate being able to quantify these benefits. Since this final rule updates terminology to unambiguously allow for a broader range of nonclinical studies to meet current requirements without limiting existing options or imposing new requirements, we conclude this direct final rule is classifiable as an Executive Order 14192 deregulatory action.

II. Direct Final Rulemaking Procedures

In the document titled “Guidance for FDA and Industry: Direct Final Rule Procedures,” announced and provided in the **Federal Register** of November 21, 1997 (62 FR 62466), FDA described its procedures on when and how we will employ direct final rulemaking. The guidance may be accessed at <https://www.fda.gov/RegulatoryInformation/Guidances/ucm125166.htm>. We have determined that this rule is appropriate for direct final rulemaking because we believe that it includes only noncontroversial amendments and we anticipate no significant adverse comments. Consistent with our procedures on direct final rulemaking, FDA is also publishing elsewhere in this issue of the **Federal Register** a companion proposed rule with the regulatory amendments described in this direct final rule. The companion proposed rule provides a procedural framework within which the rule may be finalized in the event that the direct final rule is withdrawn because of any significant adverse comments. The comment period for the direct final rule runs concurrently with the comment period for the companion proposed rule. Any comments received in response to the companion proposed rule will be considered as comments regarding the direct final rule.

We are providing a comment period on the direct final rule of 75 days after the date of publication in the **Federal Register**. If we receive any significant adverse comments, we intend to withdraw this direct final rule before its effective date by publication of a notice in the **Federal Register**. A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule’s underlying

¹ Section 505(z) of the FD&C Act was added by section 3209 of the Food and Drug Omnibus Reform Act of 2022 (FDORA), which was enacted as part of the Consolidated Appropriations Act, 2023. Public Law 117–328, Div. FF, Title III, §§ 3001–3631 (2022).

premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants terminating a direct final rulemaking, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. A comment recommending a regulation change in addition to those in this direct final rule would not be considered a

significant adverse comment unless the comment states why the rule would be ineffective without the additional change. In addition, if a significant adverse comment applies to part of this rule and that part can be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not subject to the significant adverse comment.

If any significant adverse comments are received during the comment period, FDA will publish in the **Federal Register**, before the effective date of this direct final rule, a notice of significant adverse comment and withdraw the

direct final rule. If we withdraw the direct final rule, any comments received will be applied to the proposed rule and will be considered in developing a final rule using the usual notice-and-comment procedures.

If FDA receives no significant adverse comments during the specified comment period, FDA intends to publish a document confirming the effective date within 30 days after the comment period ends.

III. Table of Abbreviations/Commonly Used Acronyms in This Document

Abbreviation/acronym	What it means
BLA	Biologics License Application.
CFR	Code of Federal Regulations.
DDT	Drug Development Tools.
FD&C Act	Federal Food, Drug, and Cosmetic Act.
FDA or Agency	Food and Drug Administration.
FDORA	Food Drug Omnibus Reform Act.
GST	General Safety Test.
ICCVAM	Interagency Coordinating Committee on the Validation of Alternative Methods.
ICH	International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use.
IND	Investigational New Drug Application.
ISTAND	Innovative Science and Technology Approaches for New Drugs.
MDDT	Medical Device Development Tools.
NAMs	New Approach Methodologies.
NDA	New Drug Application.
OECD	Organisation for Economic Co-operation and Development.
OIRA	Office of Information and Regulatory Affairs.
PDUFA	Prescription Drug User Fee Act.
PHS Act	Public Health Service Act.
U.S.C.	United States Code.

IV. Background

A. Need for the Regulation

Currently, some human drug and biological product regulations refer to animal studies or tests. For example, section 312.88 states that safeguards for patient safety “include the review of animal studies prior to initial human testing.” However, the Food and Drug Omnibus Reform Act (FDORA) amended Section 505(i) of the FD&C Act by replacing the term “preclinical tests (including tests on animals)” in paragraph (1)(A) and “animal” in paragraph (2)(B) with the term, “nonclinical tests.” FDORA section 3209(a)(1)–(2). It also added a definition of “nonclinical test” to Section 505(z) of the FD&C Act² to mean:

[A] test conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test that occurs before or during the clinical trial phase of the investigation of the safety and effectiveness of a drug. Such test may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests.

FDORA section 3209(a)(2). FDORA also amended item (bb) of section 351(k)(2)(A)(i)(I) of the PHS Act (42 U.S.C. 262(k)(2)(A)(i)(I)) to replace “animal studies (including assessment of toxicity)” with “an assessment of toxicity (which may rely on, or consist of, a study or studies described in item (aa) or (cc)).” The studies described in items (aa) and (cc) include analytical studies that demonstrate that the biological product is highly similar to the reference product notwithstanding minor differences in clinically inactive components, and clinical studies (including the assessment of immunogenicity and pharmacokinetics or pharmacodynamics) that are sufficient to demonstrate safety, purity, and potency under certain conditions of use.

This direct final rule aligns the terminology used in FDA’s drug and biological product regulations more closely with the FD&C Act amendments made by FDORA and with the growing prevalence and capabilities of NAMs.

B. FDA’s Current Regulatory and Policy Framework

FDA’s current regulatory framework generally allows and encourages the use of non-animal testing, including NAMs, as communicated through regulations, guidance, recognition of international standards, and participation with the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH) and the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM).

In general, drugs and biological products may only be tested in or on humans if their use in this context complies with part 312, which implements section 505(i) of the FD&C Act (21 U.S.C. 355(i)) and section 351(a)(3) of the PHS Act (42 U.S.C. 262(a)(3)). These regulations aim to

² Two subssecs. (z) have been enacted in Section 505. Both were enacted in the Consolidated Appropriations Act, 2023 (Pub. L. 117–328).

ensure that these products are reasonably safe for use in or on humans under the conditions described in the proposed clinical investigations. The clinical investigations may in turn serve to provide evidence as to whether the medical product is safe and effective as part of a marketing application to FDA.

Generally, a person seeking to market a new drug must submit to FDA a new drug application (NDA) with full reports of investigations, including clinical investigations that show whether the drug is safe and effective (21 U.S.C. 355(b)). Generally, a person seeking to market a new biological product must submit to FDA a biologics license application (BLA), which generally includes data derived from nonclinical laboratory and clinical studies demonstrating the product meets prescribed requirements of safety, purity, and potency (§ 601.2(a)).

FDA encourages the use of innovative approaches to safety testing that may provide predictive data for medical products in our review process, including through guidance documents. The Agency explains in guidance documents, such as those included as references in this direct final rule (Refs. 1–16), our support for moving away from animal testing—and encourages parties to contact us to discuss alternative testing methods early on in their development plans. FDA guidances may be accessed at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents#guidancesearch>.

In addition to guidance, FDA has signaled its support for alternatives to animal testing in other contexts. In a 2015 final rule, FDA removed the codified general safety test (GST) requirements for biological products, which required rodent testing, because the regulations were duplicative of safety test requirements set forth in approved BLAs for products that present specific safety concerns. In that rule, we noted that the “elimination of the codified GST regulations would encourage the implementation of the principles of the ‘3Rs,’ to reduce, refine, and replace animal use in testing” while continuing to ensure the safety of biological products using appropriate and specific test methods identified in the product’s approved BLA or supplement BLA. (80 FR 37971 at 37972).

In December of 2017, FDA published a roadmap for integrating emerging predictive toxicology methods and new technologies into regulatory safety and risk assessments to potentially reduce the use of animal testing (Ref. 17). This work includes collaborating with ICH,

ICCVAM, and the Organisation for Economic Co-operation and Development (OECD) Test Guidelines Programme.

Section 507 of the FD&C Act requires establishment of a process for the qualification, based on scientific merit, of drug development tools for a proposed context of use; once qualified, any sponsor can then use the tool(s) in the development and evaluation of their products within the qualified context of use. FDA is making use of the Drug Development Tools (DDT) and Innovative Science and Technology Approaches for New Drugs (ISTAND) programs to evaluate, validate, and qualify various tools, including NAMs. DDT and ISTD submissions include new biomarkers, clinical assessments, animal models for use with the Animal Rule, and other novel approaches or methodologies of potential benefit to drug development and evaluation. These programs support innovation and regulatory science and foster early communication and collaboration with FDA and sponsors helping to bridge the gap between the research of medical products and their delivery to patients.

Sponsors may contact the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER) to request feedback on their development programs, the use of nonclinical tests, and feedback on the use of a NAM for a particular development program, such as through a Type D meeting.³ Alternatively, if a sponsor seeks feedback on the use of a novel manufacturing method that incorporates use of a NAM to support multiple products, the sponsor could consider engaging the CBER Advanced Technologies Team.

A 2024 report to the Science Board to FDA from its New Alternative Methods Subcommittee, entitled “Potential Approaches to Drive Future Integration of New Alternative Methods for Regulatory Decision-Making” (Ref. 19), noted that FDA has accepted approaches that reduce the number of animals used in test protocols, including by adopting and issuing ICH guidances that recommend testing of relevant species (ICH S6), that reduce or eliminate animal testing recommendations for reproductive toxicology (ICH S5(R3)) and

carcinogenicity testing (ICH S1B(R1)), and that reduce the duration of recommended chronic toxicology studies for oncology indications (ICH S9). The report also noted that FDA has explored options like the use of virtual control groups to support a reduction of animals in studies, and that newer methods are largely already available at FDA to produce scientifically valid data to meet FDA’s regulatory needs, including those using systems biology, engineered biologically active tissues, in silico methods, alternative organisms such as Zebrafish and *C. elegans*, and microphysiological systems, including organs-on-chips.

FDA, along with a number of other federal regulatory agencies and research laboratories, participated in the development of the 2024 ICCVAM report entitled “Validation, Qualification, and Regulatory Acceptance of New Approach Methodologies” (Ref. 20). ICCVAM developed the report to help developers and end users build confidence in NAMs. It recommends the implementation of flexible, fit-for-purpose validation strategies that consider the intended application of the NAM, and describes concepts such as context of use, biological relevance, and technical characterization of NAMs.

In April 2025, FDA announced a roadmap to reduce animal testing in safety studies by replacing them in a stepwise approach with scientifically valid NAMs (Ref. 21). The approach outlined in the roadmap is designed to improve drug safety and identify more efficient methods to inform the evaluation process while reducing animal experimentation. The roadmap provided an overview of key NAM categories and their applicability to drug development and laid out a stepwise list of specific actions FDA is considering for validation and integration of NAMs into its regulatory process, initially focusing on safety testing of monoclonal antibodies.

Although the Agency is optimistic that fostering the use of scientifically valid NAMs will lead to a reduced need for animal testing and to the use of fewer animals and of animals lower on the phylogenetic scale, it is also important to recognize that there remain areas where animal testing is important and necessary. For example, for a product inhibiting a novel molecular target, animal studies may enable the evaluation of toxicities that occur through complex physiologic interactions such as the release of hormones, neurotransmitters, cytokines, and other internally secreted chemicals that maintain homeostasis within an

³ A Type D meeting is a type of formal meeting described in the Prescription Drug User Fee Act (PDUFA) Commitment letter (Ref. 18) and the August 2026 guidance on Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA Products (Ref. 15). A Type D meeting is focused on a narrow set of issues (e.g., often one, but typically not more than two issues and associated questions). In addition, the issue should not require input from more than 3 disciplines or Divisions.

organism and communication between organ systems. However, we also recognize that NAMs using human-derived cells may be able to assess additional or more relevant endpoints for clinical drug development. Thus, it is important that developers consult with FDA about their use of NAMs, including providing information about the technical characterization of the NAM and its biological relevance for particular contexts of use. As is its general practice, FDA also will develop guidance to support specific recommendations to sponsors about study design, conduct, and interpretation of NAMs as it gains experience with their use and as data and information become available.

In sum, we believe the changes to the terminology used in FDA regulations described in this direct final rule should foster the development and use of new alternative research methods where feasible while ensuring that nonclinical test methods used in drug and biological product development generate data appropriate for demonstrating the safety of the drug product.

V. Description of the Direct Final Rule

The rule amends certain provisions of FDA's drug and biological product regulations addressing the collection, analysis, submission, reporting, and surveillance of safety and toxicological data.⁴ Specifically, this rule:

- Amends § 312.3(b) by adding a definition of the terms “nonclinical test” and “nonclinical study” and §§ 314.3, 315.2 and 601.31 by adding a definition of the term “nonclinical study.” The definitions are adapted from the definition of “nonclinical test” in section 3209(a) of FDORA. This change aligns the regulations that use the terms “nonclinical test” and

“nonclinical study”⁵ with the amendments made to the FD&C Act and the PHS Act by FDORA. Like the statutory definition, the regulatory definitions we are adding include an illustrative, non-exhaustive list of examples of nonclinical tests and studies. We broadened the definition compared to the statutory definition to include “study” because part 312 refers to both tests and studies and parts 314, 315, and 601 generally refer to studies instead of tests. Further, FDA considers nonclinical tests and nonclinical studies to be equivalent for purposes of these requirements and does not believe that these changes result in any substantive differences compared to the definition in section 505(z) of the FD&C Act because both definitions describe the same types of nonclinical data that can be used to satisfy the underlying requirement. The definitions we are adopting in this rule also omit reference to when the nonclinical test or study occurs because the regulations being revised focus on the type of data needed to address the requirement, not on when the nonclinical test or study to generate the data occurs. To include the temporal part of the statutory definition (“a test . . . that occurs before or during the clinical trial phase”) would change the meaning of some of the regulatory provisions being revised to use “nonclinical study” or “nonclinical test”.

- Amends the other regulations specified below by substituting the term “nonclinical test” or “nonclinical study” for the terms “animal test,” “animal study,” “preclinical test,” and “in vitro test,” and making other comparable or conforming changes. These changes result in more consistent and updated terminology that is not unduly focused on animal testing and that encompasses the use of scientifically valid NAMs.

- Where FDA's existing regulations that are being revised under this rule use “animal” and “in vitro” together to describe the scope of nonclinical testing (such as “animal or in vitro studies”), FDA has historically treated these paired terms here to encompass all nonclinical testing conducted outside of humans. When these regulations were originally developed, in chemico and in silico methodologies were not widely used and the pairing of “animal” and “in vitro” reflected the available testing methods that were in common use at the time. As in chemico and in silico

methods evolved and became scientifically established, they became more widely used in drug development, results from these nonclinical tests were submitted to the Agency under these same provisions, and FDA accepted such data under these provisions when appropriate. Substituting “nonclinical” in instances where “animal” and “in vitro” are used in conjunction does not in practice expand the scope of data that must be reviewed, submitted, or reported under the affected provisions because the regulatory requirements, in these specific instances, generally focus on the significance or relevance of the information to human safety (*e.g.*, “all information relevant to the safety of the drug,” “findings that suggest a significant risk in humans”), not on the specific methodology used to generate that information. Sponsors have submitted data from in silico, in chemico, and other nonclinical methodologies conducted outside a living organism under the current regulations, consistent with this position.

A. Amendment of Part 312—Investigational New Drug Application

Part 312 lists requirements for an investigational new drug application (IND).

1. Section 312.3(b)

Section 312.3(b) lists definitions in alphabetical order that apply to part 312. We are amending § 312.3(b) by adding, after the definition of “Marketing application,” the following definition⁶ of the terms “nonclinical test” and “nonclinical study”:

Nonclinical test and *nonclinical study* mean a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

2. Section 312.22

Section 312.22 provides general principles of the IND submission. Paragraph 312.22(c) notes that amendments to INDs “should build logically on previous submissions and should be supported by additional information, including the results of

⁴ We determined that certain regulations fall outside the scope of this rule. For example, FDA has regulations under which efficacy data may be provided from studies conducted in carefully vetted animal models because it would not be ethical or feasible to conduct definitive efficacy studies in humans for human drugs and biological products intended to ameliorate or prevent serious or life-threatening conditions caused by exposure to lethal or permanently disabling toxic chemical, biological, radiological or nuclear substances. (These regulations, 21 CFR 314 subpart I for drugs and 21 CFR 601 subpart H for biological products, are commonly known as the Animal Rule.) These regulations are specific to the use of animals to provide efficacy data under very limited conditions and are not within the scope of this rule. Similarly, part 316 on orphan drugs is outside the scope of this rule. Any studies in animals to support an orphan-drug designation are generally limited to “preclinical efficacy studies conducted in an animal model for the human disease or condition.” 21 CFR 316.20(b)(4). Section 316.20(b)(4) also states that “[a]nimal toxicology studies are generally not relevant to a request for orphan-drug designation.”

⁵ The term “nonclinical study” is not a “nonclinical laboratory study” which is regulated under 21 CFR part 58 and is outside the scope of this rule.

⁶ This definition is adapted from the definition of nonclinical test added to section 505(z) of the FD&C Act (21 U.S.C. 355(z)) by section 3209(a) of FDORA.

animal toxicology studies or other human studies as appropriate.” We are amending the paragraph by replacing “animal” with “nonclinical.” This change clarifies that the types of supportive toxicology studies that may be appropriate can include nonanimal studies, highlighting the flexibility inherent in this provision. As with toxicology data from animal studies or other human studies, FDA will examine any toxicological data from nonanimal nonclinical studies to determine whether they adequately support the clinical studies identified in the IND.

3. Section 312.23(a)(3)

Section 312.23 lists requirements for IND content and format, and paragraph (a) lists the elements that the IND must contain and in what order. Paragraph (a)(3) describes what is included in the IND’s introductory statement and general investigational plan. Paragraph (a)(3)(iv)(f) provides that the plan should include “any risks of particular severity or seriousness anticipated on the basis of the toxicological data in animals or prior studies in humans with the drug or related drugs.” We are amending the paragraph by replacing the word “animals” with the phrase “nonclinical studies.” While this change expands the types of studies or tests that may be used to provide the basis for a sponsor to identify “any risks of particular severity or seriousness” that a sponsor should anticipate, and thus should be included in the investigational plan, this change does not increase the amount of information needed to meet current requirements because the regulatory change does not impose any requirement to conduct additional tests or studies to identify such risks. This change reflects how there is flexibility in the types of toxicological data that can be used to identify risks to be addressed in the general investigational plan. As with toxicological data from animal studies or prior human studies, FDA will examine any toxicological data from nonanimal nonclinical studies to determine whether they adequately support the clinical studies identified in the IND.

4. Section 312.23(a)(5)(ii)

Section 312.23(a)(5) describes what must be included in the IND’s investigator’s brochure, when such brochure is required by § 312.55. Section 312.23(a)(5)(ii) requires that there be a “summary of the pharmacological and toxicological effects of the drug in animals and, to the extent known, in humans.” We are amending the regulation by replacing

the word “animals” with the phrase “nonclinical studies.” This change adds flexibility and clarifies that the pharmacological and toxicological effects of the drug that must be included in the IND submission may be derived from a broader range of studies than animal studies. This change does not expand the scope of the submission requirement. The investigator’s brochure is intended to inform investigators of information relevant to the safe conduct of the clinical investigation, and the obligation to summarize pharmacological and toxicological effects is grounded in that goal rather than in the methodology used to generate the data. Consistent with this, data from nonclinical studies other than animal studies would be included in the brochure to the extent they are relevant to the safe conduct of the proposed investigation. This change does not impose any new testing requirements. As with pharmacological and toxicological effects derived from animal studies or prior human studies, FDA will examine any pharmacological and toxicological data from nonanimal nonclinical studies to determine whether they adequately support the clinical studies identified in the IND.

5. Section 312.23(a)(5)(iii)

Section 312.23(a)(5) describes what must be included in the IND’s investigator’s brochure, when such brochure is required by § 312.55. Section 312.23(a)(5)(iii) requires that there be a “summary of the pharmacokinetics and biological disposition of the drug in animals and, if known, in humans.” As above, we are amending the regulation by replacing the word “animals” with the phrase “nonclinical studies.” This change provides flexibility and clarifies that the pharmacokinetics and biological disposition of the drug may be derived from a broader range of studies than animal studies. This change does not expand the scope of the submission requirement. The investigator’s brochure is intended to inform investigators of information relevant to the safe conduct of the clinical investigation, and the obligation to summarize pharmacological and toxicological effects is grounded in that goal rather than in the methodology used to generate the data. Consistent with this, data from nonclinical studies other than animal studies would be included in the brochure to the extent they are relevant to the safe conduct of the proposed investigation. This change does not impose any new testing requirements. As with pharmacokinetics and biological disposition of the drug

derived from animal studies or prior human studies, FDA will examine data from nonanimal nonclinical studies to determine whether they adequately support the clinical studies identified in the IND.

6. Section 312.23(a)(8)

Section 312.23(a)(8) describes what pharmacology and toxicology information must be provided in an IND and the first two sentences of the paragraph state that “[a]dequate information about pharmacological and toxicological studies of the drug involving laboratory animals or in vitro, on the basis of which the sponsor has concluded that it is reasonably safe to conduct the proposed clinical investigations. The kind, duration, and scope of animal and other tests required varies with the duration and nature of the proposed clinical investigations.” We are amending these two sentences in the regulation by replacing the phrase “pharmacological and toxicological studies of the drug involving laboratory animals or in vitro” with the phrase “nonclinical pharmacological and toxicological studies of the drug” and replacing “animal and other tests” with “nonclinical tests.” This change provides flexibility and clarifies that the pharmacological and toxicological studies of the drug may be derived from a broader range of studies than laboratory animal and in vitro studies. As discussed above, FDA has treated the paired terms “animal” and “in vitro” to encompass all nonclinical testing conducted outside of humans and this change is consistent with that position. Additionally, this change does not mandate what types of studies are performed to generate this information; rather, it requires disclosure in the IND of information about the pharmacological and toxicological studies, regardless of the type of non-clinical study that has generated the information. This is not an increase in burden because FDA already permits the use of non-animal studies to satisfy these requirements where appropriate, this change will not preclude sponsors from using any types of studies that are currently permitted to meet these requirements, and this change does not increase the amount of information required to meet these existing requirements. As with pharmacological and toxicological studies of the drug derived from laboratory animal or in vitro studies, FDA will examine data from other types of nonclinical studies to determine whether they adequately support the clinical studies identified in the IND. The remainder of this paragraph, describing FDA guidance

documents and more detail about the required information to be submitted, is not being amended.

7. Section 312.23(a)(8)(i)

Section 312.23(a)(8)(i) requires that each IND contain a “section describing the pharmacological effects and mechanism(s) of action of the drug in animals, and information on the absorption, distribution, metabolism, and excretion of the drug, if known.” We are amending the regulation by replacing the word “animals” with the phrase “nonclinical tests.” This change provides flexibility and clarifies that the pharmacological effects and mechanism(s) of action of the drug, and information on the absorption, distribution, metabolism, and excretion of the drug, if known, may be derived from a broader range of studies than animal studies. It does not mandate what types of studies are performed to generate this information but will require submission in the IND of this information regardless of the type of nonclinical study generating the data. This is not an increase in burden because FDA already permits the use of non-animal studies to satisfy these requirements where appropriate, this change will not preclude sponsors from using any types of studies that are currently permitted to meet these requirements, and this change does not increase the amount of information required to meet these requirements. As with such information derived from animal studies, FDA will examine information from nonanimal nonclinical studies to determine whether they adequately support the clinical studies identified in the IND.

8. Section 312.23(a)(8)(ii)(a)

Section 312.23(a)(8)(ii)(a) requires that the toxicology information in the IND contain an “integrated summary of the toxicological effects of the drug in animals and in vitro. Depending on the nature of the drug and the phase of the investigation, the description is to include the results of acute, subacute, and chronic toxicity tests; tests of the drug’s effects on reproduction and the developing fetus; any special toxicity test related to the drug’s particular mode of administration or conditions of use (e.g., inhalation, dermal, or ocular toxicology); and any in vitro studies intended to evaluate drug toxicity.” We are amending the regulation by replacing the phrase “in animals and in vitro” with the phrase “based on nonclinical studies” and replacing the phrase “and any in vitro studies” with the phrase “and any nonclinical studies.” This change provides

flexibility and clarifies that the “integrated summary of the toxicological effects of the drug” may be derived from a broader range of studies than animal and in vitro studies. As discussed above, FDA has treated the paired terms “animal” and “in vitro” in the regulations being amended in this direct final rule to encompass all nonclinical testing conducted outside of humans and this change is consistent with that position. It does not mandate what types of studies are performed to generate this information but continues to require submission in the IND of this information regardless of the type of nonclinical study generating the data. This is not an increase in burden because FDA already permits the use of non-animal studies to satisfy these requirements where appropriate, this change will not preclude sponsors from using any types of studies that are currently permitted to meet these requirements, and this change does not increase the amount of information required to meet these requirements. As with such information derived from animal and in vitro studies, FDA will examine information from other types of nonclinical studies to determine whether they adequately support the clinical studies identified in the IND.

9. Section 312.23(a)(10)(i)

Section 312.23(a)(10)(i) provides that “[i]f the drug is a psychotropic substance or otherwise has abuse potential,” then the IND must include “a section describing relevant clinical studies and experience and studies in test animals.” We are amending the regulation by replacing the phrase “clinical studies and experience and studies in test animals” with the phrase “clinical and nonclinical studies and experience.” This change provides flexibility and clarifies that the relevant experience and studies do not have to be limited to that which occurred in humans and test animals, but may include studies and experience using nonclinical tests. It does not mandate what types of studies are performed to generate this information but continues to require submission in the IND of this information regardless of the type of nonclinical study generating the data. This is not an increase in burden because FDA already permits the use of non-animal studies to satisfy these requirements where appropriate, this change will not preclude sponsors from using any types of studies that are currently permitted to meet these requirements, and this change does not increase the amount of information required to meet these requirements. As with clinical studies and experience and

studies in test animals, FDA will examine studies and experience from nonanimal nonclinical studies to determine their relevance to support an IND for a drug that is a psychotropic substance or otherwise has abuse potential.

10. Section 312.23(a)(10)(ii)

Section 312.23(a)(10)(ii) provides that if the drug is a radioactive drug, then the IND must include “sufficient data from animal or human studies to allow a reasonable calculation of radiation-absorbed dose to the whole body and critical organs upon administration to a human subject.” We are amending the regulation by replacing the word “animal” with the word “nonclinical.” This change adds flexibility and clarifies that the data sufficient to allow a reasonable calculation of radiation-absorbed dose to the whole body and critical organs upon administration to a human subject may be obtained from a broader range of studies than animal studies. It does not mandate what types of studies are performed to generate this information but will require submission in the IND of this information regardless of the type of nonclinical study generating the data. We believe that this is not an increase in burden because FDA already permits the use of non-animal studies to satisfy these requirements where appropriate, this change will not preclude sponsors from using any types of studies that are currently permitted to meet these requirements, and this change does not increase the amount of information required to meet these requirements. As with data obtained from animal studies or human studies, FDA will examine any data from nonanimal nonclinical studies to determine whether they allow a reasonable calculation of radiation-absorbed dose to the whole body and critical organs of a human subject.

11. Section 312.32(b)

Section 312.32 describes what must be contained in IND safety reporting. Paragraph 312.32(b) requires the sponsor to “promptly review all information relevant to the safety of the drug obtained or otherwise received by the sponsor from foreign or domestic sources, including information derived from any clinical or epidemiological investigations, animal or in vitro studies, reports in the scientific literature, and unpublished scientific papers, as well as reports from foreign regulatory authorities and reports of foreign commercial marketing experience for drugs that are not marketed in the United States.” We are amending the regulation by replacing

the phrase “animal or in vitro studies” with the phrase “nonclinical studies.” This change clarifies that “all information relevant to the safety of the drug obtained or otherwise received by the sponsor from foreign or domestic sources” includes information from nonclinical studies. This change does not expand the scope of information sponsors must review under this provision; rather, it clarifies FDA’s longstanding position that sponsors are required to review all information relevant to the safety of the drug that the sponsor received or obtained from foreign or domestic sources. The list of specific sources of information to be reviewed is a list of examples and has never been intended to be an exhaustive list of potentially relevant sources of information that should be reviewed by a sponsor. The change from “animal or in vitro studies” to the broader term “nonclinical studies” better captures that intent by explicitly including modern technologies such as computer modeling and organ chips. This change does not impose any new testing requirements.

12. Section 312.32(c)(1)(iii)

Section 312.32(c) requires a sponsor to notify FDA and all participating investigators “of potential serious risks, from clinical trials or any other source” in a safety report provided as soon as possible (but not later than 15 calendar days after the sponsor determines that the information qualifies for reporting under the regulation). Section 312.32(c)(1)(iii) is headed “Findings from animal or in vitro testing.” The first sentence of the paragraph states: “The sponsor must report any findings from animal or in vitro testing, whether or not conducted by the sponsor, that suggest a significant risk in humans exposed to the drug, such as reports of mutagenicity, teratogenicity, or carcinogenicity, or reports of significant organ toxicity at or near the expected human exposure.” We are amending the regulation by replacing the phrase “animal or in vitro” with the word “nonclinical” in both the heading and first sentence. This change clarifies FDA’s longstanding position that any findings “from clinical trials or any other source” (21 CFR 312.32(c)(1)), including non-clinical studies, that suggest a significant risk to humans from exposure to the drug must be reported to FDA, including from modern technologies like computer modeling and organ chips that were not commonly used when the regulation was originally written. The information covered by this provision is critical to FDA’s ability to protect human subjects

in clinical investigations, as it encompasses data that would “[o]rordinarily . . . result in a safety-related change in the protocol, informed consent, investigator brochure (excluding routine updates of these documents), or other aspects of the overall conduct of the clinical investigation.” This change brings the language up-to-date, consistent with scientific progress and the modernization of testing methods; it does not impose any additional testing requirements.

13. Section 312.32(c)(1)(v)

Section 312.32(c)(1)(v) describes the format in which sponsors must submit IND safety reports and contains the statement “Reports of overall findings or pooled analyses from published and unpublished in vitro, animal, epidemiological, or clinical studies must be submitted in a narrative format.” We are amending the regulation by replacing the phrase “in vitro, animal” with “nonclinical” in this sentence. This change clarifies FDA’s longstanding position that any findings “from clinical trials or any other source,” including non-clinical studies, that suggest a significant risk to humans from exposure to the drug must be reported to FDA (and participating investigators) (21 CFR 312.32(c)(1)). Further, this revision conforms section 312.32(c)(1)(v) with the changes made to sections 312.32(b) and 312.32(c)(1)(iii) in describing the format for the IND safety reports required by the remainder of section 312.32(c)(1). It does not impose any additional testing requirements.

14. Section 312.33(b)(6)

Section 312.33(b)(6) requires, as part of annual reports, a summary of information “obtained during the previous year’s clinical and nonclinical investigations,” including “[a] list of the preclinical studies (including animal studies) completed or in progress during the past year and a summary of the major preclinical findings.” We are amending the regulation by replacing the phrase “preclinical studies (including animal studies)” with “nonclinical studies” and replacing “preclinical findings” with “nonclinical findings.” This change conforms the terminology in this regulation with that used in the rest of part 312, as amended in this rule. Paragraphs (b)(1) through (b)(6) of section 312.33 identify the type and scope of information to be included but the change to paragraph (b)(6) does not change the purpose of the summary section of the annual report to “bring together data from individual studies

and *briefly communicate* what was learned during the past year about the investigational drug’s safety and effectiveness” (75 FR 8819 [emphasis added]). The change does not expand the requirements, because section 312.33(b) already specifies that the summary of information covers both clinical and non-clinical information. Although paragraph (b)(6) specifies “preclinical” studies and findings (meaning studies and tests before clinical, that is testing or use in humans), the revision to refer to nonclinical studies and findings leaves out that temporal component because some nonclinical studies may take place after the start of clinical studies. Nonetheless, this section of the annual report is intended to be brief and does not require extensive discussion of all activities during the year. Otherwise, the scope of tests and studies described in this provision is the same. Based on these points, we believe that the change to section 312.33(b) and the scope of the required summary of information in the annual report does not increase burden.

15. Section 312.82

Section 312.82 provides that for “products intended to treat life-threatening or severely-debilitating illnesses, sponsors may request to meet with FDA-reviewing officials early in the drug development process to review and reach agreement on the design of necessary preclinical and clinical studies.” We are amending the regulation by replacing “preclinical” with “nonclinical.” This change conforms the terminology in this regulation with that used in the rest of part 312, as amended in this rule, and reflects the fact that some nonclinical studies may take place after the start of clinical studies. This change also reflects that scientific and regulatory recommendations provided during drug development meetings with sponsors may result in more efficient and robust development programs and that engagement with FDA may occur and be fruitful at multiple stages in drug development.

16. Section 312.82(a)

Section 312.82(a) provides that the “primary purpose of this meeting is to review and reach agreement on the design of animal studies needed to initiate human testing.” We are amending the regulation by replacing “animal” with “nonclinical.” This change provides flexibility and clarifies that the meeting may also be used to review and reach agreement on the design of any nonclinical studies needed to initiate human testing, which

is consistent with FDA's support for moving away from animal testing.

17. Section 312.86

Section 312.86 states that "FDA may undertake focused regulatory research on critical rate-limiting aspects of the preclinical, chemical/manufacturing, and clinical phases of drug development and evaluation." We are amending this paragraph by replacing "preclinical" with "nonclinical." This change conforms this regulation with the changes we are making in the rest of part 312 and will better reflect the potential scope of FDA regulatory research.

18. Section 312.88

Section 312.88 states that the safeguards for patient safety incorporated within parts 50, 56, 312, 314 and 600 "include the review of animal studies prior to initial human testing (§ 312.23)." We are amending the regulation by replacing "animal" with "nonclinical" to conform to the changes we are making in section 312.23 and to be more consistent with FDA's support for moving away from animal testing.

B. Amendment of Part 314— Applications for FDA Approval To Market a New Drug

1. Section 314.3(b)

Section 314.3(b) lists definitions of terms in alphabetical order that apply to parts 314 and 320. We are amending the section by adding, after the definition of "Newly acquired information," the following definition of "nonclinical study" adapted from the definition of "nonclinical test" added to section 505 of the FD&C Act by section 3209(a) of FDORA:

Nonclinical study means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such a test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

This definition varies from the definition added to § 312.3(b) in that it only defines "nonclinical study" rather than both "nonclinical test" and "nonclinical study." This is because part 314 generally uses the term "study" rather than "test." To be consistent in terminology across the provisions in this direct final rule, all definitions list "animal tests and studies" as an

example of non-clinical studies whether the definition is for "nonclinical studies" or "nonclinical test" and "nonclinical study."

2. Section 314.50(d)(2)

Section 314.50 establishes the content and format of an application, new drug application or NDA. It provides that the NDA is required to contain reports of all investigations of the drug product sponsored by the applicant, and "all other information about the drug pertinent to an evaluation of the NDA that is received or otherwise obtained by the applicant from any source." Section 314.50(d)(2) requires that an NDA contain a "section describing, with the aid of graphs and tables, animal and in vitro studies with drug. . . ." We are amending the regulation by replacing "animal and in vitro" with "nonclinical" and correcting the typographical error "with drug" so that the relevant part of the sentence will read "nonclinical studies with the drug." This change provides flexibility and clarifies that nonclinical studies other than animal or in vitro studies may be used to support the pharmacology and toxicology section of an NDA. As discussed above, FDA has treated the paired terms "animal" and "in vitro" to encompass all nonclinical testing conducted outside of humans and this change is consistent with that position. Furthermore, it does not specify which types of nonclinical studies must be used and thus does not broaden the testing requirement or impose any additional testing requirements. As with such data and information derived from animal studies, if FDA receives data and information from other types of nonclinical studies, FDA will examine it to determine whether it adequately supports the NDA.

3. Section 314.50(d)(2)(iv)

Section 314.50(d)(2)(iv) requires that the NDA's nonclinical pharmacology and toxicology section include "Any studies of the absorption, distribution, metabolism, and excretion of the drug in animals." We are amending this sentence to read: "Any nonclinical studies of the absorption, distribution, metabolism, and excretion of the drug." This change provides flexibility and clarifies that nonclinical studies other than animal studies may be used to provide data and information on the absorption, distribution, metabolism, and excretion of the drug. It does not impose any additional testing requirements. As with such data and information derived from animal studies, if FDA receives data and

information from other types of nonclinical studies, FDA will examine it to determine whether it adequately supports the NDA.

4. Section 314.50(d)(4)(ii)

Section 314.50(d)(4)(ii) requires that the microbiology section of an NDA for an anti-infective drug include a "description of the antimicrobial spectra of the drug, including results of in vitro preclinical studies to demonstrate concentrations of the drug required for effective use." We are amending the regulation by replacing the phrase "in vitro preclinical" with "nonclinical." This change provides flexibility and clarifies that we will accept additional types of nonclinical studies to support the microbiology section of an NDA for an anti-infective drug. It does not add any testing requirements. As with such information derived from in vitro preclinical studies, if FDA receives data and information from other types of nonclinical studies, FDA will examine it to determine whether it adequately supports the microbiology section of the NDA. We also are correcting a typographical error by replacing "antimicrobial spectra" with "antimicrobial spectrum."

5. Section 314.50(d)(5)(i)

Section 314.50(d)(5)(i) requires that the clinical data section of the NDA include "[a]description and analysis of each clinical pharmacology study of the drug, including a brief comparison of the results of the human studies with the animal pharmacology and toxicology data." We are amending the regulation by replacing the word "animal" with "nonclinical". This change provides flexibility and clarifies that we will accept comparison of the results of the human studies with pharmacology and toxicology data from nonanimal nonclinical studies to support the clinical data section of an NDA. It does not add any testing requirements. As with animal pharmacology and toxicology data, if FDA receives pharmacology and toxicology data from nonanimal nonclinical studies, FDA will examine it to determine whether it adequately supports the NDA.

6. Section 314.50(d)(5)(vi)(a)

The first sentence of section 314.50(d)(5)(vi)(a) requires the applicant to "submit an integrated summary of all available information about the safety of the drug product, including pertinent animal data, demonstrated or potential adverse effects of the drug, clinically significant drug/drug interactions, and other safety considerations, such as data

from epidemiological studies of related drugs.” We are amending the regulation by replacing the word “animal” with “nonclinical.” This change clarifies that “all available information about the safety of the drug product” includes pertinent nonclinical data not obtained from animals. It does not require that applicants conduct additional studies. It recognizes that there are newer methods of assessing safety and brings the requirements up-to-date, consistent with scientific progress and the modernization of testing methods.

7. Section 314.50(d)(5)(vi)(b)

The second sentence of section 314.50(d)(5)(vi)(b) requires that an applicant’s safety update reports “include the same kinds of information (from clinical studies, animal studies, and other sources) . . .” We are amending the regulation by replacing the word “animal” with “nonclinical” to conform to the amendment we are making to section 314.50(d)(5)(vi)(a). This does not expand the requirements because this provision already contemplates including information from sources outside of animal studies through the use of the phrase “and other sources.” It recognizes that there are newer methods of assessing safety and brings the requirements up-to-date, consistent with scientific progress and the modernization of testing methods.

8. Section 314.81(b)(2)(v)

Section 314.81(b)(2)(v) requires that the postmarketing annual report of an NDA holder include “[c]opies of unpublished reports and summaries of published reports of new toxicological findings in animal studies and in vitro studies (e.g., mutagenicity) conducted by, or otherwise obtained by, the applicant concerning the ingredients in the drug product.” The paragraph heading reads, “Nonclinical laboratory studies.” We are amending the regulation by replacing the phrase “toxicological findings in animal studies and in vitro studies (e.g., mutagenicity)” with “nonclinical toxicological findings, including, for example, from mutagenicity studies.” As discussed above, FDA has treated the paired terms “animal” and “in vitro” to encompass all nonclinical testing conducted outside of humans and this change is consistent with that position. This change does not require NDA holders to conduct new or additional studies. It simply brings the reporting requirements up to date, to capture newer methods of generating toxicological findings, consistent with scientific progress and the modernization of testing methods.

9. Section 314.81(b)(2)(vii)(a)(7)

Section 314.81(b)(2)(vii)(a)(7) specifies that the status report of the schedule for completion and reporting of the postmarketing study commitment “should include the actual or projected dates for submission of the study protocol to FDA, completion of patient accrual or initiation of an animal study, completion of the study, submission of the final study report to FDA, and any additional milestones or submissions for which projected dates were specified as part of the commitment.” We are amending the regulation by replacing the phrase “an animal” with “a nonclinical.” This change provides flexibility by recognizing that a postmarketing study commitment may include nonanimal nonclinical studies, and therefore, the status report should include the date for initiation of a nonanimal nonclinical study that is part of a postmarketing study commitment. We note that this obligation to include information in the status report required under section 314.81(b)(2)(vii)(a) is limited to postmarketing study commitments and this amendment would not require additional reporting of nonclinical studies that are outside of such commitments.

10. Section 314.93

Section 314.93 describes conditions under which FDA will or will not approve a petition to submit an ANDA for a drug product that is not identical to a listed drug in route of administration, dosage form, and strength, or in which one active ingredient is substituted for one active ingredient in a listed combination drug. Paragraph (e)(1) of section 314.93 lists a series of conditions under which FDA will not approve such a petition, one of which is if it finds that “[i]nvestigations must be conducted to show the safety and effectiveness of the drug product . . .” The first sentence of paragraph 314.93(e)(2) states that “[f]or purposes of this paragraph, ‘investigations must be conducted’ means that information derived from animal or clinical studies is necessary to show that the drug product is safe or effective.” We are amending § 314.93(e)(2) by replacing “animal” with “nonclinical.” This change in terminology does not alter FDA’s implementation through regulation of the requirement articulated in section 505(j)(2)(C)(i) that if the Agency finds investigations must be conducted to show safety and effectiveness of the petitioned drug product then it will not approve a petition to submit such an ANDA. It brings the regulation up-to-date,

consistent with scientific progress and the modernization of testing methods, by recognizing that when studies are necessary to determine that a drug product is safe or effective, nonclinical methods other than animal studies might be used to make that determination.

11. Section 314.200(d)(3)

Section 314.200 addresses the procedures for issuing a notice of opportunity for a hearing on CDER’s proposal to refuse to approve an application or to withdraw the approval of an application or abbreviated application under section 505(e) of the FD&C Act, filing a notice of participation and request for a hearing, and submitting studies and comments. Section 314.200(d) provides that the person requesting a hearing is required to submit certain information on which the person relies to justify a hearing with respect to the drug product and paragraph (d)(3) specifies FDA’s preferred format for such submissions. Roman numeral heading I, letter A of that format identifies “Animal safety data” as a component of such submissions. FDA is amending the regulation by replacing “Animal” with “Nonclinical.” This change provides flexibility and clarifies that the safety data in support of the submission may come from nonclinical tests other than animal tests. To the extent that such tests have not been performed or the submitter does not rely on the data to justify a hearing with respect to the drug product, the regulation, including as amended, does not require such tests to be performed or data submitted.

12. Section 314.430(a)

Section 314.430(a) specifies that the safety and effectiveness data for which FDA will determine public availability include “all studies and tests of a drug on animals and humans” as well as studies and tests to establish identity, stability, purity, potency, and bioavailability. FDA is amending the regulation by replacing the phrase “all studies and tests of a drug on animals and humans” with “all nonclinical and clinical studies and tests of a drug.” This change conforms the regulation to the scope of data that may be submitted to support the safety and effectiveness of a drug.

C. Amendment of Part 315—Diagnostic Radiopharmaceuticals

1. Section 315.2

Section 315.2 is the definition section of part 315, with paragraphs (a) and (b) currently defining two types of

diagnostic radiopharmaceuticals. We are amending the section by first redesignating the introductory text as paragraph (a) and redesignating current paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2) such that the two types of diagnostic radiopharmaceuticals are defined in paragraph (a); our amendments include minor revisions to refer to “paragraph (a)(1)” rather than “paragraph (a)” in the cross-reference in the definition of nonradioactive reagent kit. We are also adding, as a new paragraph (b), the definition of “nonclinical study” adapted from the definition of “nonclinical test” added to section 505 of the FD&C Act by section 3209(a) of FDORA as follows: (b) For purposes of this part, *nonclinical study* means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

This definition varies from the definition added to § 312.3(b) in that it only defines “nonclinical study” rather than both “nonclinical test” and “nonclinical study”. This is because part 315 generally uses the term “study” rather than “test.” To be consistent in terminology, all definitions list “animal tests or studies” as an example of non-clinical studies, whether the definition is for “nonclinical studies” or “nonclinical test” and “nonclinical study”.

2. Section 315.6(c)(2)

Section 315.6(c)(2) states that safety data required by FDA for diagnostic radiopharmaceuticals “may include, but is not limited to, the dose, route of administration, frequency of use, half-life of the ligand or carrier, half-life of the radionuclide, and results of clinical and preclinical studies.” We are amending the regulation by replacing “preclinical” with “nonclinical.” This change conforms the terminology in this regulation with the other regulations in this rule; as noted earlier, part of the intent of this rule is to bring more consistency to these regulations in referring to non-clinical tests. This revision does not expand the requirements because the revision is to an example of the type of information that the regulation requires.

3. Section 315.6(d)

Section 315.6(d) states that “[t]he radiation safety assessment must establish the radiation dose of a diagnostic radiopharmaceutical by radiation dosimetry evaluations in humans and appropriate animal models.” We are amending the regulation by replacing the phrase “animal” with “nonclinical.” This change provides flexibility and clarifies that radiation dosimetry evaluations may be conducted in appropriate nonclinical models other than animal models. As with data obtained from animal models and human studies, FDA will examine data from nonanimal nonclinical models to determine whether they support the establishment of a safe radiation dose.

D. Amendment of Part 361—Prescription Drugs for Human Use Generally Recognized as Safe and Effective and Not Misbranded: Drugs Used in Research

1. Section CFR 361.1(d)(7)

Section CFR 361.1(d)(7) states in the second sentence after the heading that a protocol for determining the safety of radioactive drugs to be used for human research “shall be based upon a sound rationale derived from appropriate animal studies or published literature and shall be of sound design such that information of scientific value may result.” We are amending the regulation by replacing “animal studies” with “nonclinical studies, as defined in § 312.3(b) of this chapter.” This change adds flexibility and clarifies that the sound rationale may be derived from appropriate nonclinical studies other than animal studies. As with animal studies, FDA will examine information from nonanimal nonclinical studies to determine if it supports a sound rationale for the use of the radioactive drugs in human research.

E. Amendment of Part 601—Licensing

1. Section 601.31

Section 601.31 establishes definitions for certain terms used in part 601, with paragraphs (a) and (b) currently defining two types of diagnostic radiopharmaceuticals. We are amending the section by first redesignating the introductory text as paragraph (a) and redesignating current paragraphs (a) and (b) as paragraph (a)(1) and (a)(2) such that the two types of diagnostic radiopharmaceuticals are defined in paragraph (a); our amendments include minor revisions to refer to “paragraph (a)(1)” rather than “paragraph (a)” in the cross-reference in the definition of

nonradioactive reagent kit. We are adding, as a new paragraph (b), the definition of “nonclinical study” adapted from the definition of “nonclinical test” added to section 505 of the FD&C Act by section 3209(a) of FDORA as follows:

(b) For purposes of this part, *nonclinical study* means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

This definition varies from the definition added to § 312.3(b) in that it only defines “nonclinical study” rather than both “nonclinical test” and “nonclinical study.” This is because part 601 generally uses the term “study” rather than “test.” To be consistent in terminology, all definitions list “animal tests or studies” as an example of non-clinical studies, whether the definition is for “nonclinical studies” or “nonclinical test” and “nonclinical study.”

2. Section 601.35(c)(2)

Section 601.35(c)(2) states that safety data required by FDA for diagnostic radiopharmaceuticals “may include, but is not limited to, the dose, route of administration, frequency of use, half-life of the ligand or carrier, half-life of the radionuclide, and results of clinical and preclinical studies.” We are amending the regulation by replacing “preclinical” with “nonclinical.” This change conforms the terminology in this regulation with that used in its counterpart regulation section 315.6(c)(2); as noted earlier, part of the intent of this rule is to bring more consistency to these regulations in referring to non-clinical tests.

3. Section 601.35(d)

Section 601.35(d) states that “[t]he radiation safety assessment must establish the radiation dose of a diagnostic radiopharmaceutical by radiation dosimetry evaluations in humans and appropriate animal models.” We are amending the regulation by replacing “animal” with “nonclinical.” This change conforms the terminology in this regulation with that used in its counterpart regulation section 315.6(d) and is being made for the same reasons; as noted earlier, part of the intent of this rule is to bring more

consistency to these regulations in referring to non-clinical tests.

4. Section 601.70(b)(7)

Section 601.70(b)(7) states that the schedule of a BLA holder's completion and reporting of a postmarketing study commitment in the holder's annual progress report "should include the actual or projected dates for submission of the study protocol to FDA, completion of patient accrual or initiation of an animal study, completion of the study, submission of the final study report to FDA, and any additional milestones or submissions for which projected dates were specified as part of the commitment." We are amending the regulation by replacing the phrase "an animal" with "a nonclinical" in this provision. This change provides flexibility by recognizing that a postmarketing study commitment may include nonanimal nonclinical studies, and therefore, the status report should include the date for initiation of a nonanimal nonclinical study that is part of a postmarketing study commitment. We note that this obligation to include information in the status report required under section 601.70(b)(8) is limited to postmarketing studies described in 21 CFR 601.70(a) and this amendment would not require additional reporting of nonclinical studies that are outside of such commitments.

VI. Economic Analysis of Impacts

A. Introduction

We have examined the impacts of the direct final rule under Executive Order 12866, Executive Order 13563, Executive Order 14192, the Regulatory Flexibility Act (5 U.S.C. 601–612), the Congressional Review Act/Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801, Pub. L. 104–121), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866 and 13563 direct us to assess all benefits and costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs (OIRA) has determined that this direct final rule is

a significant regulatory action under section 3(f) of Executive Order 12866.

Executive Order 14192 requires that any new incremental costs associated with certain significant regulatory actions "shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations." This direct final rule is classifiable as an Executive Order 14192 deregulatory action.

Because this rule is not likely to result in an annual effect on the economy of \$100 million or more or to meet other criteria specified in the Congressional Review Act/Small Business Regulatory Enforcement Fairness Act, OIRA has determined that this rule does not fall within the scope of 5 U.S.C. 804(2).

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because we estimate that this direct final rule will produce no quantifiable costs, we certify that this direct final rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes estimates of anticipated impacts, before proposing "any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year." The current threshold after adjustment for inflation is \$193 million, using the most current (2025) Implicit Price Deflator for the Gross Domestic Product. This direct final rule will not result in an expenditure in any year that meets or exceeds this amount.

B. Overview of Benefits, Costs, and Transfers

This direct final rule substitutes "nonclinical" for "animal" in phrases like "animal test," substitutes "nonclinical" for "preclinical" and "in vitro" for consistency in terminology, and adds a definition of "nonclinical test" and "nonclinical study" to the definitions section of FDA's drug and biological product regulations. Nonclinical tests and studies include but are not limited to the following: cell-

based assays, organ chips and microphysiological systems, computer modeling, other nonhuman or human biology-based test methods (*e.g.*, bioprinting), and animal tests or studies. FDA already permits the use of nonanimal studies and this rule will not preclude sponsors from using any types of studies that are currently permitted; industry will continue to provide information on the nonanimal studies that they use and rely on. The terminology changes in this rule also address existing obligations to submit and report information on nonclinical testing to FDA. Where the rule substitutes the term "nonclinical" for the paired terms "animal" and "in vitro," this change does not expand the scope of data that must be reviewed, submitted, or reported, because FDA has historically treated those paired terms in the context of the regulations being amended in this direct final rule to encompass all nonclinical testing conducted outside of humans. These regulatory requirements generally focus on the significance or relevance of the information to human safety rather than on the methodology used to generate it. As described in section V of this rule, sponsors have submitted data from *in silico*, *in chemico*, and other nonclinical methodologies under the current regulations consistent with this position and FDA has accepted such data under these provisions when appropriate. In short, this rule imposes no new requirements on industry and so is expected to generate no costs. Hence, we estimate that this direct final rule will produce no quantifiable savings, costs, or transfers. We do not expect any loss of public health benefits as a result of this rule. In fact, this direct final rule may foster the development and use of scientifically valid non-animal methods and so may yield benefits from this added flexibility.

Table 1 summarizes the estimated benefits and costs of the direct final rule using a 10-year time horizon. We estimate that annualized benefits would be \$0 million per year using either a 3 or 7 percent discount rate and that annualized costs would be \$0 million per year using either a 3 or 7 percent discount rate.

TABLE 1—SUMMARY OF BENEFITS, COSTS, AND DISTRIBUTIONAL EFFECTS OF THE DIRECT FINAL RULE
[Millions of 2025 dollars]

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate (%)	Period covered	
Benefits:							
Annualized Monetized (\$millions/year)	\$0 0	\$0 0	\$0 0	2025 2025	7 3	2025–2034 2025–2034	
Annualized Quantified .....	.....	.....	.....	.....	7 3	..... .....	
Qualitative	The rule may foster the development and use of scientifically valid new testing methodologies.						
Costs:							
Annualized Monetized (\$millions/year)	0 0	0 0	0 0	2025 2025	7 3	2025–2034 2025–2034	
Annualized Quantified .....	.....	.....	.....	.....	7 3	..... .....	
Qualitative.							
Transfers:							
Federal Annualized Monetized (\$millions/year) .....	..... .....	..... .....	..... .....	..... .....	7 3	..... .....	
	From:			To:			
Other Annualized Monetized (\$millions/year) .....	..... .....	..... .....	..... .....	..... .....	7 3	..... .....	
	From:			To:			
Effects:							
State, Local or Tribal Government: None.							
Small Business: None.							
Wages: None.							
Growth: None.							

This direct final rule addresses provisions in human drug and biological product regulations that refer to animal studies or tests. It implements updates to definitions based on new statutory provisions enacted in the Consolidated Appropriations Act, 2023 (Pub. L. 117–328) that unambiguously allow for a broader range of nonclinical studies to meet current requirements without imposing new requirements. Prior to legislative action, some sponsors likely relied on existing terminology in codified regulations that emphasized the use of animal testing as the only scientific methodology to assess the safety of a drug in the nonclinical setting. Adopting a pre-statutory baseline for analysis, we anticipate that this direct final rule will serve as an enabling action that results

in an incremental shift by some sponsors from animal testing to other types of nonclinical testing, when appropriate. Under the new definition, some sponsors will shift to other methods, including those enumerated in a new definition of “nonclinical test”: (1) cell-based assays; (2) organ chips and microphysiological systems, (3) computer modeling, and (4) other nonhuman or human biology-based test methods, such as bioprinting; or they may continue to pursue the methods emphasized in the baseline scenario of (5) animal tests or studies. Because the rule updates terminology to unambiguously allow for a broader range of nonclinical studies to meet current requirements without limiting existing options or imposing new requirements, it is classified as a

deregulatory action under Executive Order 14192.

In line with Executive Order 14192, in Table 2 we estimate present and annualized values of costs, cost savings, and net costs over a perpetual time horizon. We estimate that this direct final rule would generate \$0 million per year in annualized net cost savings at a 7 percent discount rate, discounted relative to year 2024 over a perpetual time horizon. Since this final rule updates terminology to unambiguously allow for a broader range of nonclinical studies to meet current requirements without limiting existing options or imposing new requirements, we conclude this direct final rule is classifiable as an Executive Order 14192 deregulatory action.

TABLE 2—EXECUTIVE ORDER 14192 SUMMARY TABLE

[Millions of 2025 dollars, discounted over a perpetual time horizon relative to year 2024 at a 7 percent discount rate]

	Primary estimate	Low estimate	High estimate
Present Value of Costs	\$0	\$0	\$0
Present Value of Cost Savings	0	0	0
Present Value of Net Costs	0	0	0
Annualized Costs	0	0	0
Annualized Cost Savings	0	0	0
Annualized Net Costs	0	0	0

VII. Analysis of Environmental Impacts

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

FDA concludes that this direct final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) is not required.

IX. Federalism

We have analyzed this direct final rule in accordance with the principles set forth in Executive Order 13132. We have determined that this direct final rule does not contain policies that 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

X. Consultation and Coordination With Indian Tribal Governments

We have analyzed this direct final rule in accordance with the principles set forth in Executive Order 13175. We have determined that the rule does not contain policies that would 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.

XI. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at <https://www.regulations.gov>. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. FDA guidance for industry “S6 Addendum to Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals,” May 2012, available at

<https://www.fda.gov/media/78034/download>.

2. FDA guidance for industry “S2(R1) Genotoxicity Testing and Data Interpretation for Pharmaceuticals Intended for Human Use,” June 2012, available at <https://www.fda.gov/media/71980/download>.
3. FDA guidance for industry “S3A Guidance: Note for Guidance on Toxicokinetics: The Assessment of Systemic Exposure in Toxicity Studies: Focus on Microsampling, Questions and Answers,” May 2018, available at <https://www.fda.gov/media/100027/download>.
4. FDA guidance for industry “S9 Nonclinical Evaluation for Anticancer Pharmaceuticals, Questions and Answers,” June 2018, available at <https://www.fda.gov/media/100344/download>.
5. FDA guidance for industry “Microdose Radiopharmaceutical Diagnostic Drugs: Nonclinical Study Recommendations,” August 2018, available at <https://www.fda.gov/media/107641/download>.
6. FDA guidance for industry “Testicular Toxicity: Evaluation During Drug Development,” October 2018, available at <https://www.fda.gov/media/117948/download>.
7. FDA guidance for industry “Oncology Pharmaceuticals: Reproductive Toxicity Testing and Labeling Recommendations,” May 2019, available at <https://www.fda.gov/media/124829/download>.
8. FDA guidance for industry “Oncology Therapeutic Radiopharmaceuticals: Nonclinical Studies and Labeling Recommendations,” August 2019, available at <https://www.fda.gov/media/129547/download>.
9. FDA guidance for industry “Long Term Follow-Up After Administration of Human Gene Therapy Products,” January 2020, available at <https://www.fda.gov/media/113768/download>.
10. FDA guidance for industry “Human Gene Therapy for Hemophilia,” January 2020, available at <https://www.fda.gov/media/113799/download>.
11. FDA guidance for industry “Human Gene Therapy for Retinal Disorders,” January 2020, available at <https://www.fda.gov/media/124641/download>.
12. FDA guidance for industry “Human Gene Therapy for Rare Diseases,” January 2020, available at <https://www.fda.gov/media/113807/download>.
13. FDA guidance for industry “S9 Nonclinical Evaluation for Anticancer Pharmaceuticals,” March 2010, available at <https://www.fda.gov/media/73161/download>.
14. FDA guidance for industry “S5(R3) Detection of Reproductive and Developmental Toxicity for Human Pharmaceuticals,” May 2021, available at <https://www.fda.gov/media/148475/download>.
15. FDA guidance for industry “Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA Products,” August 2026, available at <https://www.fda.gov/media/172311/download>.

16. FDA draft guidance for industry “General Considerations for the Use of New Approach Methodologies in Drug Development,” March 2026, available at <https://www.fda.gov/media/191589/download>.
17. FDA “Predictive Toxicology Roadmap,” December 2017, available at <https://www.fda.gov/files/science%20&%20research/published/FDA's-Predictive-Toxicology-Roadmap.pdf>.
18. PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2023 through 2027 (Commitment Letter), available at <https://www.fda.gov/media/151712/download>.
19. Report to the Science Board to FDA “Potential Approaches to Drive Future Integration of New Alternative Methods for Regulatory Decision-Making,” October 2024, available at <https://www.fda.gov/media/182478/download>.
20. ICCVAM “Validation, Qualification, and Regulatory Acceptance of New Approach Methodologies,” March 2024, available at https://ntp.niehs.nih.gov/sites/default/files/2024-03/VWG_Report_27Feb2024_FD_508.pdf.
21. FDA “Roadmap to Reducing Animal Testing in Preclinical Safety Studies,” April 2025, available at <https://www.fda.gov/media/186092/download?attachment>.

List of Subjects

21 CFR Part 312

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements, Safety.

21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

21 CFR Part 315

Biologics, Drugs.

21 CFR Part 361

Medical research, Prescription drugs, Radiation protection.

21 CFR Part 601

Administrative practice and procedure, Biologics, Confidential business information.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 312, 314, 315, 361, and 601 are amended as follows:

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

■ 1. The authority citation for part 312 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360bbb, 371; 42 U.S.C. 262.

■ 2. In § 312.3, amend paragraph (b), by adding in alphabetical order the definition for “nonclinical test and nonclinical study” to read as follows:

§ 312.3 Definitions and interpretations.

* * * * *

(b) * * *

Nonclinical test and nonclinical study mean a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

* * * * *

§ 312.22 [Amended]

■ 3. In § 312.22, amend paragraph (c) in the second sentence by removing the word “animal” and adding in its place the word “nonclinical”.

■ 4. Amend § 312.23 by:

- a. In paragraph (a)(3)(iv)(f), removing the word “animals” and adding in its place the phrase “nonclinical studies”;
- b. In paragraphs (a)(5)(ii) and (iii), removing the word “animals”, wherever it appears, and adding in its place the phrase “nonclinical studies”;
- c. Revising paragraph (a)(8);
- d. In paragraph (a)(10)(i), removing the phrase “clinical studies and experience and studies in test animals” and adding in its place the phrase “clinical and nonclinical studies and experience”; and
- e. In paragraph (a)(10)(ii), removing the word “animal” and adding in its place the word “nonclinical”.

The revisions read as follows:

§ 312.23 IND content and format.

(a) * * *

(8) *Pharmacology and toxicology information.* Adequate information about nonclinical pharmacological and toxicological studies of the drug, on the basis of which the sponsor has concluded that it is reasonably safe to conduct the proposed clinical investigations. The kind, duration, and scope of nonclinical tests required varies with the duration and nature of the proposed clinical investigations. Guidance documents are available from FDA that describe ways in which these requirements may be met. Such information is required to include the identification and qualifications of the individuals who evaluated the results of such studies and concluded that it is reasonably safe to begin the proposed

investigations and a statement of where the investigations were conducted and where the records are available for inspection. As drug development proceeds, the sponsor is required to submit informational amendments, as appropriate, with additional information pertinent to safety.

(i) *Pharmacology and drug disposition.* A section describing the pharmacological effects and mechanism(s) of action of the drug in nonclinical tests, and information on the absorption, distribution, metabolism, and excretion of the drug, if known.

(ii) *Toxicology.* (A) An integrated summary of the toxicological effects of the drug based on nonclinical studies. Depending on the nature of the drug and the phase of the investigation, the description is to include the results of acute, subacute, and chronic toxicity tests; tests of the drug’s effects on reproduction and the developing fetus; any special toxicity test related to the drug’s particular mode of administration or conditions of use (e.g., inhalation, dermal, or ocular toxicology); and any nonclinical studies intended to evaluate drug toxicity.

(B) For each toxicology study that is intended primarily to support the safety of the proposed clinical investigation, a full tabulation of data suitable for detailed review.

* * * * *

§ 312.32 [Amended]

■ 5. Amend § 312.32 by:

- a. In paragraph (b), removing the phrase “animal or in vitro studies” and adding in its place the phrase “nonclinical studies”;
- b. In paragraph (c)(1)(iii), removing the phrase “animal or in vitro”, wherever it appears, and adding in its place the word “nonclinical”; and
- c. In paragraph (c)(1)(v), removing the phrase “in vitro, animal”, wherever it appears, and adding in its place the word “nonclinical”.

§ 312.33 [Amended]

■ 6. In § 312.33, amend paragraph (b)(6) by:

- a. Removing the phrase “preclinical studies (including animal studies)” and adding in its place the phrase “nonclinical studies”; and
- b. Removing the phrase “preclinical findings” at the end of the sentence and adding in its place the phrase “nonclinical findings”.

§ 312.82 [Amended]

■ 7. Amend § 312.82 by:

- a. Removing the word “preclinical” and adding in its place the word “nonclinical”; and
- b. Removing the word “animal” and adding in its place the word “nonclinical”.

§ 312.86 [Amended]

■ 8. Amend § 312.86 by removing the word “preclinical” and adding in its place the word “nonclinical”.

§ 312.88 [Amended]

■ 9. Amend § 312.88 by removing the word “animal” and adding in its place the word “nonclinical”.

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG

■ 10. The authority citation for part 314 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 355a, 355f, 356, 356a, 356b, 356c, 356e, 360cc, 360dd, 360ddd–1, 371, 374, 379e, 379k–1.

■ 11. In § 314.3, amend paragraph (b), by adding in alphabetical order the definition for “nonclinical study” to read as follows:

§ 314.3 Definitions.

* * * * *

(b) * * *

Nonclinical study means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

* * * * *

§ 314.50 [Amended]

■ 12. Amend § 314.50 by:

- a. In paragraph (d)(2) introductory text, removing the phrase “animal and in vitro studies with drug” and adding in its place the phrase “nonclinical studies with the drug”;
- b. In paragraph (d)(2)(iv), adding the word “nonclinical” before the word “studies”, and removing the phrase “in animals” at the end of the sentence;
- c. In paragraph (d)(4)(ii), removing the word “spectra” and adding in its place the word “spectrum”, and removing the phrase “in vitro preclinical” and adding in its place the word “nonclinical”;
- d. In paragraph (d)(5)(i), removing the word “animal” and adding in its place the word “nonclinical”;
- e. Redesignating paragraphs (d)(5)(vi)(a) and (d)(5)(vi)(b) as

paragraphs (d)(5)(vi)(A) and (d)(5)(vi)(B);

- f. In newly redesignated paragraph (d)(5)(vi)(A), removing the word “animal” in paragraph (a) and adding in its place the word “nonclinical”; and
- g. In newly redesignated paragraph (d)(5)(vi)(B), removing the word “animal” in paragraph (b) and adding in its place the word “nonclinical”.

§ 314.81 [Amended]

- 13. Amend § 314.81 by:

- a. In paragraph (b)(2)(v), removing the phrase “toxicological findings in animal studies and in vitro studies (e.g., mutagenicity)” and adding in its place the phrase “nonclinical toxicological findings, including, for example, from mutagenicity studies”; and
- b. In paragraph (b)(2)(vii)(a)(7), removing the phrase “an animal” and adding in its place the phrase “a nonclinical”.

§ 314.93 [Amended]

- 14. In § 314.93, amend paragraph (e)(2) by removing the word “animal” and adding in its place the word “nonclinical”.

§ 314.200 [Amended]

- 15. In § 314.200, in the analysis format in paragraph (d)(3), amend the heading for item I.A. by removing the word “Animal” and adding in its place the word “Nonclinical.”

§ 314.430 [Amended]

- 16. In § 314.430, amend paragraph (a) by removing the phrase “all studies and tests of a drug on animals and humans” and adding in its place the phrase “all nonclinical and clinical studies and tests of a drug”.

PART 315—DIAGNOSTIC RADIOPHARMACEUTICALS

- 17. The authority citation for part 315 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 371, 374, 379e; sec. 122, Pub. L. 105–115, 111 Stat. 2322 (21 U.S.C. 355 note).

- 18. Revise § 315.2 to read as follows:

§ 315.2 Definitions.

(a) For purposes of this part, *diagnostic radiopharmaceutical* means:

(1) An article that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans and that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(2) Any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of such article

as defined in paragraph (a)(1) of this section.

(b) For purposes of this part, *nonclinical study* means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

§ 315.6 [Amended]

- 19. Amend § 315.6 by:

- a. In paragraph (c)(2), removing the word “preclinical” and adding in its place the word “nonclinical”; and
- b. In paragraph (d), removing the word “animal” and adding in its place the word “nonclinical”.

PART 361—PRESCRIPTION DRUGS FOR HUMAN USE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED: DRUGS USED IN RESEARCH

- 20. The authority citation for part 361 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 371; 42 U.S.C. 262.

§ 361.1 [Amended]

- 21. In § 361.1, amend paragraph (d)(7) by removing the phrase “animal studies” and adding in its place the phrase “nonclinical studies, as defined in § 312.3(b) of this chapter”.

PART 601—LICENSING

- 22. The authority citation for part 601 continues to read as follows:

Authority: 15 U.S.C. 1451–1561; 21 U.S.C. 321, 351, 352, 353, 355, 356b, 360, 360c–360f, 360h–360j, 371, 374, 379e, 381; 42 U.S.C. 216, 241, 262, 263, 264; sec. 122, Pub. L. 105–115, 111 Stat. 2322 (21 U.S.C. 355 note), sec. 7002(e), Pub. L. 111–148, 124 Stat. 817, as amended by sec. 607, Division N, Pub. L. 116–94, 133 Stat. 3127.

- 23. Revise § 601.31 is amended to read as follows:

§ 601.31 Definitions.

(a) For purposes of this part, *diagnostic radiopharmaceutical* means:

(1) An article that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans and that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(2) Any nonradioactive reagent kit or nuclide generator that is intended to be

used in the preparation of such article as defined in paragraph (a)(1) of this section.

(b) For purposes of this part, *nonclinical study* means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

§ 601.35 [Amended]

- 24. Amend § 601.35 by:

- a. In paragraph (c)(2), removing the word “preclinical” and adding in its place the word “nonclinical”; and
- b. In paragraph (d), removing the word “animal” and adding in its place the word “nonclinical”.

§ 601.70 [Amended]

- 25. In § 601.70, amend paragraph (b)(7) by removing the phrase “an animal” and adding in its place the phrase “a nonclinical”.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–19350 Filed 9–21–26; 8:45 am]

BILLING CODE 4164–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 19–310, 17–105; FCC 24–66; FR ID 368194]

Reinstatement of Radio Non-Duplication Rule for Commercial FM Stations; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendment.

SUMMARY: This document corrects the final rule portion of a **Federal Register** document published on July 3, 2024. That document inadvertently included an error in a section heading of regulatory text. This document corrects the final regulations.

DATES: Effective on September 22, 2026.
FOR FURTHER INFORMATION CONTACT: John Bat, Media Bureau, Industry Analysis Division, John.Bat@fcc.gov, (202) 418–7921.

SUPPLEMENTARY INFORMATION: This document corrects the final rule document published at 89 FR 55078,

July 3, 2024. It corrects the section heading for the radio non-duplication rule in 47 CFR 73.3556 to “Duplication of programming on commonly owned or time brokered stations” from “Sponsorship identification; list retention; related requirements.”

List of Subjects in 47 CFR Part 73

Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

Accordingly, 47 CFR part 73 is corrected by making the following correcting amendment:

PART 73—RADIO BROADCAST SERVICE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. Amend § 73.3556 by revising the section heading to read as follows:

§ 73.3556 Duplication of programming on commonly owned or time brokered stations.

* * * * *

[FR Doc. 2026–19311 Filed 9–21–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 26–986; FR ID 368505]

Radio Broadcasting Services; Various Locations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the Table of FM Allotments, of the Federal Communications Commission’s (Commission) rules, by reinstating certain channels as a vacant FM allotment in various communities. The FM allotments were previously removed from the FM Table because a construction permit and/or license was granted. These FM allotments are now considered vacant because of the cancellation of the associated FM authorizations. A staff engineering analysis confirms that all of the vacant FM allotments complies with the minimum distance separation requirements and principle community coverage requirements of the Commission’s rules. The window period for filing applications for these vacant

FM allotments will not be opened at this time. Instead, the issue of opening these allotments for filing will be addressed by the Commission in subsequent order.

DATES: Effective September 22, 2026.

FOR FURTHER INFORMATION CONTACT:

Rolanda F. Smith, Media Bureau, (202) 418–2054, Rolanda-Faye.Smith@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s *Order*, adopted September 15, 2026, and released September 16, 2026. The full text of this Commission decision is available online at <https://apps.fcc.gov/ecfs/>. The full text of this document can also be downloaded in Word or Portable Document Format (PDF) at <https://www.fcc.gov/edocs>. This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission will not send a copy of the *Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A), because these allotments were previously reported.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. Amend § 73.202(b) in table 1 (Table of FM Allotments) by;

■ a. Adding the entries for “Fowler” and “Parachute” in alphabetical order under Colorado;

■ b. Revising the entry for “Horseshoe Beach” in alphabetical order under Florida;

■ c. Adding the entry for “Coushatta” in alphabetical order under Louisiana;

■ d. Adding the entries for “Arcadia” and “Ellington” in alphabetical order under Missouri;

■ e. Adding the entry for “Ellsworth AFB” in alphabetical order under South Dakota; and

■ f. Adding the entry for “Huntingdon” in alphabetical order under Tennessee.

The additions and revision reads as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

TABLE 1 TO PARAGRAPH (b)
[U.S. States]

	Chan- nel No.
Colorado	
* * * * *	
Fowler	257C1
* * * * *	
Parachute	266A
* * * * *	
Florida	
* * * * *	
Horseshoe Beach	234C3
* * * * *	
Louisiana	
* * * * *	
Coushatta	235C2
* * * * *	
Missouri	
Arcadia	280A
* * * * *	
Ellington	294C2
* * * * *	
South Dakota	
* * * * *	
Ellsworth AFB	285C
* * * * *	
Tennessee	
Huntingdon	265C3
* * * * *	

[FR Doc. 2026–19329 Filed 9–21–26; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679****[Docket No. 260305–0066; RTID 0648–XG031]****Fisheries of the Exclusive Economic Zone Off Alaska; “Other Rockfish” in the Aleutian Islands Subarea 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 retention of “other rockfish” in the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2026 “other rockfish” total allowable catch (TAC) in the Aleutian Islands subarea of the BSAI will soon be or has been reached.**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), September 21, 2026, through 2400 hours, A.l.t., December 31, 2026.**FOR FURTHER INFORMATION CONTACT:** Andrew Olson, 907–586–7228.**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared and

recommended by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2026 “other rockfish” TAC in the Aleutian Islands subarea of the BSAI is 415 metric tons (mt) as established by the final 2026 and 2027 harvest specifications for groundfish in the BSAI (91 FR 11750, March 10, 2026).

The Regional Administrator, Alaska Region, NMFS has determined that the 2026 “other rockfish” TAC in the Aleutian Islands subarea of the BSAI will soon be or has been reached. Therefore, in accordance with § 679.20(d)(2), NMFS is prohibiting retention of “other rockfish” in the Aleutian Islands subarea of the BSAI and requiring that “other rockfish” in the Aleutian Islands subarea of the BSAI be treated in the same manner as a prohibited species, as described under § 679.21(a), for the remainder of the year, except “other rockfish” species in the Aleutian Islands subarea caught by catcher vessels using hook-and-line, pot, or jig gear as described in § 679.20(j). This action is necessary to prevent exceeding the 2026 “other rockfish” TAC in the Aleutian Islands subarea of the BSAI. While this prohibition is effective the requirements at § 679.20(j)(4) apply.

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 on “other rockfish” catch in a timely fashion and would delay prohibiting retention of “other rockfish” in the Aleutian Islands subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data on the total catch of “other rockfish” in the Aleutian Islands subarea of the BSAI only became available as of September 18, 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: September 18, 2026.

Shannon Bettridge,*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2026–19390 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 91, No. 182

Tuesday, September 22, 2026

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

DEPARTMENT OF ENERGY

10 CFR Part 708

[DOE-HQ-2026-0496]

RIN 1910-AA55

Revisions to the Office of Hearings and Appeals Procedural Regulations for the DOE Contractor Employee Protection Program

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The United States (U.S.) Department of Energy (DOE) publishes a proposed rule to amend its regulations, which set forth the policies and procedures for resolving questions concerning protections for DOE contractor employees alleging retaliation by their employers. The proposed revisions would clarify deadlines and tolling practices throughout the regulation; make grammatical changes throughout the rule for consistency with national policies and DOE practices; and update references to DOE officials and offices in order to ensure clarity, consistency, and fairness in DOE's administration of the Contractor Employee Protection Program.

DATES: Written comments on this proposed rule must be received on or before October 22, 2026. See section III, *Public Participation*, for details.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at www.regulations.gov under docket number DOE-HQ-2026-0496. Please follow the instructions for submitting comments in section III. Alternatively, interested persons may submit comments, identified by docket number DOE-HQ-2026-0496, by any of the following methods:

(1) *Email:* OHA@hq.doe.gov. Please include the docket number DOE-HQ-2026-0496 in the subject line of the message.

(2) *Postal Mail:* U.S. Department of Energy, Office of Hearings and Appeals, 1000 Independence Avenue SW, Washington, DC 20585.

(3) *Hand Delivery/Courier:* U.S. Department of Energy, Office of Hearings and Appeals, 1000 Independence Avenue SW, Washington, DC 20585. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles ("faxes") will be accepted.

FOR FURTHER INFORMATION CONTACT: Erin C. Weinstock, U.S. Department of Energy, Office of Hearings and Appeals, 1000 Independence Avenue SW, Washington, DC 20585; (301) 366-1076, OHA@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

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I. Background and Summary

DOE is publishing this notice of proposed rulemaking in order to update and clarify DOE's policies and procedures for processing complaints by employees of DOE contractors alleging retaliation by their employers for:

- (1) Disclosure of information concerning dangers to public or worker health or safety, substantial violations of law, or gross mismanagement;
- (2) Participation in Congressional proceedings; or
- (3) Refusal to participate in dangerous activities.

The current rule was last updated in 2019.¹ Since then, the rule has been

¹ 84 FR 37757 (Aug. 2, 2019). DOE rescinded 10 CFR 708.10 in 2025. 90 FR 31136 (July 14, 2025).

applied to numerous investigations, hearings, appeals, and petitions for Secretarial review regarding contractor complaints filed under this rule. The proposed changes are intended to address areas of potential confusion and bring the regulations in line with current practice in order to ensure clarity, consistency, and fairness in DOE's administration of the Contractor Employee Protection Program. The proposed revisions would:

- (1) Update definitions to reflect current practice and understanding;
- (2) Encourage use of alternative dispute resolution services;
- (3) Authorize the processing of a complaint to be tolled when parties use alternative dispute resolution services and make clear what kinds of alternative dispute resolution services qualify for tolling;
- (4) Allow agency officials to grant extensions to file or amend a complaint for good reason;
- (5) Provide clearer deadlines for parties and agency officials;
- (6) Formalize requirements regarding the submission of confidential information;
- (7) Extend time to complete an investigation;
- (8) Clarify the role of the Administrative Judge in hearings;
- (9) Update titles of various DOE officials; and
- (10) Amend the regulations so they are gender neutral and in line with regulations throughout the Federal Government.

II. Section-by-Section Description of Proposed Changes

A. Section 708.1

The proposed rule would amend § 708.1, "Scope and purpose," by updating the descriptions of the types of protected disclosures that are covered by part 708 to match the text of § 708.5, "Protected conduct," for consistency.

B. Section 708.2

The proposed rule would amend § 708.2, "Definitions," by deleting "(a)" before "For purposes of this part".

The proposed rule would amend the definition for "Alternative Dispute Resolution" to "Alternative dispute resolution" to keep the capitalization consistent.

The proposed rule would amend the definition of "Day" by adding several sentences that detail how the deadlines operate in practice to provide clarity to parties.

The proposed rule would replace the term "EC Director" with "ECP Director"

here and throughout the following proposed part 708 regulations. The proposed rule would also replace the term “Office of Employee Concerns” with “Employee Concerns Program” to be consistent with the terminology in DOE O 442.1B.

The proposed rule would amend the definition for “Party” by replacing the term “party” with “individual” to avoid confusion that may result from using the same term twice in the definition.

The proposed rule would add a definition for the term “Law, rule, or regulation” and would define the term as “policies or procedures that are government mandates or implement government mandates.” This proposed addition would clarify the types of violations that may constitute protected disclosures under part 708.

The proposed rule would add a definition for the term “Union-negotiated grievance-arbitration procedure” and would define the term as “one that has been negotiated by a labor organization.” This definition is one that is long-established in Office of Hearings and Appeals (OHA) case law.

The proposed rule would also add a definition of “Verified email” and would define the term as “an email sent to the email address provided by a party.” The proposed addition of this definition reflects a proposed change to acceptable methods of notification under § 708.18.

Lastly, the proposed rule would delete subsection (b) in its entirety because the proposed rule would revise part 708 so the provisions are gender neutral. For example, in place of “he,” the proposed rule would use “he or she,” and in place of “his,” the proposed rule would use “his or her.” Such revisions are proposed throughout part 708 and are consistent with the regular practice of DOE and other federal agencies.

C. Section 708.4

The proposed rule would amend § 708.4, “Complaints not covered,” to clarify which other types of complaints bar an employee from filing a complaint under Part 708. Specifically, the reference in § 708.4(c) through § 708.15(a) would refer instead to § 708.16(a) for accuracy. In addition, the words “a regulation, statute, or other law, including” would be added after “chosen to pursue a remedy available under” in § 708.4(c) to clarify the basis upon which a complaint may be excluded if it is based on the same facts for which the employee chose to pursue another remedy. The proposed rule would also revise the list of regulations, statutes, or other laws listed under

§ 708.4(c) to update the referenced regulations and to add “41 U.S.C. 4712, ‘Enhancement of contractor protection from reprisal for disclosure of certain information.’”

D. Section 708.9

The proposed rule would amend § 708.9(a), “How to file complaints or other documents,” to state that a complaint or other document is considered filed on the date it is received by the specified official or office.

E. Section 708.10

The proposed rule would add § 708.10, “Informal resolution of complaints.” This section would encourage the use of alternative dispute resolution services to resolve complaints arising under part 708. To facilitate the use of these services, this section would explain where parties can seek these services, allow for the tolling of deadlines under part 708 while using these services, and provide instructions for the steps to take if a complaint is resolved. The addition of this section will reduce costs associated with part 708 complaints, increase processing efficiency, and improve the effectiveness of alternative dispute resolution services for part 708 complaints.

F. Section 708.13

The proposed rule would amend § 708.13, “Requirements for the form and content of a complaint,” so that the term “union-negotiated” is included before “grievance or arbitration procedures” to be consistent with the proposed revisions to § 708.2.

G. Section 708.14

The proposed rule would amend the title to § 708.14 so that it reads “Exhaustion of union-negotiated grievance-arbitration procedures” and would amend § 708.14 so that “union-negotiated” is added to every reference to “grievance-arbitration procedure” to be consistent with the proposed revisions to § 708.2.

H. Section 708.15

The proposed rule would amend § 708.15, “Time to file a complaint,” as follows. In the proposed first sentence of § 708.15(b), the word “any” replaces the word “an” before “internal company grievance-arbitration procedure” to clarify the types of procedures covered under the regulations. In the second sentence, “period” is removed for brevity, the word “internal” is removed for brevity, and the remainder of the sentence is amended to form a proposed

third sentence. The proposed third sentence is amended to state, before introducing subparts, “The time begins to run again on the earlier of:” and, in subpart (2), “If a union-negotiated grievance-arbitration procedure, 150 days after the grievance was initiated if a final decision has not been issued.” These changes clarify that use of any internal company grievance-arbitration procedure may toll the deadline to file a complaint even if it was not negotiated by a labor organization. In the proposed § 708.15(d), “not” is removed, “during” is replaced by “on a date later than,” “90 day period” is replaced by “applicable deadline,” and “filing within that period” is replaced by “meeting that deadline” to be consistent with the proposed amended filing deadlines.

I. Section 708.16

The proposed rule would amend § 708.16, “Duplicative actions under State or other law,” as follows. Section 708.16(a)(2) would be amended to include a relevant duplicate proceeding and would add “or 41 U.S.C. 4712” after “48 CFR part 3, subpart 3.9”, and § 708.16(a)(3) would be amended to include “union-negotiated” in front of “grievance-arbitration” to be consistent with the proposed revisions to § 708.2.

J. Section 708.17

The proposed rule would amend § 708.17, “Notification of complaints and opportunities to respond,” as follows. Section 708.17(a) would be amended to add “upon its receipt” to the end of the third sentence after “will provide the complainant with a copy of the employer’s response” to clarify when the response must be provided; to add “upon their receipt” after “copy of those additional comments” to clarify when the complainant’s additional comments to the employer’s response is to be provided; and to add a final sentence that states “The deadline set forth in this subsection may be extended by the Head of Field Element or ECP Director (as applicable) for good reason” to clarify that the Head of Field Element or ECP Director may extend the deadline for good reason. Section 708.17(b) would be amended to add “The Head of Field Element or ECP Director (as applicable) will provide the comments to the complainant and employer upon his or her receipt” to clarify when the comments submitted by a labor organization bargaining unit representative per § 708.17(b) must be provided to the complainant and employer. A proposed § 708.17(c) would be added and states “The Head of Field Element or ECP Director (as applicable)

must provide the contact information for the DOE's Alternative Dispute Resolution Office to the parties as soon as is practicable after receiving the complaint" to promote the use of alternative dispute resolution.

K. Section 708.18

The proposed rule would amend § 708.18, "Dismissal for lack of jurisdiction or other good cause," as follows. Section 708.18(a) would be amended so that the second sentence states "If the employer does not file a response, such decisions are issued by the 20th day after the employer's period to respond under § 708.17(a) has elapsed." The third sentence would be amended to state "If the employer files a timely response, such decisions are issued by the 20th day after the complainant files additional comments under § 708.17(a), or the 20th day after the period to file additional comments has elapsed, whichever is soonest." These changes would clarify deadlines and help the Head of Field Element or ECP Director determine when it will be decided if a complaint is dismissed. Section 708.18(b) would be amended by adding "verified email or" before "certified email" to be consistent with the proposed amended § 708.2 definition of verified email. Section 708.18(c)(1) through (c)(4) would be amended to remove the "or" after each semicolon for brevity.

L. Section 708.19

The proposed rule would amend § 708.19, "Appealing the dismissal of a complaint by the Head of Field Element or ECP Director for lack of jurisdiction or other good cause," by deleting "as evidenced by a receipt for delivery or certified email" after "dismissal" in § 708.19(a) to allow electronic notice.

M. Section 708.20

The proposed rule would amend § 708.20, "Review by the Secretary of Energy of a decision on appeal of a dismissal," by replacing "any party" with "the complainant" in § 708.20(a) to reflect the reality that only complainants appeal dismissals. The proposed rule would also replace "a petition for Secretarial review of a dismissal" with "a notice indicating he or she is petitioning for Secretarial review" in § 708.20(a) to clarify that the filing required by the 30th day after a decision on an appeal under § 708.19 is a notice of appeal rather than a statement of the issues being raised on appeal.

N. Section 708.21

The proposed rule would amend § 708.21, "Referral to the Office of Hearings and Appeals," as follows to clarify the deadlines by which the Head of Field Element or ECP Director must transmit the complaint to OHA. Section 708.21(a) would be amended by deleting "the later of" before the colon to be consistent with the amendments in the proposed subparts that follow it. Section 708.21(a)(1) would be amended to read "The 25th day after receipt of the final submission permitted by § 708.17" for consistency. Section 708.21(a)(2) would be added and would state "If the employer does not respond to the complaint, the 25th day after the period for responses permitted by § 708.17 ends." Section 708.21(a)(3) would be added and would state "If the complainant does not submit additional comments regarding the response, the 25th day after the period for additional comments permitted by § 708.17 ends." The proposed rule would renumber § 708.21(a)(2) as proposed § 708.21(a)(4). The language from § 708.21(c) would be moved to proposed § 708.21(d), and a new § 708.21(c) would be added and would state "Where the Head of Field Element or ECP Director (as applicable) found the complaint to be untimely filed, but nonetheless accepted the complaint for processing as a matter of discretion in accordance with § 708.15(d), he or she must indicate upon referring the complaint to the Office of Hearings and Appeals that good reason was found to accept the complaint for processing." The proposed § 708.21(c) would establish a record of the reason why an untimely complaint was accepted for processing. Proposed § 708.21(d) would be composed of the language from the current § 708.21(c) and would be amended to replace "OHA" with "Office of Hearings and Appeals" for consistency. Section 708.21(e) would be composed of the language from the current § 708.21(d) and would amend § 708.21(e)(1) by adding "and" to the end of the phrase and would amend § 708.21(e)(2) by replacing "OHA" with "Office of Hearings and Appeals" for consistency.

O. Section 708.22

The proposed rule would amend § 708.22, "Investigation of complaint," as follows. Section 708.22(b) would be amended to add "Documents containing trade secrets or confidential commercial or financial information must be marked as such when submitted. A copy of the document with the protected information redacted must be submitted

with the original document." The proposed revision formalizes the requirement for parties to mark confidential information as such when submitted.

P. Section 708.23

The proposed rule would amend § 708.23, "Time to issue a report of investigation," by replacing "60th" with "90th" and deleting "unless the OHA Director, for good cause, extends the investigation for no more than 30 days" in § 708.23(a) to extend the time to issue a report of investigation from 60 days to 90 days. This proposed revision would reflect the reality that Part 708 investigations very frequently require more than 60 days to complete.

Q. Section 708.26

The proposed rule would amend § 708.26, "Time and location of hearings," by replacing "for a location near the site where the alleged retaliation occurred or the complainant's place of employment" with "at a time and place that is appropriate" in § 708.26(b) to make clear that the location of the hearing is at the Administrative Judge's discretion.

R. Section 708.28

The proposed rule would amend § 708.28, "Hearing procedures," as follows. Section 708.28(b) would be amended by replacing the period with a colon after "following". Section 708.28(b)(1) would be amended to add "or defense raised in the contractor's response" at the end of the sentence to clarify that discovery is appropriate to obtain evidence concerning a raised defense. Section 708.28(b)(2) would be amended to replace "may" with "will" before "permit" to clarify that the Administrative Judge must allow the parties to conduct discovery upon request. The proposed rule would add § 708.28(b)(3) and would read "The period for discovery shall be established by the presiding Administrative Judge. A party may seek discovery anytime during the discovery period" to clarify the Administrative Judge's powers in the proceeding. The current § 708.28(b)(3) would be renumbered as proposed § 708.28(b)(4). The proposed rule would add proposed § 708.28(b)(5) and would read "The Administrative Judge may rule on any motions filed by the parties, with or without oral argument. The Administrative Judge may set deadlines for the filing of motions and responses" to clarify the Administrative Judge's power in the proceeding. The proposed rule would renumber the current § 708.28(b)(4) as proposed § 708.28(b)(6) and would be

amended so that “motions,” after “direct that written,” and the comma after “documents” are removed to clarify the Administrative Judge’s powers in the proceeding. The proposed rule would renumber current § 708.28(b)(5) through (b)(8) to proposed § 708.28(b)(7) through (b)(10). The proposed rule would add § 708.28(c) and would read “The hearing record consists of all documents and exhibits filed with the Office of Hearings and Appeals under the hearing case number; the report of investigation, including any exhibits or attachments to the report of investigation except as ordered by the Administrative Judge; the hearing transcript; and all motions, rulings, and orders.” This proposed revision would create a formal and consistent practice about which documents and exhibits are included in the hearing record.

S. Section 708.29

The proposed rule would amend § 708.29, “Burdens of proof,” by dividing the current language into paragraphs (a) and (b) and would further amend as follows. Proposed § 708.29(a) would be composed of the first sentence from the original text with the following added language: “A complainant can demonstrate that a protected activity was a contributing factor to an alleged act of retaliation by establishing, among other things: (1) that the person taking the adverse action had actual or constructive knowledge of the protected activity; and (2) that the alleged retaliatory act had sufficient temporal proximity to the protected activity to give rise to a reasonable inference of a causal connection.” Proposed § 708.29(b) would state “Once the complainant has met this burden, the burden shifts to the contractor to prove by clear and convincing evidence that it would have taken the same action without the complainant’s disclosure, participation, or refusal.” The proposed amendments clarify how a complainant can meet their burden of proof by using language long-established in OHA case law.

T. Section 708.30

The proposed rule would amend § 708.30, “Timing for issuing an initial agency decision,” by replacing “§ 708.28(b)(7)” with “§ 708.28(b)(9)” in § 708.30(c) to be consistent with the proposed amendments to § 708.28(b).

U. Section 708.31

The proposed rule would amend § 708.31, “Procedure for issuing an initial agency decision,” by replacing the text after “the initial agency decision will” with “as appropriate,

order any form of relief as permitted under § 708.36, or the Administrative Judge will initiate a second proceeding for the purpose of determining the appropriate form of relief” in § 708.31(c) to align the regulations with the common OHA practice of holding a second hearing to determine the appropriate form of relief.

V. Section 708.34

The proposed rule would amend § 708.34, “Procedure for issuing an appeal decision,” to include “or remand the matter to the Administrative Judge for further proceedings regarding the appropriate relief” at the end of the sentence in § 708.34(b)(2) to allow flexibility for any case to be remanded back to the Administrative Judge for a determination on appropriate relief.

W. Section 708.36

The proposed rule would amend § 708.36, “Remedies,” to include “incurred in pursuing the complaint” after “reasonable costs and expenses” in § 708.36(a)(4) to clarify the scope of allowable reimbursement for the complainant’s cost and expenses.

X. Section 708.40

The proposed rule would amend § 708.40, “Notice of program requirements,” by including “obtain information about filing and” after “the DOE Office where employees can” to clarify that employee notices must also inform employees where they can obtain information about filing a complaint from the appropriate office in addition to where they can file a complaint.

Y. Section 708.42

The proposed rule would amend § 708.42, “Extension of deadlines,” by removing “OHA” after “relating to the investigation, hearing, and” for consistency.

III. Regulatory Review

A. Executive Order 12866 and Executive Order 14192

Section 6(a) of Executive Order (E.O.) 12866 “Regulatory Planning and Review” requires agencies to submit “significant regulatory actions” to the Office of Information and Regulatory Affairs (OIRA) for review. OIRA has determined that this regulatory action does not constitute a “significant regulatory action” under section 3(f) of E.O. 12866 because it does not have an annual effect on the economy of \$100 million or adversely affect the economy; create an inconsistency or interfere with any action planned or taken by another agency; materially alter the budgetary

impact of entitlements, grants, user fees, loan programs, or the rights and obligations of recipients thereof; or raise novel legal or policy issues. Accordingly, this action was not submitted to OIRA for review.

This proposed rule has also been determined to be an “E.O. 14192 deregulatory action” under E.O. 14192, “Unleashing Prosperity Through Deregulation,” 90 FR 9065 (February 6, 2025) because the changes would create a cost savings for the agency. DOE estimates that this proposed rule will save DOE approximately \$250,000 annually by encouraging the early resolution of complaints through alternative dispute resolution, with potential additional savings benefits to DOE contractors and contractor-employees.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that an agency prepare an initial regulatory flexibility analysis whenever an agency is required by section 553 of this title, or any other law, to publish a general notice of proposed rulemaking for any proposed rule. This proposed rule would alter procedural rules primarily for the OHA, with little impact on the conduct of or burdens on regulated entities. DOE has determined that the proposed rule, if adopted, would not result in a significant economic impact on a substantial number of small entities because few small entities are involved in part 708 proceedings and because the proposed rule contains few changes in the obligations of the litigants. DOE has therefore determined that the regulatory flexibility analysis is inapplicable.

C. The Paperwork Reduction Act of 1995

Proposed part 708 does not contain information collection requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

D. National Environmental Policy Act of 1969

DOE has considered this proposed rule in accordance with the National Environmental Policy Act (NEPA), as amended, DOE’s NEPA regulations, set forth in 10 CFR part 1021, and DOE’s NEPA implementing procedures published outside the Code of Federal Regulations at www.energy.gov/nepa. DOE has determined that NEPA does not apply to this action because this proposed rule is an administrative and routine action excepted from NEPA review. DOE has determined that this

rulemaking is a Federal action, but it is not “major” and therefore not subject to NEPA. This action is one in which NEPA does not apply because it does not fall within the definition of “major Federal action” in section 111(10) of NEPA, 42 U.S.C. 4336e(10). See section 2.1(c)(5) of DOE’s NEPA implementing procedures. For more information, please see appendix A of 10 CFR part 1021 (“A5, Interpretive rulemakings with no change in environmental effect”) and appendix A of DOE’s NEPA implementing procedures, “A5, Interpretive rulemakings with no change in environmental effect.”

E. Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, “Civil Justice Reform,” 61 FR 4729 (Feb. 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction.

With regard to the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or whether it is unreasonable to meet one or more of them.

DOE has completed the required review and determined that, to the extent permitted by law, the proposed part 708 meets the relevant standards of E.O. 12988.

F. Executive Order 13132

E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications.

Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions.

DOE has examined the proposed part 708 and has determined that it will not preempt State law and 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. No further action is required by E.O. 13132.

G. Executive Order 13175

Under E.O. 13175, “Consultation and Coordination with Indian Tribal Governments,” 65 FR 67249 (Nov. 9, 2000), DOE may not issue a discretionary rule that has Tribal implications and imposes substantial direct compliance costs on Indian Tribal governments without prior Tribal consultation. DOE has determined that this proposed rule will not have such effects and has concluded that E.O. 13175 does not apply.

H. The Unfunded Mandates Reform Act of 1995

Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires each Federal agency to provide a written statement assessing the effects of Federal regulatory actions on State, local, and tribal governments and the private sector that may cause the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any one year (adjusted annually for inflation), before promulgating any general notice of proposed rulemaking, and before promulgating any final rule for which a general notice of proposed rulemaking was published.

The proposed rule will not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$100 million or more in any one year. Accordingly, no assessment or analysis is required under the Unfunded Mandates Reform Act of 1995.

I. The Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule that may affect family well-being. The proposed rule will not affect the autonomy or integrity of the family as an institution. Accordingly,

DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB’s guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE’s guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, “Improving Implementation of the Information Quality Act” (April 24, 2019), DOE published updated guidelines, which are available at: www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf. DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Executive Order 3211

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

This regulatory action is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is

not a significant energy action, and accordingly, DOE has not prepared a Statement of Energy Effects.

IV. Public Participation

DOE will accept all comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via www.regulations.gov. The *www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE OHA staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, people viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information [CBI]). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks.

Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or postal mail.

Comments and documents submitted via email, hand delivery/courier, or postal mail also will be posted to *www.regulations.gov*. If you do not want your personal contact information to be publicly viewable, do not include it in your comments or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via postal mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This format reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: one copy of the document marked "confidential" including all the information believed to be confidential, and one copy of the document marked "non-confidential" with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information

provided in the comments (except information deemed to be exempt from public disclosure).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking and request for comments.

List of Subjects in 10 CFR Part 708

Administrative practice and procedure; Whistleblower Protection.

Signing Authority

This document of the Department of Energy was signed on September 15, 2026, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 18, 2026.

Treena V. Garrett,
Federal Register Liaison Officer, U.S.
Department of Energy.

For the reasons set out in the preamble, DOE proposes to amend part 708 of chapter III of title 10 of the Code of Federal Regulations, as set forth:

PART 708—DOE CONTRACTOR EMPLOYEE PROTECTION PROGRAM

■ 1. The authority citation for part 708 continues to read as follows:

Authority: 42 U.S.C. 2201(b), 2201(c), 2201(i), and 2201(p); 42 U.S.C. 5814 and 5815; 42 U.S.C. 7251, 7254, 7255, and 7256; and 5 U.S.C. Appendix 3.

§§ 708.8, 708.11, 708.34, and 708.38 [Amended]

■ 2. Remove the words "EC Director" and add in their place the words "ECP Director" in the following places:

- a. Section 708.8.
 - b. Section 708.11(a).
 - c. Section 708.34(c).
 - d. Section 708.38(a).
- 3. Revise § 708.1 to read as follows:

§ 708.1 Scope and purpose.

This part provides procedures for processing complaints by employees of DOE contractors alleging retaliation by their employers for disclosure of information concerning substantial

violations of laws, rules, or regulations; substantial and specific danger to public or worker health or safety; fraud, gross mismanagement, gross waste of funds, or abuse of authority; participation in Congressional or administrative proceedings; or refusal to participate in certain unlawful activities or activities that make an employee reasonably fearful of serious injury to himself or herself or others.

■ 4. Revise § 708.2 to read as follows:

§ 708.2 Definitions.

For purposes of this part:

Administrative Judge means an attorney appointed by the OHA Director to preside over the disposition of a complaint.

Alternative dispute resolution means any technique for resolving disputes and managing conflict without resorting to litigation in either an administrative or judicial forum. Alternative dispute resolution techniques include, but are not limited to, mediation, facilitation, shuttle diplomacy, partnering, and dispute systems design.

Complainant means an employee who has filed a complaint under 10 CFR part 708.

Contractor means a seller of goods or services who is a party to a management and operating contract or other type of contract with DOE, or subcontract to such a contract, to perform work directly related to activities at DOE-owned or -leased facilities.

Day means a calendar day. In computing any period of time prescribed or allowed by these regulations, the day of the act, event, or default from which the designated period of time begins to run is not to be included. If the last day of the period is a Saturday, Sunday, or federal legal holiday, then the period runs until the end of the following day that is not a Saturday, Sunday, or a federal legal holiday. Documents received by the Office of Hearings and Appeals on a Saturday, Sunday, or federal legal holiday, or after 5 p.m., Eastern Standard Time, are deemed filed on the following regular business day.

Discovery means a process used to enable the parties to learn about each other's evidence before a hearing takes place, including oral depositions, written interrogatories, requests for admissions, inspection of property, and requests for production of documents.

DOE Official means any officer or employee of DOE whose duties include program management or the investigation or enforcement of any law, rule, or regulation relating to Government contractors or the subject matter of a contract.

ECP Director means the Director of the Employee Concerns Programs at DOE Headquarters, or any official to whom the Director delegates his or her functions under this part.

Employee means a person employed by a contractor and any person previously employed by a contractor if that person's complaint alleges that employment was terminated for conduct described in § 708.5 of this subpart.

Field element means a DOE operations office or field office that is responsible for the management, coordination, and administration of operations at a DOE facility.

Head of Field Element means the manager or head of a DOE operations office or field office, or any official to whom those individuals delegate his or her functions under this part.

Management and operating contract means an agreement under which DOE contracts for the operation, maintenance, or support of a Government-owned or -leased research, development, special production, or testing establishment that is wholly or principally devoted to one or more of the programs of DOE.

OHA Director means the Director of the Office of Hearings and Appeals, or any official to whom the Director delegates his or her functions under this part.

Party means an employee, contractor, or other individual named in a proceeding under this part.

Retaliation means an action (including intimidation, threats, restraint, coercion, or similar action) taken by a contractor against an employee with respect to employment (e.g., discharge, demotion, or other negative action with respect to the employee's compensation, terms, conditions, or privileges of employment) that would not have been taken but for the employee's disclosure of information, participation in proceedings, or refusal to participate in activities described in § 708.5 of this subpart.

Law, rule, or regulation means policies or procedures that are government mandates or implement government mandates.

Union-negotiated grievance-arbitration procedure means one that has been negotiated by a labor organization.

Verified email is an email sent to the email address provided by a party.

■ 5. Amend § 708.4 by revising undesignated introductory text and paragraph (c) to read as follows:

§ 708.4 Complaints not covered.

An employee of a contractor may not file a complaint against the contractor under this part if:

* * * * *

(c) Except as provided in § 708.16(a), the complaint is based on the same facts for which the employee has chosen to pursue a remedy available under a regulation, statute, or other law, including:

(1) Department of Labor regulations at 29 CFR part 24, "Procedures for the Handling of Retaliation Complaints Under the Employee Protection Provisions of Six Environmental Statutes and Section 211 of the Energy Reorganization Act of 1974, as Amended";

(2) Federal Acquisition Regulation, 48 CFR part 3, subpart 3.9, "Whistleblower Protections for Contractor Employees";

(3) 41 U.S.C. 4712, "Enhancement of contractor protection from reprisal for disclosure of certain information"; or

(4) State or other applicable law, including final and binding grievance-arbitration, as described in § 708.16 of subpart B.

* * * * *

■ 6. Revise § 708.5 to read as follows:

§ 708.5 Protected conduct.

An employee of a contractor may file a complaint against the contractor alleging that he or she has been subject to retaliation for:

(a) Disclosing to a DOE official, a member of Congress, any other government official who has responsibility for the oversight of the conduct of operations at a DOE site, the employer, or any higher tier contractor, information that the employee reasonably believes reveals—

(1) A substantial violation of a law, rule, or regulation;

(2) A substantial and specific danger to employees or to public health or safety; or

(3) Fraud, gross mismanagement, gross waste of funds, or abuse of authority; or

(b) Participating in a Congressional proceeding or an administrative proceeding conducted under this part; or

(c) Subject to § 708.7 of this subpart, refusing to participate in an activity, policy, or practice if the employee believed participation would—

(1) Constitute a violation of a Federal health or safety law; or

(2) Cause the employee to have a reasonable fear of serious injury to himself or herself, other employees, or members of the public.

■ 7. Amend § 708.6 by revising paragraph (b) to read as follows:

§ 708.6 Reasonable fear of serious injury.

* * * * *

(b) An employee, because of the nature of his or her employment responsibilities, does not have the training or skills needed to participate safely in the activity or practice.

■ 8. Amend § 708.7 by revising paragraph (b) to read as follows:

§ 708.7 Filing a complaint based on retaliation for refusal to participate.

* * * * *

(b) By the 30th day after the refusal to participate, the employee reported the violation or dangerous activity, policy, or practice to a DOE official, a member of Congress, another government official with responsibility for the oversight of the conduct of operations at the DOE site, the employer, or any higher tier contractor, and he or she stated the reasons for refusing to participate.

■ 9. Amend § 708.9 revising paragraph (a) to read as follows:

§ 708.9 How to file complaints or other documents.

(a) Under this part, a complaint or other document is considered filed on the date it is received by the specified official or office.

* * * * *

■ 10. Add § 708.10 to read as follows:

§ 708.10 Informal resolution of complaints.

(a) DOE encourages the use of alternative dispute resolution. If the parties are willing, they can seek to utilize alternative dispute resolution techniques, such as settlement discussions or mediation, in an attempt to resolve the complaint.

(b) The parties may engage in alternative dispute resolution at any time prior to the issuance of an initial agency decision. The Employee Concerns Program office, the DOE Alternative Dispute Resolution Office, or another servicing organization may provide alternative dispute resolution services.

(c) Any relevant deadline in this part, including the deadline for filing a complaint under § 708.15(a), may be tolled for up to 90 days by the Head of Field Element, the ECP Director, or the Office of Hearings and Appeals (as applicable) should the parties provide written notice that they have jointly requested to participate, or continue to participate, in alternative dispute resolution. The time to meet the deadline begins to run again on the earlier of:

(1) The day after the tolling period expires; or

(2) The day after a party informs the Head of Field Element, the ECP

Director, or the Office of Hearings and Appeals that the alternative dispute resolution efforts have ended.

(d) If the parties resolve the complaint, the parties must give the Head of Field Element or the ECP Director and the Office of Hearings and Appeals (as applicable) a copy of any settlement agreement or a written statement from the employee that indicates his or her withdrawal of the complaint.

■ 11. Amend § 708.13 by revising paragraphs (c) and (d) to read as follows:

§ 708.13 Requirements for the form and content of a complaint.

* * * * *

(c) A statement that all of the facts that the complainant has included in the complaint are true and correct to the best of the complainant's knowledge and belief; and

(d) An affirmation, as described in § 708.14 of this subpart, that the complainant has exhausted all applicable union-negotiated grievance-arbitration procedures.

■ 12. Revise § 708.14 to read as follows:

§ 708.14 Exhaustion of union-negotiated grievance-arbitration procedures.

(a) To show that all applicable union-negotiated grievance-arbitration procedures have been exhausted, the complainant must:

(1) State that all available opportunities for resolution through an applicable union-negotiated grievance-arbitration procedure have been exhausted, and provide the date on which the union-negotiated grievance-arbitration procedure was terminated and the reasons for termination; or

(2) State that the complainant filed a grievance under applicable union-negotiated grievance-arbitration procedures, but more than 150 days have passed and a final decision on it has not been issued, and provide the date that the grievance was filed; or

(3) State that the employer has established no union-negotiated grievance-arbitration procedures that are applicable to the complainant.

(b) If the complainant does not provide the information specified in § 708.14(a), the complaint may be dismissed for lack of jurisdiction as provided in § 708.18 of this, subpart.

■ 13. Revise § 708.15 to read as follows:

§ 708.15 Time to file a complaint.

(a) A complaint must be filed by the 90th day after the date the employee knew, or reasonably should have known, of the alleged retaliation.

(b) The period for filing a complaint does not include time spent attempting

to resolve the dispute through any internal company grievance-arbitration procedure. The time for filing stops running on the day the above-listed grievance is filed. The time begins to run again on the earlier of:

(1) The day after such dispute resolution efforts end; or

(2) If a union-negotiated grievance-arbitration procedure, 150 days after the grievance was filed if a final decision has not been issued.

(c) The period for filing a complaint does not include time spent resolving jurisdictional issues related to a complaint the employee files under State or other applicable law. The time period for filing stops running on the date the complaint under State or other applicable law is filed and begins to run again the day after a final decision on the jurisdictional issues is issued.

(d) If the complaint is filed on a date later than the applicable deadline, the Head of Field Element or ECP Director (as applicable) will give the complainant an opportunity to show any good reason he or she may have for not meeting that deadline, and that official may, in his or her discretion, accept the complaint for processing.

■ 14. Revise § 708.16 to read as follows:

§ 708.16 Duplicative actions under State or other law.

(a) An employee may not file a complaint under this part if, with respect to the same facts, the employee chooses to pursue a remedy under State or other applicable law, including final and binding grievance-arbitration procedures, unless:

(1) The complaint under State or other applicable law is dismissed for lack of jurisdiction;

(2) The complaint was filed under 48 CFR part 3, subpart 3.9, or 41 U.S.C. 4712, and the Inspector General, after conducting an initial inquiry, determines not to pursue it; or

(3) The employee has exhausted union-negotiated grievance-arbitration procedures pursuant to § 708.14, and issues related to alleged retaliation for conduct protected under § 708.5 remain.

(b) Pursuing a remedy other than final and binding grievance-arbitration procedures does not prevent an employee from filing a complaint under this part.

(c) An employee is considered to have filed a complaint under State or other applicable law if the employee files a complaint, or other pleading, with respect to the same facts in a proceeding established or mandated by State or other applicable law, whether such a complaint is filed before, concurrently

with, or after a complaint is filed under this part.

(d) If an employee files a complaint under State or other applicable law after filing a complaint under this part, the complaint under this regulation will be dismissed under § 708.18(c)(3).

■ 15. Revise § 708.17 to read as follows:

§ 708.17 Notification of complaints and opportunities to respond.

(a) By the 15th day after receiving a complaint, the Head of Field Element or ECP Director (as applicable) will provide the employer with a copy of the complaint. The employer has 15 days from receipt of the complaint to submit any response it wishes to make regarding the allegations in the complaint. The Head of Field Element or ECP Director (as applicable) will provide the complainant with a copy of the employer's response upon its receipt. The complainant has 10 days from receipt of the response to submit any additional comments regarding the complaint or the response. The Head of Field Element or ECP Director (as applicable) will provide the employer with a copy of those additional comments upon receipt. The deadlines set forth in this subsection may be extended by the Head of Field Element or ECP Director (as applicable) for good reason.

(b) If the complainant is part of a bargaining unit represented for purposes of collective bargaining by a labor organization, the Head of Field Element or ECP Director (as applicable) will provide the representative with a copy of the complaint by the 15th day after receiving it. The labor organization will be advised that it has 10 days from the receipt of the complaint to submit any comments it wishes to make regarding the allegations in the complaint. The Head of Field Element or the ECP Director (as applicable) will provide the comments to the complainant and employer upon receipt.

(c) The Head of Field Element or the ECP Director (as applicable) must provide the contact information for the DOE's Alternative Dispute Resolution Office to the parties as soon as is practicable after receiving the complaint.

■ 16. Revise § 708.18 to read as follows:

§ 708.18 Dismissal for lack of jurisdiction or other good cause.

(a) The Head of Field Element or the ECP Director (as applicable) may dismiss a complaint for lack of jurisdiction or for other good cause after receiving the complaint, either on his or her own initiative or at the request of a party named in the complaint. If the

employer does not file a response, such decisions are issued by the 20th day after the employer's period to respond under § 708.17(a) has elapsed. If the employer files a timely response, such decisions are issued by the 20th day after the complainant files additional comments under § 708.17(a), or the 20th day after the period to file additional comments has elapsed, whichever is soonest.

(b) The Head of Field Element or the ECP Director (as applicable) will notify the complainant by verified email or certified mail (return receipt requested) if the complaint is dismissed for lack of jurisdiction or other good cause, will give specific reasons for the dismissal, will provide the contact information for the DOE's Alternative Dispute Resolution Office, and will notify other parties of the dismissal.

(c) Dismissal for lack of jurisdiction or other good cause is appropriate if:

(1) The complaint is untimely;

(2) The facts, as alleged in the complaint, do not present issues for which relief can be granted under this part;

(3) The complainant filed a complaint under State or other applicable law with respect to the same facts as alleged in a complaint under this part;

(4) The complaint is frivolous or without merit on its face;

(5) The issues presented in the complaint have been rendered moot by subsequent events or substantially resolved; or

(6) The employer has made a formal offer to provide the remedy requested in the complaint or a remedy that DOE considers to be equivalent to what could be provided as a remedy under this part.

■ 17. Revise § 708.19 to read as follows:

§ 708.19 Appealing the dismissal of a complaint by the Head of Field Element or ECP Director for lack of jurisdiction or other good cause.

(a) If a complaint is dismissed by the Head of Field Element or ECP Director, the administrative process is terminated unless the complainant appeals the dismissal to the OHA Director by the 10th day after receipt of the notice of dismissal. Decisions not to dismiss may not be appealed.

(b) If the complainant appeals a dismissal to the OHA Director, the complainant must send copies of the appeal to the Head of Field Element or the ECP Director (as applicable) and all parties. The appeal must include a copy of the notice of dismissal and state the reasons the dismissal was erroneous.

(c) The OHA Director has all powers necessary to adjudicate the appeal. The OHA Director will issue a decision on

the appeal and notify the parties of the decision by the 30th day after the appeal is received. The OHA Director will review findings of fact for clear error and conclusions of law de novo.

(d) The OHA Director's decision, either upholding the dismissal by the Head of Field Element or ECP Director or ordering further processing of the complaint, is the final decision on the appeal, unless the complainant files a petition for Secretarial review by the 30th day after receiving the appeal decision.

■ 18. Revise and republish § 708.20 to read as follows:

§ 708.20 Review by the Secretary of Energy of a decision on appeal of a dismissal.

(a) By the 30th day after receiving a decision on an appeal under § 708.19 from the OHA Director, the complainant may file with the Office of Hearings and Appeals a notice indicating he or she is petitioning for Secretarial review. A decision by the OHA Director to reverse a dismissal may not be the subject of a petition for Secretarial review.

(b) By the 15th day after filing the notice of intent to petition for Secretarial review, the complainant must file a statement setting forth the arguments in support of its position. A copy of the statement must be served on the other parties, who may file a response by the 20th day after receipt of the statement. Any response must also be served on the other parties.

(c) All submissions permitted under this section must be filed with the Office of Hearings and Appeals.

(d) The Secretary (or the Secretary's designee) will reverse or revise an appeal decision by the OHA Director only under extraordinary circumstances. Upon consideration of the petition for Secretarial review, the Secretary will direct the OHA Director to issue an order either upholding the dismissal by the Head of Field Element or ECP Director or ordering further processing of the complaint. If the dismissal is upheld, it is a final agency action.

■ 19. Revise § 708.21 to read as follows:

§ 708.21 Referral to the Office of Hearings and Appeals.

(a) If a complaint is not dismissed for lack of jurisdiction or other good cause, the Head of Field Element or the ECP Director (as applicable) will forward the complaint to the OHA Director by:

(1) The 25th day after receipt of the final submission permitted by § 708.17;

(2) If the employer does not respond to the complaint, the 25th day after the period for responses permitted by § 708.17 ends;

(3) If the complainant does not submit additional comments regarding the response, the 25th day after the period for additional comments permitted by § 708.17 ends; or

(4) The 5th day after receipt of an order to continue processing the complaint following an appeal of dismissal.

(b) The Head of Field Element or ECP Director (as applicable) will notify all parties that the complaint has been referred to the Office of Hearings and Appeals.

(c) Where the Head of Field Element or the ECP Director (as applicable) found the complaint to be untimely filed, but nonetheless accepted the complaint for processing as a matter of discretion in accordance with § 708.15(d), he or she must indicate upon referring the complaint to the Office of Hearings and Appeals that good reason was found to accept the complaint for processing.

(d) The OHA Director and an Administrative Judge appointed to preside over any aspect of a part 708 proceeding are prohibited, beginning with the complaint's referral to the Office of Hearings and Appeals and until a final agency decision is issued, from initiating or otherwise engaging in *ex parte* discussions with any party on the merits of the complaint.

(e) In all proceedings under this subpart:

(1) The parties have the right to be represented by a person of their choosing or to proceed without representation. The parties are responsible for producing witnesses on their behalf, including requesting the issuance of subpoenas, if necessary; and

(2) Formal rules of evidence do not apply, but the Office of Hearings and Appeals may use the Federal Rules of Evidence as a guide.

■ 20. Revise and republish § 708.22 to read as follows:

§ 708.22 Investigation of complaints.

(a) The OHA Director will appoint a person to investigate. The investigator may not participate or advise in any proceedings in the case subsequent to the investigation's completion.

(b) The investigator will determine the appropriate scope of investigation based on the circumstances of the complaint. The investigator may enter and inspect places and records; make copies of records; interview people alleged to have been involved in retaliation and other individuals who may have relevant information; take sworn statements; and require the production of any documents or other evidence. Documents containing trade

secrets or confidential commercial or financial information must be marked as such when submitted. A copy of the document with the protected information redacted must be submitted with the original document.

(c) All parties must cooperate fully with the investigator by making all pertinent evidence available. The contractor must make employees available upon request.

(d) A person being interviewed in an investigation has the right to be represented by a person of his or her choosing.

(e) Parties to the complaint are not entitled to be present at interviews conducted by an investigator.

(f) If a person other than the complainant requests that his or her identity be kept confidential, the investigator may grant confidentiality, but he or she must advise such person that confidentiality means that the Office of Hearings and Appeals will not identify the person as a source of information to anyone outside the Office of Hearings and Appeals, except as required by statute or other law, or as determined by the OHA Director to be unavoidable.

(g) At any point during the investigation, the investigator may request that the OHA Director appoint an Administrative Judge to whom the complaint will be referred for a decision on whether dismissal is appropriate. The investigator will serve the parties with notice of the referral. The investigator will submit a written statement to the Administrative Judge explaining why dismissal may be appropriate and providing factual support. The Administrative Judge will then decide whether to dismiss the complaint. In making such decision, the Administrative Judge will have access to the entire investigative file. The Administrative Judge's decision, regardless of outcome, will be served on all the parties. A complaint may be dismissed prior to the completion of the investigation for:

(1) Any reason listed in § 708.18(c); or

(2) Lack of merit, provided the facts obtained by the investigator indicate there is no genuine dispute of material fact.

(h) If the Administrative Judge decides to dismiss the complaint, the Administrative Judge will issue an initial agency decision that includes the factual and legal bases for the dismissal. The investigator's written statement will be attached to the Administrative Judge's initial agency decision and served on all the parties. No report of investigation will issue for a complaint dismissed by the Administrative Judge

following a referral for dismissal by the investigator.

(i) If the Administrative Judge decides not to dismiss the complaint, the Administrative Judge will issue a written statement to that effect, which will include the factual and legal basis for the decision. The investigation will then continue. The OHA Director may, at his or her discretion, appoint a new investigator.

(j) Dismissals under paragraph (h) of this section may be appealed in accordance with the procedures set forth in §§ 708.32, 708.33, 708.34, and 708.35. Decisions not to dismiss under paragraph (i) of this section may not be appealed.

■ 21. Amend § 708.23 by revising paragraph (a) to read as follows:

§ 708.23 Time to issue a report of investigation.

(a) If the complaint is not dismissed prior to the completion of the investigation, the investigator will complete the investigation and issue a report of investigation by the 90th day after the complaint is received by the Office of Hearings and Appeals. If a case is referred for dismissal by an investigator, the time to issue the report of investigation stops running on the day of referral and, if the Administrative Judge decides against dismissal, begins to run again on the day after the Administrative Judge's decision issues.

* * * * *

■ 22. Amend § 708.26 by revising paragraph (b) to read as follows:

§ 708.26 Time and location of hearings.

* * * * *

(b) The Administrative Judge will schedule the hearing at a time and place that is appropriate considering the circumstances of a particular case. Hearings may be conducted by video teleconference or other remote means, at the Administrative Judge's discretion.

■ 23. Revise § 708.28 to read as follows:

§ 708.28 Hearing Procedures.

(a) In all hearings under this part:

(1) Testimony of witnesses is given under oath or affirmation, and witnesses must be advised of the applicability of 18 U.S.C. 1001 and 18 U.S.C. 1621, dealing with the criminal penalties associated with false statements and perjury;

(2) Witnesses are subject to cross-examination; and

(3) A court reporter will make a transcript of the hearing.

(b) The Administrative Judge has all powers necessary to regulate the conduct of proceedings, including the following:

(1) The Administrative Judge may order discovery at the request of a party, based on a showing that the requested discovery is designed to produce evidence regarding a matter, not privileged, that is relevant to the subject matter of the complaint or defense raised in the contractor's response.

(2) The Administrative Judge will permit parties to obtain discovery by any appropriate method, including deposition upon oral examination or written questions; written interrogatories; production of documents or things; permission to enter upon land or other property for inspection and other purposes; and requests for admission.

(3) The period for discovery shall be established by the presiding Administrative Judge. A party may seek discovery anytime during the discovery period.

(4) The Administrative Judge may issue subpoenas for the appearance of witnesses on behalf of either party, or for the production of specific documents or other physical evidence.

(5) The Administrative Judge may rule on any motions filed by the parties, with or without oral argument. The Administrative Judge may set deadlines for the filing of motions and responses.

(6) The Administrative Judge may rule on objections to the presentation of evidence; exclude evidence that is immaterial, irrelevant, or unduly repetitious; require the advance submission of documents offered as evidence; dispose of procedural requests; grant extensions of time; determine the format of the hearing; direct that written documents or briefs be filed with respect to issues raised during the course of the hearing; ask questions of witnesses; direct that documentary evidence be served upon other parties (under protective order if such evidence is deemed confidential); and otherwise regulate the conduct of the hearing.

(7) The Administrative Judge may, at the request of a party or on his or her own initiative, dismiss a claim, defense, or party. The Administrative Judge may also make adverse findings upon the failure of a party or the party's representative to comply with a lawful order of the Administrative Judge or, without good cause, to attend a hearing. If the Administrative Judge's rulings result in termination of the proceeding prior to the completion of the hearing, the Administrative Judge will issue an initial agency decision pursuant to § 708.31 of this subpart.

(8) The Administrative Judge, upon request of a party, may allow the parties a reasonable time to file pre-hearing

briefs or written statements with respect to material issues of fact or law. Any pre-hearing submission must be limited to the issues specified and filed within the time prescribed by the Administrative Judge.

(9) The parties are entitled to make closing arguments, but post-hearing submissions are only permitted by direction of the Administrative Judge.

(10) Parties allowed to file written submissions must serve copies upon the other parties within the time prescribed by the Administrative Judge.

(c) The hearing record consists of all documents and exhibits filed with the Office of Hearings and Appeals under the hearing case number; the report of investigation, including any exhibits or attachments to the report of investigation except as ordered by the Administrative Judge; the hearing transcript; and all motions, rulings, and orders.

■ 24. Revise § 708.29 to read as follows:

§ 708.29 Burdens of Proof.

(a) The complainant has the burden of establishing by a preponderance of the evidence that the complainant made a disclosure, participated in a proceeding, or refused to participate, as described under § 708.5, and that such act was a contributing factor in one or more alleged acts of retaliation against the complainant by the contractor. A complainant can demonstrate that a protected activity was a contributing factor to an alleged act of retaliation by establishing, among other things:

(1) That the person taking the adverse action had actual or constructive knowledge of the protected activity; and

(2) That the alleged retaliatory act had sufficient temporal proximity to the protected activity to give rise to a reasonable inference of a causal connection.

(b) Once the complainant has met this burden, the burden shifts to the contractor to prove by clear and convincing evidence that it would have taken the same action without the complainant's disclosure, participation, or refusal.

■ 25. Revise § 708.30 to read as follows:

§ 708.30 Timing for issuing an initial agency decision.

The Administrative Judge will issue an initial agency decision on the complaint by the 60th day after the later of:

(a) The date the Administrative Judge approves the parties' agreement not to hold a hearing;

(b) The date the Administrative Judge receives the transcript of the hearing; or

(c) The date the Administrative Judge receives post-hearing submissions

permitted under § 708.28(b)(9) of this subpart.

■ 26. Amend § 708.31 by revising paragraph (c) to read as follows:

§ 708.31 Procedure for issuing an initial agency decision.

* * * * *

(c) If the Administrative Judge determines that an act of retaliation has occurred, the initial agency decision will, as appropriate, order any form of relief as permitted under § 708.36, or the Administrative Judge will initiate a second proceeding for the purpose of determining the appropriate form of relief. If the Administrative Judge does not determine that an act of retaliation has occurred, the initial agency decision will state that the complaint is denied.

■ 27. Amend § 708.32 by revising paragraph (a) to read as follows:

§ 708.32 Appealing an initial agency decision.

(a) By the 15th day after receiving an initial agency decision from the Administrative Judge, or a supplemental decision with regard to remedy if the Administrative Judge initiated a second proceeding, any party may file a notice of appeal with the OHA Director requesting review of the initial agency decision.

* * * * *

■ 28. Revise and republish § 708.33 to read as follows:

§ 708.33 Procedure for appeals.

(a) By the 15th day after filing a notice of appeal under § 708.32, the appellant must file a statement identifying the issues that it wishes the OHA Director to review. The appellant must serve a copy of the statement on the other parties, who may file a response by the 20th day after receipt of the statement. Any response must also be served on the other parties.

(b) In considering the appeal, the OHA Director:

(1) Will possess all powers necessary to adjudicate the appeal;

(2) Will review findings of fact for clear error and conclusions of law de novo; and

(3) Will close the record on appeal after receiving the last submission permitted under this section.

■ 29. Amend § 708.34 revising paragraph (b)(2) to read as follows:

§ 708.34 Procedure for issuing an appeal decision.

* * * * *

(b) * * *

(2) If the OHA Director determines that an act of retaliation has occurred, the appeal decision will include an order for any form of relief permitted

under § 708.36, or it will remand the matter to the Administrative Judge for further proceedings regarding the appropriate relief.

(c) The OHA Director will send an appeal decision to all parties and to the Head of Field Element or ECP Director having jurisdiction over the contract under which the complainant was employed when the alleged retaliation occurred.

* * * * *

■ 30. Revise § 708.35 to read as follows:

§ 708.35 Review by the Secretary of Energy of an appeal decision.

(a) By the 30th day after receiving an appeal decision from the OHA Director, any party may file a notice indicating he or she is petitioning for Secretarial review with the Office of Hearings and Appeals, subject to the limitations set forth in § 708.34(d).

(b) By the 15th day after filing a notice of intent to petition for Secretarial review, the petitioner must file a statement identifying the issues that the petitioner wishes the Secretary to consider. A copy of the statement must be served on the other parties, who may file a response by the 20th day after receipt of the statement. Any response must also be served on the other parties.

(c) All submissions permitted under this section must be filed with the Office of Hearings and Appeals.

(d) The Secretary (or the Secretary's designee) will reverse or revise an appeal decision by the OHA Director only under extraordinary circumstances. In the event the Secretary determines that a revision in the appeal decision is appropriate, the Secretary will direct the OHA Director to issue a revised decision, which is the final agency action on the complaint. In the event the Secretary determines to reverse an appeal decision dismissing the complaint, the Secretary may, as appropriate, direct the OHA Director to issue a revised decision ordering further processing of the complaint. If no further processing is ordered, the Secretary's decision is the final agency action on the complaint.

■ 31. Amend § 708.36 by revising paragraph (a)(4) to read as follows:

§ 708.36 Remedies.

(a) * * *

(4) Reimbursement of the complainant's reasonable costs and expenses incurred in pursuing the complaint, including attorney and expert-witness fees reasonably incurred to prepare for and participate in proceedings leading to the initial or final agency decision; or

* * * * *

■ 32. Revise § 708.40 to read as follows:

§ 708.40 Notice of program requirements.

Employers who are covered by this part must inform their employees about these regulations by posting notices in conspicuous places at the work site. These notices must include the name, address, telephone number, and website or email address of the DOE office where employees can obtain information about filing and file complaints under this part.

■ 33. Revise § 708.42 to read as follows:

§ 708.42 Extension of deadlines.

The Secretary of Energy (or the Secretary's designee) may approve the extension of any deadline established by this part, and the OHA Director may approve the extension of any deadline under § 708.22 through § 708.34 of this subpart (relating to the investigation, hearing, and appeal process). Failure by DOE to comply with timing requirements does not create a substantive right for any party to overturn a DOE decision on a complaint.

■ 34. Revise § 708.43 to read as follows:

§ 708.43 Affirmative duty not to retaliate.

DOE contractors will not retaliate against any employee because the employee (or any person acting at the request of the employee) has taken an action listed in § 708.5.

[FR Doc. 2026–19332 Filed 9–21–26; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 331

RIN 3064–AG34

State Bank Parity

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FDIC is proposing amendments to its regulations to recognize parity between out-of-State State banks and national banks concerning the application of host State laws when State banks provide services outside of their chartering State. Under the proposed rule, when host State laws do not apply to a national bank, those laws would similarly not apply to an out-of-State State bank providing services in the host State with or without a branch. Specifically, the amendments would provide that, for purposes of section 24(j) of the Federal Deposit Insurance Act, the laws of a

host State apply to any branch in the host State of, or any services provided in the host State by, an out-of-State State bank to the same extent such State laws apply to a branch in the host State of, or any services provided in the host State by, an out-of-State national bank.

DATES: Comments must be received no later than November 23, 2026.

ADDRESSES: You may submit comments on the notice of proposed rulemaking, identified by RIN 3064–AG34, using any of the following methods:

- **FDIC website:** <https://www.fdic.gov/federal-register-publications>. Follow the instructions for submitting comments on the agency website.

- **Email:** Comments@fdic.gov. Include RIN 3064–AG34 on the subject line of the message.

- **Mail:** Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments—RIN 3064–AG34, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

- **Hand Delivery to FDIC:** 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.

- **Public Inspection:** Comments received, including any personal information provided, may be posted without change to <https://www.fdic.gov/federal-register-publications>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of the proposed rule 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.

This proposal, all comments received, and a summary of not more than 100 words of the proposed rule pursuant to the Providing Accountability Through Transparency Act of 2023 are available at <https://www.fdic.gov/federal-register-publications>.

FOR FURTHER INFORMATION CONTACT:
James Watts, Counsel, 202–898–6678,
jwatts@fdic.gov.

SUPPLEMENTARY INFORMATION:

I. Policy Objectives

The United States has a system of dual banking that allows banks to be chartered by either the States or the Federal Government. Congress has demonstrated a desire to maintain a strong and vibrant dual banking system by periodically enacting legislation to achieve parity between State-chartered banks (State banks) and national banks.¹ The FDIC, as the primary Federal regulator of State banks that are not members of the Federal Reserve System, has likewise long sought to maintain a level playing field between State banks and national banks.

Recent litigation involving an Illinois law concerning payment card transactions has created uncertainty as to the application of the laws of States to State-chartered banks which offer services outside their home State. This uncertainty will negatively affect State banks and may result in substantial disruption and confusion for the merchants relying on payment card transactions and the consumers they serve. This uncertainty also creates a competitive imbalance between national and State banks.

This rulemaking would address this legal uncertainty and recognize parity between out-of-State State banks (State banks that are chartered by their home State but doing business in a host State) and national banks doing business in another State (a host State) without establishing a branch in such host State. The rule would clarify that when host State law does not apply to national banks, then host State law would not apply to out-of-State State banks offering services in the host State with or without a branch. Instead, the chartering State's law would apply to such banks offering services in the host State regardless of whether they branch into the host State.

In addition to achieving parity between out-of-State State banks and national banks, the proposed rule also would enhance consistency in the application of host State law among State banks that offer services outside

their chartering States. Under the proposed rule, out-of-State State banks that offer services in a host State without a branch would be treated the same as out-of-State State banks that perform the same services through a branch.

II. Background

Recent Developments and Need for Rulemaking

As noted above, recent litigation involving an Illinois law concerning payment card transactions has resulted in uncertainty as to the application of host State laws to out-of-State State banks. The litigation concerns the Illinois Interchange Fee Prohibition Act (IFPA), a law enacted by the State of Illinois in 2024.² The IFPA includes provisions that: (1) prohibit card issuer banks, card networks, acquirer banks, and other participants in a payment card transaction from charging or receiving interchange fees on the portion of the transaction that constitutes a tax or gratuity (Interchange Fee Prohibition); and (2) make it unlawful for entities other than the merchant involved in a card transaction to distribute, exchange, transfer, disseminate, or use the associated data, subject to certain exceptions (Data Usage Limitation). By its terms, the IFPA's application is not limited to Illinois-chartered banks.

Shortly after the IFPA's enactment, several trade associations and other parties responded by filing suit against the Illinois Attorney General, arguing that various Federal laws preempted the IFPA.³ In addition, the Comptroller of the Currency, the regulator of national banks, issued for comment an interim final order concluding that Federal law preempts the IFPA,⁴ as well as an interim final rule clarifying that national banks' power to charge non-interest charges and fees includes the power to collect non-interest charges and fees, including interchange fees from credit and debit card operations.⁵ The district court has determined that the interim final rule expressly conflicts with the Interchange Fee Prohibition, and thus granted a permanent injunction preventing Illinois from enforcing the Interchange Fee Prohibition against

national banks, Federal savings associations, payment card networks, and banks chartered by States other than Illinois "that are subject to Riegle-Neal, 12 U.S.C. 1831a(j)(1)."⁶

The parties to the litigation have disagreed as to which State-chartered banks are "subject to Riegle-Neal" (*i.e.*, subject to section 24(j) of the Federal Deposit Insurance Act (FDI Act)). While the plaintiffs asserted that section 24(j) of the FDI Act extends national bank preemption broadly to out-of-State State banks,⁷ the Illinois Attorney General argued that section 24(j) of the FDI Act extends such preemption only to out-of-State State banks' branches "physically located" in Illinois,⁸ which would potentially leave aspects of many State banks' operations subject to the IFPA. State banks doing business in Illinois without branches in Illinois therefore face substantial legal uncertainty as to the application of the IFPA to their operations. This proposed rule would remove that uncertainty.

Given the IFPA's significant penalties for non-compliance,⁹ banks may consider options for mitigating this risk, including potentially rejecting payment card transactions in Illinois.¹⁰ Such measures would cause substantial disruption and confusion for both merchants and consumers. Moreover, a number of other States are considering legislation similar to the IFPA,¹¹ meaning that legal uncertainty in the application of State laws to out-of-State State banks may become a more widespread concern.

III. Statutory Authority

Congress has granted the FDIC the authority to prescribe rules and regulations as it may deem necessary to carry out the provisions of the FDI Act, as well as to define terms as necessary to carry out the FDI Act, except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to another regulatory agency.¹² Section 24(j) is a

⁶ *Ill. Bankers Ass'n v. Raoul*,—F. Supp. 3d—, 2026 WL 1534350, at *12 (N.D. Ill. June 1, 2026). The district court's opinion and order also granted a permanent injunction prohibiting enforcement of the Data Usage Limitation against the same entities.

⁷ See Pls.' Mem. Supp. Mot. Summ. J., *Raoul*, 2025 WL 2223710 (Mar. 17, 2025).

⁸ See Def.'s Mem. Opp. Pls.' Mot. Summ. J., *Raoul*, 2025 WL 2223714 (Apr. 23, 2025).

⁹ The IFPA provides for civil penalties of \$1,000 per electronic payment transaction.

¹⁰ See OCC Interim Final Rule, 91 FR 22989, 22993 (Apr. 29, 2026).

¹¹ The district court's decision notes that since enactment of the IFPA, eleven other States have begun pursuing similar legislation. See *Raoul*, 2026 WL 1534350, at *1 (N.D. Ill. June 1, 2026).

¹² 12 U.S.C. 1819(a)(Tenth), 1820(g).

¹ For example, the McFadden Act of 1927 allowed national banks to establish branches within the city or town in which the bank was situated to the same extent permissible for State banks under relevant State law. See sec. 7, Public Law 69–639, 44 Stat. 1228. Another example is the Depository Institutions Deregulation and Monetary Control Act of 1980, which allowed State banks to charge interest on their loans at the rates permissible for national banks. See sec. 521, Public Law 96–221, 94 Stat. 164.

² 815 Ill. Comp. Stat. 151/10–1 *et seq.* The statute was originally set to go into effect July 1, 2025, but the effective date has subsequently been delayed by the legislature to July 1, 2027.

³ See *Ill. Bankers Ass'n v. Raoul*, 760 F. Supp. 3d 636 (N.D. Ill. 2024).

⁴ 91 FR 23150 (Apr. 29, 2026) (interim final order).

⁵ 91 FR 22989 (Apr. 29, 2026). The interim final rule further clarified that such charges or fees may be set by, or in consultation with, third parties.

provision of the FDI Act, and no other regulatory agency has been expressly or exclusively granted the authority to issue rules or regulations, or to define terms, with respect to section 24(j) of the FDI Act. Consequently, the FDI Act expressly grants the FDIC the authority to issue rules with respect to section 24(j) of the FDI Act.

Section 24(j) of the FDI Act was added to the statute by the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Riegle-Neal).¹³ While section 24(j) of the FDI Act expressly addresses the application of State laws to a “branch” in a host State of an out-of-State State bank, the FDIC believes the provision must be read in the context of the statutory framework. At the time of Riegle-Neal’s enactment, banks generally conducted banking activities, such as receiving deposits and making loans, through branches. Thus, branches were the central mechanism against which State laws could discriminate against out-of-State banks, and were, naturally, expressly referenced in the Act.

In the years since Riegle-Neal’s enactment, it has become more common for banks to serve their customers through non-branch channels such as online banking and mobile banking. As a result, many State banks serve customers in other States without branches in those States—and may not even maintain branches at all. If a branch was a prerequisite to protection under Riegle-Neal, State banks would either lose parity with national banks with respect to the application of host State laws or be forced into the costly and counterintuitive exercise of establishing branches in host States in order to gain protection from host States’ laws, something not required of national banks.¹⁴ As explained below, this would create an irrational result that cannot be squared with the structure of section 24(j) of the FDI Act or congressional intent.

2005 Rulemaking

In 2005, the FDIC proposed a regulation implementing section 24(j) of the FDI Act to clarify the application of host State laws to out-of-State State banks.¹⁵ The 2005 proposal responded to a petition for rulemaking that focused on establishing parity in the application of host State laws to State banks’ operating subsidiaries. The scope of the 2005 proposal was limited only to

activities conducted at branches of out-of-State banks in the host State and suggested that section 24(j) of the FDI Act only applies to State banks with interstate branches.

The 2005 proposal was never finalized, and importantly, focused on parity in the application of host State laws to operating subsidiaries rather than parity between banks with branches in a host State and those without such branches. Furthermore, the 2005 proposal’s interpretation of section 24(j) of the FDI Act does not reflect the broader purpose and structure of the statute, particularly in light of the migration of banking activity away from branches to non-branch channels. Indeed, since 2007 when the first iPhone was released, mobile banking has become commonplace, and banks and other financial institutions commonly provide financial services through mobile applications. The rule now being proposed by the FDIC, discussed in further detail below, adheres to the structure and purpose of section 24(j) of the FDI Act and provides necessary regulatory clarity.

IV. Proposed Rule

Section 24(j) of the FDI Act expressly addresses the application of host State laws to out-of-State State banks that have branched into a host State. The statute provides that host State laws apply to a branch of an out-of-State State bank to the same extent they apply to a branch in the host State of an out-of-State national bank. In other words, if the host State law has been preempted and does not apply to a national bank, then host State law similarly does not apply to the branch of an out-of-State State bank; instead, the chartering State’s law applies.

The statute does not, however, explicitly address the application of host State laws where out-of-State State banks provide services in a host State without the establishment of a branch. But it is clear from the statutory scheme that when host State law would not apply to an out-of-State State bank’s branch in the State (because State law has been preempted), host State law should similarly not apply to an out-of-State State bank providing services without a branch. Instead, home State law should apply. This is the only result consistent with the structure of section 24(j) of the FDI Act.

Conversely, requiring an out-of-State State bank to establish a branch in a host State to ensure application of its chartering’s State law would run contrary to the structure and apparent intent of the 1997 amendments to Riegle-Neal, which was to reestablish

parity between interstate State banks and interstate national banks.¹⁶ Thus, the proposed rule ensures consistency with the structure and purpose of section 24(j) of the FDI Act.

The proposed rule provides that for purposes of section 24(j) of the FDI Act, the laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, shall apply to any branch in the host State of, or any services provided in the host State by, an out-of-State State bank to the same extent as such State laws apply to a branch in the host State of, or any services provided in the host State by, an out-of-State national bank. Accordingly, host State laws inapplicable to branches of out-of-State national banks or to services provided by out-of-State national banks would not apply to branches of out-of-State State banks or to services provided by an out-of-State State bank in the host State without a branch. In all of these cases, the law of the State bank’s chartering State would apply. The proposed rule also includes a conforming edit to the current definition of “host State” to reflect that for purposes of part 331, a host State would be a State, other than a State bank’s home State, in which the State bank maintains a branch or provides services.

No Effect on State Banks’ Loan Interest Rates

The proposed rule would not affect the interest rates State banks are permitted to charge with respect to any of their loans, which are governed by section 27 of the FDI Act.¹⁷ The proposed rule would apply section 24(j) of the FDI Act, which was added to the statute by Riegle-Neal. Section 111 of Riegle-Neal expressly disclaimed any effect on the application of section 27, stating:

No provision of this title and no amendment made by this title to any other provision of law shall be construed as affecting in any way . . . the applicability of section 5197 of the Revised Statutes or section 27 of the Federal Deposit Insurance Act.¹⁸

¹⁶ The sponsor of the Riegle-Neal Amendments Act of 1997 stated that “[t]he essence of this legislation is to provide parity between State-chartered banks and national banks.” 143 Cong. Rec. H3088–89 (May 21, 1997) (statement of Rep. Marge Roukema); see also 143 Cong. Reg. H3090 (May 21, 1997) (letter from Independent Bankers Association of America, noting that “[t]he Riegle-Neal Clarification Act clarifies that generally, state chartered banks will operate under the laws of their chartering state wherever they do business, up to the powers of national banks”). See sec. 2, Pub. L. 105–24, 111 Stat. 238.

¹⁷ 12 U.S.C. 1831d.

¹⁸ 12 U.S.C. 1811 note.

¹³ Pub. L. 103–328.

¹⁴ State banks would only gain protection from a host State’s laws through branching to the extent such laws do not apply to branches of national banks in the host State. 12 U.S.C. 1831a(j)(1).

¹⁵ 70 FR 60019 (Oct. 14, 2005).

Accordingly, section 27 and the FDIC's implementing regulations in the remainder of part 331 would continue to govern the interest rates that State banks are permitted to charge with respect to their loans.

No Determination that Particular State Laws Are Preempted

The proposed rule would not constitute a determination by the FDIC that any particular host State law is preempted by Federal law, though preemption of a host State law would be relevant in determining which State's law applies. The proposed rule would merely clarify the application of State law under section 24(j) of the FDI Act in instances where an out-of-State State bank provides services in a host State.

V. Expected Effects

The proposed rule would amend the FDIC's regulations at 12 CFR part 331 to recognize parity between out-of-State State banks and national banks concerning the application of host State laws when State banks provide services outside of their chartering State. The proposed rule would apply to all "State banks," as defined in the FDI Act. As of the quarter ending December 31, 2025, there were 3,449 State banks.¹⁹

The FDIC analyzed the proposed rule's expected effects on State banks relative to a baseline in which 12 CFR part 331 remains unchanged. The baseline further assumes that all current State laws and regulations remain in effect and reflects the financial and economic conditions of State banks as of December 31, 2025.

The proposed rule, if finalized, would primarily affect State banks and their customers. As discussed above, it has become common in recent years for banks to serve their customers outside of branches through non-branch channels such as online banking and mobile banking. Currently, the regulatory framework regarding applicability of host State laws to these activities under section 24(j) of the FDI Act is uncertain. Under the baseline, such uncertainty may impose costs on State-chartered banks by either requiring establishment of a branch or depriving them of parity in the absence of a branch, limiting the availability of products and services to customers. For example, litigation involving the IFPA has created uncertainty that is expected to negatively affect State banks and may

result in substantial disruption and confusion for the merchants and consumers they serve once the law takes effect. Although the OCC has preempted this State law and a court has granted a permanent injunction preventing Illinois from enforcing the IFPA against national banks, Federal savings associations, payment card networks, and banks chartered by States other than Illinois "that are subject to Riegle-Neal, 12 U.S.C. § 1831a(j)(1)," State banks without Illinois branches could face uncertainty in light of the Illinois' Attorney General's posture. This uncertainty creates a competitive imbalance between national banks and State banks under the baseline. By reducing this uncertainty, the proposed rule would benefit State banks and their customers.

The precise effects of the proposed rule are subject to uncertainty and may vary based upon changes to State laws and the actions of other regulators that the FDIC cannot reasonably anticipate. The analysis below focuses on the IFPA and assumes it will become effective for State banks in July 2027. The FDIC's estimates rely on available Call Report data, Summary of Deposits data, and estimates submitted to the courts by the parties to litigation concerning the IFPA. However, available regulatory data do not comprehensively identify all services that State banks provide in host States where they do not maintain branches, nor do they identify the location of payment card transactions, the tax and gratuity components of those transactions, or the operational arrangements used by banks and third-party service providers to process such transactions.

Scope

Of the 3,449 State banks in existence as of December 31, 2025, the FDIC has identified 3,185 that may be affected by the proposed rule upon the effective date of the IFPA.²⁰ Of the 3,185 affected State banks, the FDIC estimates that there are 111 acquirer banks (which process card payments on behalf of a merchant) and 3,183 issuer banks (which provide credit or debit cards to consumers); banks may be both acquirers and issuers.²¹ These estimates

are based on December 2025 data and may change before the IFPA takes effect in July 2027.

Quantifiable Expected Benefits

As noted above, absent concrete examples, it is difficult to quantify the expected effects of this proposal or its absence. However, the Illinois law and ensuing litigation provide a useful example. Although the OCC has preempted this State law and a court has granted a permanent injunction preventing Illinois from enforcing the IFPA against national banks, Federal savings associations, payment card networks, and banks chartered by States other than Illinois "that are subject to Riegle-Neal, 12 U.S.C. § 1831a(j)(1)," State banks without Illinois branches could face uncertainty in light of the Illinois' Attorney General's posture. Under the baseline, both acquirer banks and issuer banks lacking branches would expend significant resources to update their payment processing systems to comply with the IFPA's requirement to segregate the tax and gratuity portions of transaction amounts in Illinois and exempt these amounts from interchange fees. Under the proposed rule, State banks would not be required to expend these resources because the IFPA has been determined to be preempted with respect to national banks. Accordingly, these foregone costs would be a benefit to State banks relative to the baseline.

In order to estimate these foregone costs, the FDIC relies on estimates from declarations submitted by acquirer and issuer banks to the courts during litigation concerning the IFPA.²² Based on these declarations, the FDIC estimates that: (1) acquirer banks that fully operate their own systems would incur \$16 million per bank to update their systems; and (2) acquirer banks that partially operate their own systems would incur \$8 million per bank to update. For acquirer banks that do not operate any of their own systems, the FDIC assumes that system update costs will be absorbed by core payment service providers.²³ Based on Call Report data as of December 31, 2025, the

acquirer banks. Banks with positive balances for domestic deposits are assumed to be issuer banks.

²² See Declaration of Mark C. Williams ¶ 22 & 15, *Ill. Bankers Ass'n v. Raoul*, No. 24-cv-07307 (N.D. Ill. Aug. 21, 2024) (Decl. M. Williams); Declaration of Christopher Conrad ¶ 22 & 19, *Ill. Bankers Ass'n v. Raoul*, No. 24-cv-07307 (N.D. Ill. Aug. 21, 2024) (Decl. C. Conrad); and Declaration of Hope M. Garrett ¶ 16, *Ill. Bankers Ass'n v. Raoul*, No. 24-cv-07307 (N.D. Ill. Aug. 21, 2024) (Decl. H. Garrett).

²³ These costs could be passed on to acquirer banks over time, but the FDIC does not have sufficient information to estimate how or when these costs would be passed on.

¹⁹ Reports of Condition and Income (Call Reports), December 31, 2025. Data from December 2025 are used instead of more recent data because certain information used in the analysis is only reported every six months (in June and December) rather than quarterly.

²⁰ Of the 3,449 State banks, 235 are headquartered in Illinois and will be required to comply with the IFPA under both the baseline and under the proposed rule. A further 29 are not headquartered in Illinois but operate a physical branch in Illinois and will not be subject to the IFPA under both the baseline and under the proposed rule. Call Reports, December 31, 2025, and Summary of Deposits, June 30, 2025.

²¹ Call Reports, December 31, 2025. Banks with positive balances for Merchant Credit Card Sales—Acquiring Bank (MCRCDACQ) are assumed to be

FDIC estimates three acquirer State banks fully operate their own payment systems, and five partially operate their own payment systems, with the remaining 103 State banks fully outsourcing these operations.²⁴

Issuer banks also would face costs to update their systems, which the FDIC estimates (based on the same declarations) at \$25 million per issuer bank that fully operates its own systems, \$12.5 million per issuer bank that partially operates its own systems, \$45,000 per issuer bank that does not operate its own systems and offers both credit and debit cards, and \$22,500 per issuer bank that does not operate its own systems and offers only debit cards. Of the estimated 3,183 issuer State banks, 516 banks issue both credit and debit cards and 2,667 banks issue only debit cards.²⁵ For those State banks that issue both credit and debit cards, three fully operate their own payment systems and five partially operate their own payment systems, with the remainder fully outsourcing their systems. The resulting total upgrade cost, combined for issuer banks and acquirer banks, is therefore estimated at \$308 million.²⁶

In addition to system upgrade costs, State banks would incur costs if merchants elect to submit tax documentation manually to acquirer or issuer banks. The IFPA requires manual processing of this documentation to determine what portion of the interchange fees must be rebated to merchants, and these costs are likely to scale with volume of transactions. One large acquirer bank with a total credit card sales volume of approximately \$2.379 trillion in 2025 estimated manual documentation processing costs of up to \$50 million annually, or a unit cost of about 2.1 cents per thousand dollars of transactions.²⁷ Across the 111 acquirer State banks affected by the proposed rule, the total credit card sales

volume in 2025 was approximately \$305.4 billion, which would result in total annual costs to these banks of \$6.4 million under the IFPA at the same unit cost.^{28 29}

The FDIC also estimated manual tax documentation processing costs to comply with the IFPA for issuer State banks. One large issuer bank with credit card balances of approximately \$215.9 billion estimated that it would require at least 100 analysts to manually process tax documentation, which the FDIC translates to a cost of \$4.5 million per year, or a unit cost of approximately 2.1 cents per thousand dollars in transactions.³⁰ Across the 3,183 issuer banks affected by the proposed rule, total credit card balances as of December 2025 were approximately \$12.5 billion, which would result in estimated annual costs of about \$261,000 under the IFPA at the same unit cost.^{31 32}

Summing the potential foregone compliance costs for both issuer banks and acquirer banks, the proposed rule's total estimated quantifiable benefits would be approximately \$308 million in one-time benefits and \$6.7 million in ongoing annual benefits.³³ This implies annualized benefits over a five-year horizon of \$77 million at a 7 percent discount rate and \$72 million at a 3 percent discount rate. These costs would be avoided under the proposed rule because State banks would have parity with national banks for which the IFPA has been determined to be preempted.

Quantifiable Expected Transfers

If the IFPA were to take effect and apply to State banks, as is assumed under the baseline, issuer State banks would experience a decrease in interchange fee revenue for amounts that represent taxes and gratuities. However, because the lost interchange fee revenue also represents decreased costs from the perspective of merchants, who pay those fees, the FDIC considers this a transfer rather than a cost or benefit to the economy. The total amount of the transfer is comprised of four amounts, each estimated below: (1) revenue from credit card interchange fees on sales tax; (2) revenue from debit card interchange fees on sales tax; (3) revenue from credit card interchange fees on gratuities; and (4) revenue from debit card interchange fees on gratuities.

To estimate these amounts for credit card purchases, the FDIC used publicly available aggregate FR Y–14M data from the Federal Reserve, adjusted to reflect that the proposed rule would only apply to a subset of banks. According to the FR Y–14M data, credit card purchases through large banks in 2025 in the United States totaled \$3.72 trillion.³⁴ This is scaled to the total market for credit card purchases based on the reported share of credit card balances of four-fifths of total U.S. bank card balances from the Federal Reserve Bank of Philadelphia, yielding \$4.65 trillion.^{35 36} Assuming Illinois's share of U.S. Gross Domestic Product, 3.9 percent in 2025, is equal to its share of credit card purchases, the FDIC estimates credit card purchases in Illinois at about \$181.4 billion per year.^{37 38} The State banks affected by the proposed rule carried an aggregate of \$12.5 billion in credit card balances in December 2025, or approximately 0.98 percent of the \$1.28 trillion in credit card debt held by households in December 2025.³⁹ Multiplying 0.98 percent by the estimated \$181.4 billion in credit card purchases in Illinois yields annual estimated Illinois credit card purchases of \$1.78 billion at the affected State banks.⁴⁰ The FDIC assumes that Illinois's sales tax of 6.25 percent applies to all purchases and estimates interchange fees for credit card purchases of 2 percent of the transaction amount, resulting in an estimated annual transfer of \$2.22 million of revenue on interchange fees for taxes on credit card purchases under the baseline scenario.^{41 42}

Assuming a ratio of debit card purchases to credit card purchases of 82 percent, total annual debit card purchases in Illinois at affected banks are estimated at \$1.46 billion.⁴³ Applying the 6.25 percent sales tax and

²⁴ The FDIC identified State banks with in-house payment systems by reviewing institutions within the FDIC's Large Bank Supervision program and from the list of top 20 FDIC-supervised merchant acquirers reported in the former RMS Quarterly Risk Book. Banks in this group were categorized as fully operating, partially operating, or outsourcing their payment systems based on confidential supervisory information. It is possible that State banks other than those reviewed have in-house payment systems.

²⁵ Call Reports, December 31, 2025. State banks with non-zero credit card loans are assumed to issue credit cards, and State banks with non-zero domestic deposits are assumed to issue debit cards. There were no affected State banks with non-zero credit card loans and zero domestic deposits.

²⁶ $(3 \times \$16 \text{ million}) + (5 \times \$8 \text{ million}) + (3 \times \$25 \text{ million}) + (5 \times \$1.25 \text{ million}) + (508 \times \$45 \text{ thousand}) + (2667 \times \$22.5 \text{ thousand}) = \$308,368,000$.

²⁷ Decl. M. Williams, *supra*, ¶ 22.

²⁸ Call Reports, December 31, 2025.

²⁹ $\$305,413,825,000 \times 0.000021 = \$6,413,690$.

³⁰ Decl. C. Conrad, *supra*, ¶ 22.

³¹ Call Reports, December 31, 2025.

³² $\$12,529,233,000 \times 0.000021 = \$263,113$.

³³ Ongoing annual benefits of \$6,413,690 + \$263,113 = \$6,676,804.

³⁴ Federal Reserve Bank of Philadelphia, Large Bank Consumer Credit Card Balances: Total Purchase Volume, <https://fred.stlouisfed.org/series/RCCCBPURCHASETOT>, July 30, 2026.

³⁵ Federal Reserve Bank of Philadelphia, FR Y–14M Data, <https://www.philadelphiafed.org/surveys-and-data/large-bank-credit-card-and-mortgage-data>, July 30, 2026.

³⁶ $\$3.72 \text{ trillion} \times 1.25 = \4.65 trillion .

³⁷ See U.S. Bureau of Economic Analysis (BEA), SQGDP1 State Quarterly Gross Domestic Product Summary (accessed July 30, 2026) (indicating Illinois's share of the current United States dollar Gross Domestic Product in 2025 is 3.9 percent).

³⁸ $\$4.65 \text{ trillion} \times 0.039 = \181.35 billion .

³⁹ Call Reports, December 31, 2025 and Federal Reserve Bank of New York Consumer Credit Panel.

⁴⁰ $\$181.4 \text{ billion} \times 0.00977 = \1.771 billion .

⁴¹ See 35 ILCS 105/1 to 105/22. This estimate does not account for the local and excise taxes that are also subject to the IFPA.

⁴² $\$1.771 \text{ billion} \times 0.0625 \times 0.02 = \2.214 million .

⁴³ $\$1.771 \text{ billion} \times 0.82 = \1.452 billion .

an interchange fee of 0.05 percent of the transaction amount results in a total estimated annual transfer of \$45,000 of revenue on interchange fees for taxes on debit card purchases.⁴⁴

To estimate the transfer of revenue created by prohibiting interchange fees on gratuities, the FDIC uses total reported income in Illinois from occupations associated with tips, such as food services, waiters and waitresses, bartenders, and taxi drivers, reported at \$4.24 billion in May 2025.⁴⁵ The FDIC assumes that approximately 55 percent of this income is from tips and that 85 percent of those tips are paid via a payment card, with 55 percent of card tips paid by credit cards and 45 percent paid by debit cards (based on the ratio used above). Affected State banks are assumed to have a 0.98 percent share of these transactions, as calculated above. This calculation yields estimates of \$1.1 million in credit card tips and \$873,000 in debit card tips processed by the affected State banks.⁴⁶ Assuming interchange fees of 2 percent of the transaction amount for credit cards and 0.05 percent of the transaction amount for debit cards yields a total annual transfer of \$21,000 for credit card tips and \$437 for debit card tips for the affected State banks.⁴⁷

Summing these four figures together yields an estimated annual total of \$2.28 million in transfers between merchants and affected banks under the baseline scenario if the IFPA applies to State banks.⁴⁸ The proposed rule would eliminate this transfer. And as noted, this is but one example of the potential disruption caused by the absence of this proposal.

VI. Request for Comment

The FDIC seeks comment on all aspects of the proposed rule. The FDIC also invites comment specifically on the following:

- Are there any other alternatives to the proposed rule, consistent with the FDIC's policy goals described above, that should be considered?
- Section 24(j) of the FDI Act, by its terms, governs the application of "[t]he laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and

establishment of intrastate branches." This broad language includes a variety of host State laws. Would the proposed rule, which implements section 24(j) of the FDI Act, affect settled applications of specific types of host State laws to out-of-State State banks in a way that may have unintended consequences? If so, please provide examples.

- As described above, section 27 of the FDI Act and the implementing regulations in part 331 govern the interest rates State banks are permitted to charge with respect to their loans, and, consistent with the Riegle-Neal Act's provisions, the proposed rule would not affect the application of these provisions to State banks. Should the FDIC make any changes to the proposed rule to better reflect this? If so, why?

VII. Administrative Law Matters

Regulatory Review

Executive Order 12866 directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This proposed rule was drafted and reviewed in accordance with Executive Order 12866. Within OMB, the Office of Information and Regulatory Affairs (OIRA) has determined that this rulemaking is a "significant regulatory action" under section 3(f)(1) of Executive Order 12866. Accordingly, the draft rule was submitted to OIRA for review.

As noted in other sections of the **SUPPLEMENTARY INFORMATION** of this document, the FDIC has assessed the costs and benefits of this rulemaking and has made a reasoned determination that the benefits of this rulemaking justify its costs. Executive Order 14192, titled "Unleashing Prosperity Through Deregulation," was issued on January 31, 2025. Section 3(a) of Executive Order 14192 requires an agency, unless prohibited by law, to identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation. In furtherance of this standard, section 3(c) of Executive Order 14192 requires that the new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This proposed rule, if finalized as proposed, is expected to be a deregulatory action under Executive Order 14192.

Paperwork Reduction Act

This notice of proposed rulemaking has been reviewed for compliance with

the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). In accordance with the PRA, the FDIC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. The FDIC has reviewed the notice of proposed rulemaking and determined that it would not introduce new information collection requirements pursuant to the PRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.⁴⁹ However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to \$850 million.⁵⁰ Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-supervised institutions.

The FDIC believes that the proposed rule will not have a significant economic impact on a substantial number of small entities. In particular, the proposed rule of construction would not affect the interest rates State banks are permitted to charge with respect to any of their loans, which are governed by section 27 of the FDI Act as

⁴⁹ 5 U.S.C. 601 *et seq.*

⁵⁰ The SBA defines a small banking organization as having \$850 million or less in assets, where an organization's "assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." See 13 CFR 121.201 (as amended by 87 FR 69118, effective Dec. 19, 2022). In its determination, the "SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." See 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is "small" for the purposes of RFA.

⁴⁴ \$1.452 billion $\times$ 0.0625 $\times$ 0.0005 = \$45,382.

⁴⁵ Bureau of Labor Statistics, May 2025 State Occupational Employment and Wage Estimates, <https://data.bls.gov/oes/#/area/1700000/2025>.

⁴⁶ \$4.24 billion $\times$ 0.55 $\times$ 0.85 $\times$ 0.00977 $\times$ 0.55 = \$1.065 million. \$4.24 billion $\times$ 0.55 $\times$ 0.85 $\times$ 0.00977 $\times$ 0.45 = \$871,474.

⁴⁷ \$1.065 million $\times$ 0.02 = \$21,300. \$871,474 $\times$ 0.005 = \$436.

⁴⁸ \$2.214 million + \$45,382 + \$21,300 + \$436 = \$2,281,118.

previously discussed.⁵¹ The precise effects of the proposed rule are subject to uncertainty and may vary based upon changes to State laws and the actions of other regulators that the FDIC cannot reasonably anticipate. Therefore, the FDIC is presenting an Initial Regulatory Flexibility Act Analysis in this section. The analysis below focuses on the IFPA and assumes it will become effective for State banks in July 2027.

Reasons Why This Action is Being Considered

Recent litigation involving an Illinois law concerning payment card transactions has created uncertainty as to the application of the laws of States to State-chartered banks which offer services outside their home State. For a more detailed discussion of the reason for the proposed rule, please refer to Section I of this notice, “Policy Objectives” and Section II, “Background.”

Policy Objectives

This rulemaking would address legal uncertainty and recognize parity between out-of-State State banks and national banks doing business in another State without establishing a branch in such host State. For a more detailed discussion of the proposed rule’s policy objectives, please refer to Section I, “Policy Objectives.”

Legal Basis

Congress has granted the FDIC the authority to prescribe rules and regulations as it may deem necessary to carry out the provisions of the FDI Act, as well as to define terms as necessary to carry out the FDI Act, except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to another regulatory agency.⁵² For a more detailed discussion of the proposed rule’s legal basis, please refer to Section II, “Background,” Section III, “Statutory Authority,” and Section IV, “Proposed Rule.”

Description of the Rule

The proposed rule would provide that, for purposes of section 24(j) of the FDI Act, the laws of a host State apply to any branch in the host State of, or any services provided in the host State by, an out-of-State State bank to the same extent such State laws apply to a branch in the host State of, or any services provided in the host State by, an out-of-State national bank. Under the proposed rule, when host State laws do not apply

to a national bank, those laws would similarly not apply to an out-of-State State bank providing services in the host State with or without a branch. For a more detailed description of the proposed rule, please refer to Section IV, “Proposed Rule.”

Small Entities Affected

As discussed above, as of the quarter ending December 31, 2025, there were 3,449 State banks. Of these State banks, 2,432 were small entities.⁵³ Of these small State banks, the FDIC has identified 2,236 small State banks that may be affected by the proposed rule upon the effective date of the IFPA.⁵⁴ Of the 2,236 affected small banks, the FDIC estimates that there are 42 acquirer banks (which process card payments on behalf of a merchant) and 2,234 issuer banks (which provide cards to consumers, including debit cards); banks may be both acquirers and issuers.⁵⁵ These estimates are based on December 2025 data and may change before the IFPA takes effect in July 2027.

Effects on Small Entities

The proposed rule, if adopted, would primarily affect State banks and their customers. As discussed above, it has become more common in recent years for banks to serve their customers through non-branch channels such as online banking and mobile banking. Currently, the applicability of host State laws to these activities under Section 24(j) of the FDI Act is uncertain. Under the baseline, such uncertainty may impose costs on small State-chartered banks by either requiring establishment of a branch or depriving them of parity in the absence of a branch, limiting the availability of products and services to customers. For example, litigation involving the IFPA has created uncertainty that is expected to negatively affect small State banks and may result in substantial disruption and confusion for the merchants and consumers they serve once the law takes effect. This uncertainty creates a competitive imbalance between national banks and State banks that may

incentivize State-chartered banks to convert to Federal charters under the baseline. By reducing this uncertainty, the proposed rule would benefit small State banks and their customers.

The precise effects of the proposed rule are subject to uncertainty and may vary based upon changes to State laws and the actions of other regulators that the FDIC cannot reasonably anticipate. The analysis below focuses on the IFPA and assumes it will become effective for small State banks in July 2027. The FDIC’s estimates rely on available Call Report data, Summary of Deposits data, publicly available economic data, and estimates submitted to the courts by the parties to litigation concerning the IFPA. However, available regulatory data do not comprehensively identify all services that small State banks provide in host States where they do not maintain physical branches, nor do they identify the location of payment card transactions, the tax and gratuity components of those transactions, or the operational arrangements used by banks and third-party service providers to process such transactions.

Under the baseline, both small acquirer banks and small issuer banks may expend significant resources to update their payment processing systems in order to be able to segregate the tax and gratuity portions of payment card transactions in Illinois and exempt these amounts from interchange fees. Under the proposed rule, small State banks would not be required to expend these resources because the IFPA has been determined to be preempted with respect to national banks. Accordingly, these foregone costs would be a benefit to small State banks relative to the baseline.

The FDIC estimates that none of the small acquirer or issuer banks operate their own payment systems. Upgrade costs are therefore estimated to be \$45,000 for banks which offer both credit and debit cards, and \$22,500 for banks which only offer debit cards.⁵⁶ The benefits accruing to small banks from foregoing these costs fall well under the threshold for a significant economic impact.

In addition to system upgrade costs, small State banks would incur costs if merchants elect to submit tax documentation manually to acquirer or processor banks. The IFPA requires manual processing of this documentation to determine what portion of the interchange fees must be rebated to merchants, and these costs are likely to scale with volume of transactions. As explained in the

⁵³ Call Reports, December 31, 2025.

⁵⁴ Of the 2,432 small State banks, 193 are headquartered in Illinois and will be required to comply with the IFPA under both the baseline and under the proposed rule. A further three are not headquartered in Illinois but operate a branch in Illinois and will not be subject to the IFPA under both the baseline and under the proposed rule. Call Reports, December 31, 2025, and Summary of Deposits, June 30, 2025.

⁵⁵ Call Reports, December 31, 2025. Banks are assumed to be acquirers if they have a non-zero amount of acquirer bank merchant credit card sales; banks are assumed to be issuers if they have a non-zero amount of domestic deposits (as they are assumed to issue at least debit cards).

⁵⁶ Decl. H. Garrett, *supra*, ¶ 16.

⁵¹ 12 U.S.C. 1831d.

⁵² 12 U.S.C. 1819(a)(Tenth), 1820(g).

“Expected Effects” section above, the FDIC estimates manual documentation processing unit costs are about 2.1 cents per thousand dollars of transactions.⁵⁷ Across the 42 small acquirer State banks affected by the proposed rule, the total credit card sales volume in 2025 was approximately \$5.1 billion, which would result in total combined annual costs to these banks of \$106,480 at the same unit cost, or \$2,535 on average per small acquirer bank.^{58 59}

The FDIC also estimates manual tax documentation processing costs to comply with the IFPA for issuing State banks of approximately 2.1 cents per thousand dollars in transactions, as explained in the “Expected Effects” section above. Across the 2,234 small issuer State banks affected by the proposed rule, total credit card balances in December 2025 were approximately \$8 million, which would result in estimated annual costs to these banks of \$167 at the same unit cost, or an average of less than one dollar per bank.^{60 61} Both processing costs would be small for small banks, so the benefit from foregoing them would not be significant.

Another potential effect on small State banks is foregone revenue from lost interchange fees on tax and gratuity portions of transaction amounts that are collected under the baseline. While it is not possible to calculate the exact effect for small banks, the overall size of the transfer for all affected banks combined is estimated to be \$2.27 million per year.⁶² Averaged across the 3,185 affected State banks, this would be \$713 per bank per year, again a negligible effect even for a small bank.⁶³

As previously discussed, the proposed rule would not affect the interest rates State banks are permitted to charge with respect to any of their loans, which are governed by section 27 of the FDI Act.⁶⁴

Reporting, Recordkeeping, and Other Compliance Requirements

The proposed rule will not pose reporting, recordkeeping and other compliance requirements on small, State banks.

Other Federal Rules

The FDIC has not identified any likely duplication, overlap, and/or potential conflict between this proposed rule and any other Federal rule.

The FDC invites comments on all aspects of the supporting information provided in this RFA section, and in particular, whether the proposed rule would have any significant effects on small entities that the FDIC has not identified.

Riegle Community Development and Regulatory Improvement Act

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),⁶⁵ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each Federal banking agency must consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on insured depository institutions generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.⁶⁶ The FDIC has reviewed the notice of proposed rulemaking and determined that it would not impose additional reporting, disclosure, or other requirements on IDIs pursuant to RCDRIA. The FDIC welcomes any comments on the application of RCDRIA.

Plain Language

Section 722 of the Gramm-Leach-Bliley Act⁶⁷ requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the **Federal Register** after January 1, 2000. The FDIC invites your comments on how to make this proposed rule easier to understand, including the following:

- Has the FDIC organized the material to suit your needs? If not, how could the proposed rule be more clearly stated?
- Are the requirements in the proposed rule clearly stated? If not, how

could the proposed rule be more clearly stated?

- Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?
- What else could the FDIC do to make the proposed rule easier to understand?

List of Subjects in 12 CFR Part 331

Banks, banking, deposits, foreign banking, interest rates.

For the reasons set out in the preamble, the Federal Deposit Insurance Corporation's Board of Directors proposes to amend 12 CFR part 331 as follows:

PART 331—FEDERAL INTEREST RATE AUTHORITY

- 1. The authority citation for part 331 is revised to read as follows:

Authority: 12 U.S.C. 1819(a)(Tenth), 1820(g), 1831a(j), 1831(d).

- 2. In § 331.2, revise the definition of “Host State” to read as follows:

§ 331.2 Definitions.

* * * * *

Host State means a State, other than the home State of a State bank, in which the State bank maintains a branch or provides services.

* * * * *

- 3. Revise § 331.3 to read as follows:

§ 331.3 Application of host State law.

For purposes of section 24(j) of the Federal Deposit Insurance Act, the laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, shall apply to any branch in the host State of, or any services provided in the host State by, an out-of-State State bank to the same extent as such State laws apply to a branch in the host State of, or any services provided in the host State by, an out-of-State national bank. To the extent a host State's law is inapplicable to an out-of-State State bank in such host State pursuant to section 24(j) of the Federal Deposit Insurance Act, the home State's law shall apply.

⁵⁷ Decl. M. Williams, *supra* ¶ 22.

⁵⁸ Call Reports, December 31, 2025.

⁵⁹ $5,070,491,000 \times 0.000021 = \$106,480$. $\$106,480 / 42 = \$2,535$.

⁶⁰ Call Reports, December 31, 2025.

⁶¹ $\$7.955 \text{ million} \times 0.000021 = \167 . $\$167 / 2234 = \0.075 .

⁶² See Section V, “Expected Effects” for this calculation.

⁶³ $\$2.27 \text{ million} / 3185 = \713 .

⁶⁴ 12 U.S.C. 1831d.

⁶⁵ 12 U.S.C. 4802(a).

⁶⁶ 12 U.S.C. 4802(b).

⁶⁷ 12 U.S.C. 4809.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on September 17, 2026.

Hanoi Veras,

Executive Secretary.

[FR Doc. 2026–19310 Filed 9–21–26; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–11783; Project Identifier MCAI–2025–01775–R]

RIN 2120–AA64

Airworthiness Directives; Bell Textron Canada Limited Helicopters

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 Bell Textron Canada Limited Model 429 helicopters. This proposed AD was prompted by reports of the sliding doors jamming when opened from the inside of the helicopter, due to the aft lower roller assembly disengaging from the aft lower rail. This proposed AD would require inspecting the lower aft bracket and rail cavity for contact marks and, depending on the findings, performing applicable corrective actions. This proposed AD would also require modifying the roller assembly configuration. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by November 6, 2026.

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

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–11783; 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 Transport Canada material identified in this proposed 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.

FOR FURTHER INFORMATION CONTACT: David Enns, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946–4147; email: david.enns@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 **ADDRESSES**. Include “Docket No. FAA–2026–11783; Project Identifier MCAI–2025–01775–R” 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](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

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

contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to David Enns, 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

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2025–64, dated December 1, 2025 (Transport Canada AD CF–2025–64) (also referred to as the MCAI), to correct an unsafe condition on certain Bell Textron Canada Limited Model 429 helicopters. The MCAI states that there have been reports of the sliding doors jamming when opened from the inside of the helicopter. The condition was found to be caused by the aft lower roller assembly, part number (P/N) 429–030–897–101, disengaging from the aft lower rail, P/N 429–030–575–103.

The FAA is proposing this AD to prevent the doors from jamming. The unsafe condition, if not addressed, could result in jamming of the doors in an emergency situation, and obstructing occupant evacuation.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–11783.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Transport Canada AD CF–2025–64, dated December 1, 2025, which specifies procedures for inspecting the lower aft bracket and rail cavity for contact marks and repairing or replacing any affected part. Transport Canada AD CF–2025–64 also requires modifying the roller configuration for Group 1 and Group 2 helicopters, and inspecting the roller configuration and performing corrective actions for all three groups of helicopters, which includes modifying the roller assembly or support assembly if any conditions are detected.

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in Transport Canada AD CF-2025-64, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. See

"Differences Between this Proposed AD and the MCAI" for a discussion of the general differences included in this proposed AD.

Differences Between This Proposed AD and the MCAI

Where the material referenced in Transport Canada AD CF-2025-64 specifies to repair or refinish if there are contact marks on the lower aft bracket and the rails, this proposed AD would require corrective actions in accordance with a method approved by the Manager, International Validation Branch, FAA; or Transport Canada; or Bell Textron Canada Limited Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

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, the FAA proposes to incorporate Transport Canada AD CF-2025-64 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF-2025-64 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Material required by Transport Canada AD CF-2025-64 for compliance will be available at *regulations.gov* under Docket No. FAA-2026-11783 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 150 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect lower aft bracket and rail cavity	1 work-hours × \$85 per hour = \$85 ...	\$0	\$85	\$12,750.
Modify roller assembly (right-hand and left-hand side)	8 work-hours × \$85 per hour = \$680	0	680	Up to \$102,000.

The repairs needed as a result of repairing or replacing an affected part due to the required inspection, or if any of the conditions are detected, could vary significantly from helicopter to helicopter. The FAA has no way of determining the costs to accomplish the repairs 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 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:

Bell Textron Canada Limited: Docket No. FAA-2026-11783; Project Identifier MCAI-2025-01775-R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 6, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bell Textron Canada Limited Model 429 helicopters, certificated in any category, as identified in Transport Canada AD CF-2025-64, dated December 1, 2025 (Transport Canada AD CF-2025-64).

(d) Subject

Joint Aircraft System Component (JASC) Code 5200, Doors.

(e) Unsafe Condition

This AD was prompted by reports of the sliding doors jamming when opened from the inside of the helicopter, due to the aft lower roller assembly disengaging from the aft lower rail. The FAA is issuing this AD to prevent the doors from jamming. The unsafe condition, if not addressed, could result in jamming of the doors in an emergency situation, and obstructing occupant evacuation.

(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: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF-2025-64.

(h) Exceptions to Transport Canada AD CF-2025-64

(1) Where Transport Canada AD CF-2025-64 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where the material referenced in Transport Canada AD CF-2025-64 specifies discarding parts, this AD requires removing those parts from service.

(i) 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 (j) 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.

(j) Additional Information

For more information about this AD, contact David Enns, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (316) 946-4147; email: david.enns@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) Transport Canada AD CF-2025-64, dated December 1, 2025.

(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. You may view this material on the Transport Canada website at tc.canada.ca/en/aviation.

(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 September 16, 2026.

Hollister B. Thorson,

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

[FR Doc. 2026-19345 Filed 9-21-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2026-8817; Project Identifier MCAI-2026-00010-R]

RIN 2120-AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2022-02-12, which applies to all Leonardo S.p.a. Model AB139 and AW139 helicopters. AD 2022-02-12 requires incorporating airworthiness limitations into maintenance records. Since the FAA issued AD 2022-02-12, it was determined that new or more restrictive airworthiness limitations were necessary. This proposed AD would require revising the airworthiness limitations section (ALS) of the existing maintenance manual or instructions for continued airworthiness (ICA) and the existing approved maintenance or inspection program, as applicable. The FAA is proposing this

AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by November 6, 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-2026-8817; 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 Leonardo S.p.a. material identified in this proposed AD, contact Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; phone: +39 0331-225074; fax: (+39) 0331-229046; or at website: <https://customerportal.leonardocompany.com/en-US/>.

- 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.

FOR FURTHER INFORMATION CONTACT:

Anthony Kenward, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222-5157; email: anthony.b.kenward@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 **ADDRESSES**. Include "Docket No. FAA-2026-8817; Project Identifier MCAI-2026-00010-R" 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 the 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 Anthony Kenward, 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 AD 2022–02–12, Amendment 39–21909 (87 FR 7687,

February 10, 2022) (AD 2022–02–12), for all Leonardo S.p.a. Model AB139 and AW139 helicopters. AD 2022–02–12 was prompted by an MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued EASA AD 2018–0132, dated June 21, 2018 (EASA AD 2018–0132), to address the failure of certain parts, which could result in the loss of control of the helicopter.

AD 2022–02–12 requires incorporating into maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable to the helicopter, airworthiness limitations as specified in EASA AD 2018–0132.

Actions Since AD 2022–02–12 Was Issued

Since the FAA issued AD 2022–02–12, EASA superseded EASA AD 2018–0132 and issued EASA AD 2026–0003, dated January 12, 2026 (EASA AD 2026–0003) (also referred to as the MCAI). The MCAI states that new and more restrictive airworthiness limitations have been developed. Additionally, the MCAI advises that the airworthiness limitations are identified as mandatory for continued airworthiness and that Leonardo S.p.a. has issued applicable ALS revisions to specify new and more restrictive life limits and maintenance tasks. The FAA is proposing this AD to address the failure of certain parts, which could result in the loss of control of the helicopter.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–8817.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Air vehicle maintenance planning information, AW139 39–B–AMPI–00–P, Chapter 04,

Airworthiness Limitations, Issue 015, dated January 07, 2025. This material also applies to other AW139 variants where the same part numbers have been interchanged, which includes the Model AB139 helicopters. This material specifies the airworthiness limitations for the AW139 helicopter and specifies inspections and other maintenance actions, which are required to be incorporated into the existing maintenance program for the 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 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 on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require revising the ALS of the existing maintenance manual or ICA and the existing approved maintenance or inspection program, as applicable by accomplishing the actions specified in the material already described.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 156 helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS	1 work-hours × \$85 per hour = \$85	\$0	\$85	\$13,260

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce.

This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order

13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
 - a. Removing Airworthiness Directive 2022–02–12, Amendment 39–21909 (87 FR 7687, February 10, 2022); and
 - b. Adding the following new airworthiness directive:

Leonardo S.p.a.: Docket No. FAA–2026–8817; Project Identifier MCAI–2026–00010–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 6, 2026.

(b) Affected ADs

This AD replaces AD 2022–02–12, Amendment 39–21909 (87 FR 7687, February 10, 2022).

(c) Applicability

This AD applies to all Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by the determination that certain parts have new and more restrictive airworthiness

limitations, including life limits and maintenance tasks. The FAA is issuing this AD to address the failure of certain parts, which could result in the loss of control of the helicopter.

(f) Compliance

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

(g) Required Action

(1) Within 30 days after the effective date of this AD, revise the airworthiness limitations section of the existing maintenance manual or instructions for continued airworthiness and the existing approved maintenance inspection program, as applicable, by incorporating into maintenance records required by 14 CFR 91.417(a)(2) or 135.439(a)(2), as applicable, the requirements (airworthiness limitations) specified in Air vehicle maintenance planning information, AW139 39–B–AMPI–00–P, Chapter 04, Airworthiness Limitations, Issue 015, dated January 07, 2025.

(h) Provisions or Alternative Requirements (Airworthiness Limitations)

After the action required by paragraph (g) of this AD has been accomplished, no alternative actions and associated thresholds and intervals, including any life limits, are allowed unless they are approved by 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.

(i) 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 (j) 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.

(j) Additional Information

For more information about this AD, contact Anthony Kenward, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–5157; email: anthony.b.kenward@faa.gov.

(k) Material Incorporated by Reference

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

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

(i) Air vehicle maintenance planning information, AW139 39–B–AMPI–00–P, Chapter 04, Airworthiness Limitations, Issue 015, dated January 07, 2025.

(ii) [Reserved]

(3) For Leonardo S.p.a. material identified in this AD, contact Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; phone: (+39) 0331–225074; fax: (+39) 0331–229046; or at: customerportal.leonardocompany.com/en-US/.

(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 September 16, 2026.

Hollister B. Thorson,

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

[FR Doc. 2026–19343 Filed 9–21–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–8809; Project Identifier MCAI–2025–01312–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS 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 all Airbus SAS Model A300 series airplanes; Model A300 B4–601, A300 B4–603, and A300 B4–622 airplanes; Model A300 B4–600R series airplanes; Model A300 C4–605R Variant F airplanes; and Model A300 F4–600R series airplanes. This proposed AD was prompted by reports of cracking of the main landing gear (MLG) two-piece cages due to incorrect machining. This proposed AD would require replacing an affected MLG with a serviceable MLG and would limit the installation of an affected MLG under certain conditions. 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 November 6, 2026.

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

- *Federal eRulemaking Portal:* Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–8809; 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 European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–8809.

- 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:

Taylor Stanley, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 407–852–7677; email: Taylor.Stanley@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–2026–8809; Project Identifier MCAI–2025–01312–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](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Taylor Stanley, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 407–852–7677; email: Taylor.Stanley@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

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0170, dated August 4, 2025 (EASA AD 2025–0170) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A300 B4–2C, A300 B4–103, A300 B4–120, A300 B4–203, A300 B4–220, A300 C4–203, A300 F4–203, A300 B4–601, A300 B4–603, A300 B4–622, A300 C4–620, A300 B4–605R, A300 B4–622R, A300 F4–605R, A300 F4–622R, A300 C4–605R Variant F, and A300F4–608ST airplanes. Model A300 B4–120, A300 B4–220, A300 C4–203, A300 F4–203, A300 C4–620, and A300 F4–608ST airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability. The

MCAI states that occurrences were reported of cracks found in the MLG two-piece cages. Subsequent investigation determined that the root cause of the cracking was incorrect machining before installation of the MLG two-piece cage into the MLG eye fitting. This condition, if not corrected, could lead to structural failure of the MLG during takeoff or landing, possibly resulting in damage to the airplane and injury to occupants.

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](https://www.regulations.gov) under Docket No. FAA–2026–8809.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0170 specifies procedures for replacement of an affected MLG with a serviceable MLG and limits the installation of an affected MLG or overhauled MLG under certain conditions. 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 EASA AD 2025–0170 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 EASA AD 2025–0170 by

reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0170 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0170 does not mean that operators need to comply only with that section. For example, where the AD requirement refers to “all required

actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0170. Material required by EASA AD 2025–0170 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–8809 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 99

airplanes of U.S. registry. The FAA has no definitive data on the number of affected MLGs that may need to be replaced and no way of knowing whether the affected MLGs are installed on all or some of the affected airplanes. Therefore, based on the assumption that one MLG would need to be replaced on all affected airplanes, 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
28 work-hours × \$85 per hour = \$2,380	* \$0	\$2,380	\$235,620

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

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:

Airbus SAS: Docket No. FAA–2026–8809; Project Identifier MCAI–2025–01312–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 6, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes identified in paragraphs (c)(1) through (5) of this AD, certified in any category.

(1) Model A300 B4–2C, B4–103, and B4–203 airplanes.

(2) Model A300 B4–601, B4–603, and B4–622 airplanes.

(3) Model A300 B4–605R and B4–622R airplanes.

(4) Model A300 C4–605R Variant F airplanes.

(5) Model A300 F4–605R and F4–622R airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by reports of cracking of the main landing gear (MLG) two-piece cages due to incorrect machining. The FAA is issuing this AD to address such cracking, which could lead to structural failure of the MLG during takeoff or landing. This unsafe condition, if not address, could result in damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2025–0170, dated August 4, 2025 (EASA AD 2025–0170).

(h) Exceptions to EASA AD 2025–0170

(1) Where EASA AD 2025–0170 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0170 defines a serviceable MLG part as an “MLG (LH or RH side), eligible for installation in accordance with Airbus instructions, which”, this AD requires replacing that text with “MLG (LH or RH side), eligible for installation, which”.

(3) This AD does not adopt the “Remarks” section of EASA AD 2025–0170.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2025–0170 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, AIR-520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (k) 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, AIR-520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Additional Information

For more information about this AD, contact Taylor Stanley, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 407-852-7677; email: Taylor.Stanley@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) European Union Aviation Safety Agency (EASA) AD 2025-0170, dated August 4, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +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.

(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 September 18, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026-19355 Filed 9-21-26; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2026-8807; Project Identifier MCAI-2025-01385-T]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS 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 Airbus SAS Model A350-941 airplanes. This proposed AD was prompted by reports of engine health monitoring (EHM) messages requiring premature removal of hydro-mechanical units (HMUs). This proposed AD would require replacing certain HMUs before reaching a reduced life limit and would limit the installation of affected parts under certain conditions. 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 November 6, 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-2026-8807; 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 European Union Aviation Safety Agency (EASA) material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221

8999 000; email ADs@easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at regulations.gov under Docket No. FAA-2026-8807.

• 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:

Anthony Decaro, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562-627-5374; email: anthony.d.decaro@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-2026-8807; Project Identifier MCAI-2025-01385-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 Anthony Decaro, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5374; email: anthony.d.decaro@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

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2025–0183, dated August 25, 2025 (EASA AD 2025–0183) (also referred to as the MCAI), to correct an unsafe condition for Airbus SAS Model A350–941 airplanes equipped with Rolls-Royce Trent XWB–84 engines, Trent XWB–84EP engines, or Trent XWB–75 engines. The MCAI states that the EHM identified abnormal HMU behavior via “Fuel Metering Valve position high” alerts, requiring premature removal of HMUs. Root cause analysis traced the issue to wear-induced stiction within the combining spill valve (CSV), where piston-to-housing friction prevented full closure of the CSV. This condition, if not corrected, could result in an unintended internal fuel leak during high power demand, leading to reduced fuel flow and potential thrust shortfalls and, combined with a loss of the second engine, could result in reduced control of the airplane.

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](https://www.regulations.gov) under Docket No. FAA–2026–8807.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0183 specifies procedures for replacing an HMU having part number (P/N) G5000HMU02 or P/N G5000HMU03 with a serviceable HMU before reaching a reduced life limit. EASA AD 2025–0183 also limits the installation of affected parts under certain conditions. 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 EASA AD 2025–0183 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 EASA AD 2025–0183 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0183 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2025–0183 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2025–0183. Material required by EASA AD 2025–0183 for compliance will be available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2026–8807 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 38 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
Up to 20 work-hours × \$85 per hour = \$1,700.	Up to \$2,081,930	Up to \$2,083,630	Up to \$79,177,940.

* The estimated labor and parts cost is for the installation of two new HMUs per airplane (one HMU per engine). The FAA has no definitive data on which to base the cost estimate for the installation of an overhauled HMU.

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:

Airbus SAS: Docket No. FAA–2026–8807; Project Identifier MCAI–2025–01385–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 6, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0183, dated August 25, 2025 (EASA AD 2025–0183).

(d) Subject

Air Transport Association (ATA) of America Code 73, Engine Fuel and Control.

(e) Unsafe Condition

This AD was prompted by reports of engine health monitoring messages requiring premature removal of hydro-mechanical units. The FAA is issuing this AD to address wear-induced stiction within the combining spill valve of the engine hydro-mechanical units (HMU), which could result in an unintended internal fuel leak during high power demand, leading to reduced fuel flow and potential thrust shortfalls and, combined with a loss of the second engine, could result in reduced control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and

compliance times specified in, and in accordance with, EASA AD 2025–0183.

Note 1 to paragraph (g): Guidance for determining the current HMU life can be found in paragraph 1.E.(2), “Accomplishment Timescale” in Airbus Service Bulletin A350–73–P019, dated July 15, 2025. Operators may also contact Rolls-Royce for guidance on determining the current HMU life.

(h) Exceptions to EASA AD 2025–0183

(1) Where EASA AD 2025–0183 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2025–0183 specifies to replace the affected part before exceeding the applicable life limit defined in Table 1 of EASA AD 2025–0183: For this AD, replace the affected part before exceeding the applicable life limit defined in Table 1 of EASA AD 2025–0183, or within 30 days after the effective date of this AD, whichever occurs later.

(3) If the flight hours accumulated on the affected HMU since new (first installation on the airplane) or since last overhaul cannot be determined, it must be assumed that the HMU has accumulated the applicable time specified in paragraph (h)(3)(i) or (ii) of this AD.

(i) For an affected HMU installed on a Rolls-Royce Trent XWB–84 engine or Trent XWB–75 engine: 35,000 flight hours.

(ii) For an affected HMU installed on a Rolls-Royce Trent XWB–84EP engine: 26,500 flight hours.

(4) This AD does not adopt the “Remarks” section of EASA AD 2025–0183.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *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 responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j)(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 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, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified

as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

(1) For more information about this AD, contact Anthony Decaro, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5374; email: anthony.d.decaro@faa.gov.

(2) For Airbus SAS material identified in this AD that is not incorporated by reference, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email continued-airworthiness.a350@airbus.com; website airbus.com.

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0183, dated August 25, 2025.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu. You may find this 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, 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 September 15, 2026.

Brian Knaup,

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

[FR Doc. 2026–19360 Filed 9–21–26; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 312, 314, 315, 361, and 601

[Docket No. FDA-2026-N-5347]

RIN 0910-AJ27

Nonclinical Testing Terminology

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is proposing to substitute references to “animal” tests or studies with “nonclinical” tests or studies, add a definition of the terms “nonclinical test” and “nonclinical study,” and make other comparable or conforming amendments in certain safety and reporting sections of its regulations. The proposed rule would also substitute “nonclinical” for “preclinical” and “in vitro” for consistency in terminology. These proposed amendments align with recent amendments to the Federal Food, Drug, and Cosmetic Act (FD&C Act) and the Public Health Service Act (PHS Act) and are intended to remove an emphasis, in certain places, on the use of animal testing as the only scientific methodology to assess the safety of a drug in the nonclinical setting. These changes may also foster the development and use of scientifically valid new testing methodologies, potentially improving predictive accuracy of product safety testing while replacing, reducing, or refining animal use. The proposed rule would add no new requirements.

DATES: Either electronic or written comments on the proposed rule or its companion direct final rule must be submitted by December 7, 2026. If FDA receives any timely significant adverse comments on this proposed rule or the direct final rule with which this proposed rule is associated, we will publish a document in the **Federal Register** withdrawing the direct final rule within 30 days after the comment period ends, and we will then proceed to respond to comments under this proposed rule using the usual notice and comment procedures.

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

December 7, 2026. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is 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-5347 for “Nonclinical Testing Terminology.” 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.” We will review this copy, including the claimed confidential information, in our 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, the plain language summary of the proposed rule of not more than 100 words as required by the “Providing Accountability Through Transparency Act,” 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: Shena Arellano, Office of Policy, Office of Policy, Legislation, and International Affairs, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301-796-8353.

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I. Executive Summary

A. Purpose of the Proposed Rule

FDA recognizes that some provisions of its human drug and biological product safety testing and reporting regulations refer only to the use of animal tests where alternatives may be available. FDA is updating these regulations by replacing the terms “animal test” and “animal study” with “nonclinical test” or “nonclinical

study,” terms which are defined to encompass a broad variety of tests or studies in addition to animal testing, including scientifically valid new approach methodologies (NAMs) that do not use animals. NAMs have the potential to improve predictivity while replacing, reducing, or refining the use of animal testing for evaluating medical product safety. For consistency in terminology, we are also substituting the term “nonclinical” for the terms “preclinical” and “in vitro.” We also replace “animal” with “nonclinical” in regulations that use the terms “animal testing,” “animal data,” “animal findings” and “animal models” to refer to testing, data, findings and models that are performed with, derived from, or made using nonclinical tests or studies.

This proposed rule is a companion to the direct final rule published elsewhere in this issue of the **Federal Register**. This proposed rule provides the procedural framework to finalize the rule in the event the direct final rule receives any significant adverse comment and is withdrawn. The comment period for this companion proposed rule runs concurrently with the comment period for the direct final rule. Any comments received in response to this companion proposed rule will also be considered as comments regarding the direct final rule.

B. Summary of the Major Provisions of the Proposed Rule

This proposed rule would substitute the terms “nonclinical test” or “nonclinical study” for the terms “animal test,” “animal study,” “preclinical test,” and “in vitro test,” and make other comparable or conforming changes in sections addressing human drug and biological product safety and reporting within parts 312, 314, 315, 361 and 601 of Title 21 of the Code of Federal Regulations (21 CFR). It would also add a definition for “nonclinical test” and “nonclinical study” to part 312 and a definition for “nonclinical study” to parts 314, 315, 361, and 601. The proposed definitions are adapted from the definition of “nonclinical test” in section 505(z) of the FD&C Act (21 U.S.C. 355(z)).¹

C. Legal Authority

This rulemaking is based on FDA's authority under the FD&C Act (21 U.S.C.

301 *et seq.*) and the PHS Act (42 U.S.C. 201 *et seq.*). By delegation from the Secretary of the Department of Health and Human Services, FDA is authorized to issue regulations for the efficient enforcement of the FD&C Act (section 701; 21 U.S.C. 371), including provisions addressing the regulation of drug products to ensure their safety and effectiveness, and to regulate biological products to ensure that they are safe, effective, pure, and potent (PHS Act section 351; 42 U.S.C. 262). This proposed rule will help with the efficient enforcement of provisions relating to the following: (1) investigational use of human drugs and biological products and (2) safety of human drugs and biological products.

D. Costs and Benefits

This proposed rule would substitute “nonclinical” for “animal” in phrases like “animal test” and “animal study;” substitutes “nonclinical” for “preclinical” and “in vitro” for consistency in terminology; and add a definition of “nonclinical test” and “nonclinical study” to the definitions section of several of FDA's drug and biological product regulations. If finalized as proposed, this rule would impose no new requirements on industry and so is expected to generate no costs. The proposed amendments may foster the development and use of scientifically valid new testing methodologies and so may yield benefits, but we do not anticipate being able to quantify these benefits. Since this proposed rule would update terminology to unambiguously allow for a broader range of nonclinical studies to meet current requirements without limiting existing options or imposing new requirements, we conclude this proposed rule is classifiable as an Executive Order 14192 deregulatory action.

II. Companion Document To Direct Final Rulemaking

This proposed rule is a companion to the direct final rule published elsewhere in this issue of the **Federal Register**. This companion proposed rule provides the procedural framework to finalize the rule in the event the direct final rule receives any significant adverse comment and is withdrawn. The comment period for this companion proposed rule runs concurrently with the comment period for the direct final rule. Any comments received in response to this companion proposed rule will also be considered as comments regarding the direct final rule. FDA is publishing the direct final rule because we believe the rule

¹ Section 505(z) of the FD&C Act was added by section 3209 of the Food and Drug Omnibus Reform Act of 2022 (FDORA), which was enacted as part of the Consolidated Appropriations Act, 2023. Public Law 117–328, Div. FF, Title III, §§ 3001–3631 (2022).

contains noncontroversial changes and there is little likelihood that there will be significant adverse comments on the rule.

A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule’s underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether an adverse comment is significant and warrants terminating a direct final rulemaking, we will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. A comment recommending a regulation change in addition to those in the direct final rule and proposed in this rule would not be considered a significant adverse comment unless the

comment states why the regulatory change would be ineffective without the additional change. In addition, if a significant adverse comment applies to a part of the direct final rule and that part can be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of the significant adverse comment.

If any significant adverse comments to the direct final rule or this proposed rule are received during the comment period, FDA will publish in the **Federal Register**, within 30 days after the comment period ends, a notice of significant adverse comment and withdraw the direct final rule. If we withdraw the direct final rule, any comments received will be considered comments on the proposed rule and will be considered in developing a final rule using the usual notice-and-comment procedure.

If no significant adverse comment is received in response to the direct final

rule of this proposed rule during the comment period, no further action will be taken related to this proposed rule. Instead, we will publish a document confirming the effective date of the final rule within 30 days after the comment period ends. Additional information about direct final rulemaking procedures is set forth in the document entitled “Guidance for FDA and Industry: Direct Final Rule Procedures,” announced and provided in the **Federal Register** of November 21, 1997 (62 FR 62466). The guidance may be accessed at <https://www.fda.gov/RegulatoryInformation/Guidances/ucm125166.htm>.

If FDA receives no significant adverse comments during the specified comment period, FDA intends to publish a document confirming the effective date within 30 days after the comment period ends.

III. Table of Abbreviations/Commonly Used Acronyms in This Document

Abbreviation/acronym	What it means
BLA	Biologics License Application.
CFR	Code of Federal Regulations.
DDT	Drug Development Tools.
FD&C Act	Federal Food, Drug, and Cosmetic Act.
FDA or Agency	Food and Drug Administration.
FDORA	Food Drug Omnibus Reform Act.
GST	General Safety Test.
ICCVAM	Interagency Coordinating Committee on the Validation of Alternative Methods.
ICH	International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use.
IND	Investigational New Drug Application.
ISTAND	Innovative Science and Technology Approaches for New Drugs.
MDDT	Medical Device Development Tools.
NAMs	New Approach Methodologies.
NDA	New Drug Application.
OECD	Organisation for Economic Co-operation and Development.
OIRA	Office of Information and Regulatory Affairs.
PDUFA	Prescription Drug User Fee Act.
PHS Act	Public Health Service Act.
U.S.C.	United States Code.

IV. Background

A. Need for the Regulation

Currently, some human drug and biological product regulations refer to animal studies or tests. For example, section 312.88 states that safeguards for patient safety “include the review of animal studies prior to initial human testing.” However, the Food and Drug Omnibus Reform Act (FDORA) amended Section 505(i) of the FD&C Act by replacing the term “preclinical tests (including tests on animals)” in paragraph (1)(A) and “animal” in paragraph (2)(B) with the term, “nonclinical tests.” FDORA section 3209(a)(1)–(2). It also added a definition

of “nonclinical test” to Section 505(z) of the FD&C Act² to mean:

[A] test conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test that occurs before or during the clinical trial phase of the investigation of the safety and effectiveness of a drug. Such test may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests.

² Two subsecs. (z) have been enacted in Section 505. Both were enacted in the Consolidated Appropriations Act, 2023 (Pub. L. 117–328).

FDORA section 3209(a)(2). FDORA also amended item (bb) of section 351(k)(2)(A)(i)(I) of the PHS Act (42 U.S.C. 262(k)(2)(A)(i)(I)) to replace “animal studies (including assessment of toxicity)” with “an assessment of toxicity (which may rely on, or consist of, a study or studies described in item (aa) or (cc)).” The studies described in items (aa) and (cc) include analytical studies that demonstrate that the biological product is highly similar to the reference product notwithstanding minor differences in clinically inactive components, and clinical studies (including the assessment of immunogenicity and pharmacokinetics or pharmacodynamics) that are sufficient to demonstrate safety, purity,

and potency under certain conditions of use.

This proposed rule would align the terminology used in FDA's drug and biological product regulations more closely with the FD&C Act amendments made by FDORA and with the growing prevalence and capabilities of NAMs.

B. FDA's Current Regulatory and Policy Framework

FDA's current regulatory framework generally allows and encourages the use of non-animal testing, including NAMs, as communicated through regulations, guidance, recognition of international standards, and participation with the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH) and the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM).

In general, drugs and biological products may only be tested in or on humans if their use in this context complies with part 312, which implements section 505(i) of the FD&C Act (21 U.S.C. 355(i)) and section 351(a)(3) of the PHS Act (42 U.S.C. 262(a)(3)). These regulations aim to ensure that these products are reasonably safe for use in or on humans under the conditions described in the proposed clinical investigations. The clinical investigations may in turn serve to provide evidence as to whether the medical product is safe and effective as part of a marketing application to FDA.

Generally, a person seeking to market a new drug must submit to FDA a new drug application (NDA) with full reports of investigations, including clinical investigations that show whether the drug is safe and effective (21 U.S.C. 355(b)). Generally, a person seeking to market a new biological product must submit to FDA a biologics license application (BLA), which generally includes data derived from nonclinical laboratory and clinical studies demonstrating the product meets prescribed requirements of safety, purity, and potency (§ 601.2(a)).

FDA encourages the use of innovative approaches to safety testing that may provide predictive data for medical products in our review process, including through guidance documents. The Agency explains in guidance documents, such as those included as references in this proposed rule (Refs. 1–16), our support for moving away from animal testing—and encourages parties to contact us to discuss alternative testing methods early on in their development plans. FDA guidances may be accessed at <https://www.fda.gov/regulatory-information/>

search-fda-guidance-documents#guidancesearch.

In addition to guidance, FDA has signaled its support for alternatives to animal testing in other contexts. In a 2015 final rule, FDA removed the codified general safety test (GST) requirements for biological products, which required rodent testing, because the regulations were duplicative of safety test requirements set forth in approved BLAs for products that present specific safety concerns. In that rule, we noted that the “elimination of the codified GST regulations would encourage the implementation of the principles of the ‘3Rs,’ to reduce, refine, and replace animal use in testing” while continuing to ensure the safety of biological products using appropriate and specific test methods identified in the product's approved BLA or supplement BLA. (80 FR 37971 at 37972).

In December of 2017, FDA published a roadmap for integrating emerging predictive toxicology methods and new technologies into regulatory safety and risk assessments to potentially reduce the use of animal testing (Ref. 17). This work includes collaborating with ICH, ICCVAM, and the Organisation for Economic Co-operation and Development (OECD) Test Guidelines Programme.

Section 507 of the FD&C Act requires establishment of a process for the qualification, based on scientific merit, of drug development tools for a proposed context of use; once qualified, any sponsor can then use the tool(s) in the development and evaluation of their products within the qualified context of use. FDA is making use of the Drug Development Tools (DDT) and Innovative Science and Technology Approaches for New Drugs (ISTAND) programs to evaluate, validate, and qualify various tools, including NAMs. DDT and ISTAND submissions include new biomarkers, clinical assessments, animal models for use with the Animal Rule, and other novel approaches or methodologies of potential benefit to drug development and evaluation. These programs support innovation and regulatory science and foster early communication and collaboration with FDA and sponsors helping to bridge the gap between the research of medical products and their delivery to patients.

Sponsors may contact the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER) to request feedback on their development programs, the use of nonclinical tests, and feedback on the use of a NAM for a particular development program, such as through

a Type D meeting.³ Alternatively, if a sponsor seeks feedback on the use of a novel manufacturing method that incorporates use of a NAM to support multiple products, the sponsor could consider engaging the CBER Advanced Technologies Team.

A 2024 report to the Science Board to FDA from its New Alternative Methods Subcommittee, entitled “Potential Approaches to Drive Future Integration of New Alternative Methods for Regulatory Decision-Making” (Ref. 19), noted that FDA has accepted approaches that reduce the number of animals used in test protocols, including by adopting and issuing ICH guidances that recommend testing of relevant species (ICH S6), that reduce or eliminate animal testing recommendations for reproductive toxicology (ICH S5(R3)) and carcinogenicity testing (ICH S1B(R1)), and that reduce the duration of recommended chronic toxicology studies for oncology indications (ICH S9). The report also noted that FDA has explored options like the use of virtual control groups to support a reduction of animals in studies, and that newer methods are largely already available at FDA to produce scientifically valid data to meet FDA's regulatory needs, including those using systems biology, engineered biologically active tissues, in silico methods, alternative organisms such as Zebrafish and *C. elegans*, and microphysiological systems, including organs-on-chips.

FDA, along with a number of other federal regulatory agencies and research laboratories, participated in the development of the 2024 ICCVAM report entitled “Validation, Qualification, and Regulatory Acceptance of New Approach Methodologies” (Ref 20). ICCVAM developed the report to help developers and end users build confidence in NAMs. It recommends the implementation of flexible, fit-for-purpose validation strategies that consider the intended application of the NAM, and describes concepts such as context of use, biological relevance, and technical characterization of NAMs.

In April 2025, FDA announced a roadmap to reduce animal testing in safety studies by replacing them in a stepwise approach with scientifically

³ A Type D meeting is a type of formal meeting described in the Prescription Drug User Fee Act (PDUFA) Commitment letter (Ref. 18) and the August 2026 guidance on Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA Products (Ref. 15). A Type D meeting is focused on a narrow set of issues (e.g., often one, but typically not more than two issues and associated questions). In addition, the issue should not require input from more than 3 disciplines or Divisions.

valid NAMs (Ref. 21). The approach outlined in the roadmap is designed to improve drug safety and identify more efficient methods to inform the evaluation process while reducing animal experimentation. The roadmap provided an overview of key NAM categories and their applicability to drug development and laid out a stepwise list of specific actions FDA is considering for validation and integration of NAMs into its regulatory process, initially focusing on safety testing of monoclonal antibodies.

Although the Agency is optimistic that fostering the use of scientifically valid NAMs will lead to a reduced need for animal testing and to the use of fewer animals and of animals lower on the phylogenetic scale, it is also important to recognize that there remain areas where animal testing is important and necessary. For example, for a product inhibiting a novel molecular target, animal studies may enable the evaluation of toxicities that occur through complex physiologic interactions such as the release of hormones, neurotransmitters, cytokines, and other internally secreted chemicals that maintain homeostasis within an organism and communication between organ systems. However, we also recognize that NAMs using human-derived cells may be able to assess additional or more relevant endpoints for clinical drug development. Thus, it is important that developers consult with FDA about their use of NAMs, including providing information about the technical characterization of the NAM and its biological relevance for particular contexts of use. As is its general practice, FDA also will develop guidance to support specific recommendations to sponsors about study design, conduct, and interpretation of NAMs as it gains experience with their use and as data and information become available.

In sum, we believe the changes to the terminology used in FDA regulations described in this proposed rule should foster the development and use of new alternative research methods where feasible while ensuring that nonclinical test methods used in drug and biological product development generate data appropriate for demonstrating the safety of the drug product.

V. Description of the Proposed Rule

The rule proposes to amend certain provisions of FDA's drug and biological product regulations addressing the collection, analysis, submission, reporting, and surveillance of safety and

toxicological data.⁴ Specifically, this rule proposes to:

- Amend § 312.3(b) by adding a definition of the terms “nonclinical test” and “nonclinical study” and §§ 314.3, 315.2 and 601.31 by adding a definition of the term “nonclinical study.” The definitions are adapted from the definition of “nonclinical test” in section 3209(a) of FDORA. This proposed change aligns the regulations that use the terms “nonclinical test” and “nonclinical study”⁵ with the amendments made to the FD&C Act and the PHS Act by FDORA. Like the statutory definition, the regulatory definitions we are proposing to add include an illustrative, non-exhaustive list of examples of nonclinical tests and studies. The proposed definition is broader than the statutory definition to include “study” because part 312 refers to both tests and studies and parts 314, 315, and 601 generally refer to studies instead of tests. Further, FDA considers nonclinical tests and nonclinical studies to be equivalent for purposes of these requirements and does not believe that these changes result in any substantive differences compared to the definition in section 505(z) of the FD&C Act because both definitions describe the same types of nonclinical data that can be used to satisfy the underlying requirement. The definitions we are proposing in this rule also omit reference to when the nonclinical test or study occurs because the regulations being revised focus on the type of data needed to address the requirement, not on when the nonclinical test or study to generate the data occurs. To include the temporal part of the statutory definition (“a test . . . that occurs before or during

⁴ We determined that certain regulations fall outside the scope of this rule. For example, FDA has regulations under which efficacy data may be provided from studies conducted in carefully vetted animal models because it would not be ethical or feasible to conduct definitive efficacy studies in humans for human drugs and biological products intended to ameliorate or prevent serious or life-threatening conditions caused by exposure to lethal or permanently disabling toxic chemical, biological, radiological or nuclear substances. (These regulations, 21 CFR 314 subpart I for drugs and 21 CFR 601 subpart H for biological products, are commonly known as the Animal Rule.) These regulations are specific to the use of animals to provide efficacy data under very limited conditions and are not within the scope of this rule. Similarly, part 316 on orphan drugs is outside the scope of this rule. Any studies in animals to support an orphan-drug designation are generally limited to “preclinical efficacy studies conducted in an animal model for the human disease or condition.” 21 CFR 316.20(b)(4). Section 316.20(b)(4) also states that “[a]nimal toxicology studies are generally not relevant to a request for orphan-drug designation.”

⁵ The term “nonclinical study” is not a “nonclinical laboratory study” which is regulated under 21 CFR part 58 and is outside the scope of this rule.

the clinical trial phase”) would change the meaning of some of the regulatory provisions being revised under this proposal to use “nonclinical study” or “nonclinical test”.

- Amend the other regulations specified below by substituting the term “nonclinical test” or “nonclinical study” for the terms “animal test,” “animal study,” “preclinical test,” and “in vitro test,” and making other comparable or conforming changes. These proposed changes result in more consistent and updated terminology that is not unduly focused on animal testing and that encompasses the use of scientifically valid NAMs.

- Where FDA's existing regulations that are being revised under this rule use “animal” and “in vitro” together to describe the scope of nonclinical testing (such as “animal or in vitro studies”), FDA has historically treated these paired terms here to encompass all nonclinical testing conducted outside of humans. When these regulations were originally developed, in chemico and in silico methodologies were not widely used and the pairing of “animal” and “in vitro” reflected the available testing methods that were in common use at the time. As in chemico and in silico methods evolved and became scientifically established, they became more widely used in drug development, results from these nonclinical tests were submitted to the Agency under these same provisions, and FDA accepted such data under these provisions when appropriate. Substituting “nonclinical” in instances where “animal” and “in vitro” are used in conjunction as proposed in this rule does not in practice expand the scope of data that must be reviewed, submitted, or reported under the affected provisions because the existing regulatory requirements, in these specific instances, generally focus on the significance or relevance of the information to human safety (e.g., “all information relevant to the safety of the drug,” “findings that suggest a significant risk in humans”), not on the specific methodology used to generate that information. Sponsors have submitted data from in silico, in chemico, and other nonclinical methodologies conducted outside a living organism under the current regulations, consistent with this position.

A. Amendment of Part 312—*Investigational New Drug Application*

Part 312 lists requirements for an investigational new drug application (IND).

1. Section 312.3(b)

Section 312.3(b) lists definitions in alphabetical order that apply to part 312. We are proposing to amend § 312.3(b) by adding, after the definition of “Marketing application,” the following definition⁶ of the terms “nonclinical test” and “nonclinical study”:

Nonclinical test and nonclinical study mean a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

2. Section 312.22

Section 312.22 provides general principles of the IND submission. Paragraph 312.22(c) notes that amendments to INDs “should build logically on previous submissions and should be supported by additional information, including the results of animal toxicology studies or other human studies as appropriate.” We are proposing to amend the paragraph by replacing “animal” with “nonclinical.” This proposed change clarifies that the types of supportive toxicology studies that may be appropriate can include nonanimal studies, highlighting the flexibility inherent in this provision. As with toxicology data from animal studies or other human studies, FDA will examine any toxicological data from nonanimal nonclinical studies to determine whether they adequately support the clinical studies identified in the IND if the proposed changes are finalized.

3. Section 312.23(a)(3)

Section 312.23 lists requirements for IND content and format, and paragraph (a) lists the elements that the IND must contain and in what order. Paragraph (a)(3) describes what is included in the IND’s introductory statement and general investigational plan. Paragraph (a)(3)(iv)(f) provides that the plan should include “any risks of particular severity or seriousness anticipated on the basis of the toxicological data in animals or prior studies in humans with the drug or related drugs.” We are proposing to amend the paragraph by replacing the word “animals” with the

phrase “nonclinical studies.” While this change would expand the types of studies or tests that may be used to provide the basis for a sponsor to identify “any risks of particular severity or seriousness” that a sponsor should anticipate, and thus should be included in the investigational plan, this proposed change does not increase the amount of information needed to meet current requirements because the regulatory change does not impose any requirement to conduct additional tests or studies to identify such risks. This proposed change reflects how there is flexibility in the types of toxicological data that can be used to identify risks to be addressed in the general investigational plan. As with toxicological data from animal studies or prior human studies, FDA will examine any toxicological data from nonanimal nonclinical studies to determine whether they adequately support the clinical studies identified in the IND if the proposed changes are finalized.

4. Section 312.23(a)(5)(ii)

Section 312.23(a)(5) describes what must be included in the IND’s investigator’s brochure, when such brochure is required by § 312.55. Section 312.23(a)(5)(ii) requires that there be a “summary of the pharmacological and toxicological effects of the drug in animals and, to the extent known, in humans.” We are proposing to amend the regulation by replacing the word “animals” with the phrase “nonclinical studies.” This change would add flexibility and clarify that the pharmacological and toxicological effects of the drug that must be included in the IND submission may be derived from a broader range of studies than animal studies. This change would not expand the scope of the submission requirement. The investigator’s brochure is intended to inform investigators of information relevant to the safe conduct of the clinical investigation, and the obligation to summarize pharmacological and toxicological effects is grounded in that goal rather than in the methodology used to generate the data. Consistent with this, data from nonclinical studies other than animal studies would be included in the brochure to the extent they are relevant to the safe conduct of the proposed investigation. This change would not impose any new testing requirements. As with pharmacological and toxicological effects derived from animal studies or prior human studies, FDA will examine any pharmacological and toxicological data from nonanimal nonclinical studies to determine

whether they adequately support the clinical studies identified in the IND if the proposed changes are finalized.

5. Section 312.23(a)(5)(iii)

Section 312.23(a)(5) describes what must be included in the IND’s investigator’s brochure, when such brochure is required by § 312.55. Section 312.23(a)(5)(iii) requires that there be a “summary of the pharmacokinetics and biological disposition of the drug in animals and, if known, in humans.” As above, we are proposing to amend the regulation by replacing the word “animals” with the phrase “nonclinical studies.” This proposed change would provide flexibility and clarify that the pharmacokinetics and biological disposition of the drug may be derived from a broader range of studies than animal studies. This change would not expand the scope of the submission requirement. The investigator’s brochure is intended to inform investigators of information relevant to the safe conduct of the clinical investigation, and the obligation to summarize pharmacological and toxicological effects is grounded in that goal rather than in the methodology used to generate the data. Consistent with this, data from nonclinical studies other than animal studies would be included in the brochure to the extent they are relevant to the safe conduct of the proposed investigation. This change would not impose any new testing requirements. As with pharmacokinetics and biological disposition of the drug derived from animal studies or prior human studies, FDA will examine data from nonanimal nonclinical studies to determine whether they adequately support the clinical studies identified in the IND if the proposed changes are finalized.

6. Section 312.23(a)(8)

Section 312.23(a)(8) describes what pharmacology and toxicology information must be provided in an IND and the first two sentences of the paragraph state that “[a]dequate information about pharmacological and toxicological studies of the drug involving laboratory animals or in vitro, on the basis of which the sponsor has concluded that it is reasonably safe to conduct the proposed clinical investigations. The kind, duration, and scope of animal and other tests required varies with the duration and nature of the proposed clinical investigations.” We are proposing to amend these two sentences in the regulation by replacing the phrase “pharmacological and toxicological studies of the drug

⁶ This definition is adapted from the definition of nonclinical test added to section 505(z) of the FD&C Act (21 U.S.C. 355(z)) by section 3209(a) of FDORA.

involving laboratory animals or in vitro” with the phrase “nonclinical pharmacological and toxicological studies of the drug” and replacing “animal and other tests” with “nonclinical tests.” This proposed change would provide flexibility and clarify that the pharmacological and toxicological studies of the drug may be derived from a broader range of studies than laboratory animal and in vitro studies. As discussed above, FDA has treated the paired terms “animal” and “in vitro” to encompass all nonclinical testing conducted outside of humans and this change is consistent with that position. Additionally, this change would not mandate what types of studies are performed to generate this information; rather, it would require disclosure in the IND of information about the pharmacological and toxicological studies, regardless of the type of non-clinical study that has generated the information. This is not an increase in burden because FDA already permits the use of non-animal studies to satisfy these requirements where appropriate, this proposed change would not preclude sponsors from using any types of studies that are currently permitted to meet these requirements, and this change would not increase the amount of information required to meet these existing requirements. As with pharmacological and toxicological studies of the drug derived from laboratory animal or in vitro studies, FDA will examine data from other types of nonclinical studies to determine whether they adequately support the clinical studies identified in the IND if the proposed changes are finalized. The remainder of this paragraph, describing FDA guidance documents and more detail about the required information to be submitted, is not being amended.

7. Section 312.23(a)(8)(i)

Section 312.23(a)(8)(i) requires that each IND contain a “section describing the pharmacological effects and mechanism(s) of action of the drug in animals, and information on the absorption, distribution, metabolism, and excretion of the drug, if known.” We are proposing to amend the regulation by replacing the word “animals” with the phrase “nonclinical tests.” This proposed change would provide flexibility and clarify that the pharmacological effects and mechanism(s) of action of the drug, and information on the absorption, distribution, metabolism, and excretion of the drug, if known, may be derived from a broader range of studies than animal studies. The change would not

mandate what types of studies are performed to generate this information but will require submission in the IND of this information regardless of the type of nonclinical study generating the data. This would not increase burden on regulated entities because FDA already permits the use of non-animal studies to satisfy these requirements where appropriate, this change will not preclude sponsors from using any types of studies that are currently permitted to meet these requirements, and this change would not increase the amount of information required to meet these requirements. As with such information derived from animal studies, FDA will examine information from nonanimal nonclinical studies to determine whether they adequately support the clinical studies identified in the IND if the proposed changes are finalized.

8. Section 312.23(a)(8)(ii)(a)

Section 312.23(a)(8)(ii)(a) requires that the toxicology information in the IND contain an “integrated summary of the toxicological effects of the drug in animals and in vitro. Depending on the nature of the drug and the phase of the investigation, the description is to include the results of acute, subacute, and chronic toxicity tests; tests of the drug’s effects on reproduction and the developing fetus; any special toxicity test related to the drug’s particular mode of administration or conditions of use (e.g., inhalation, dermal, or ocular toxicology); and any in vitro studies intended to evaluate drug toxicity.” We are proposing to amend the regulation by replacing the phrase “in animals and in vitro” with the phrase “based on nonclinical studies” and replacing the phrase “and any in vitro studies” with the phrase “and any nonclinical studies.” This proposed change would provide flexibility and clarify that the “integrated summary of the toxicological effects of the drug” may be derived from a broader range of studies than animal and in vitro studies. As discussed above, FDA has treated the paired terms “animal” and “in vitro” in the regulations being amended in this proposed rule to encompass all nonclinical testing conducted outside of humans and this change is consistent with that position. The proposed change does not mandate what types of studies are performed to generate this information but would continue to require submission in the IND of this information regardless of the type of nonclinical study generating the data. This would not be an increase in burden because FDA already permits the use of non-animal studies to satisfy these requirements where appropriate, this

change would not preclude sponsors from using any types of studies that are currently permitted to meet these requirements, and this change does not increase the amount of information required to meet these requirements. As with such information derived from animal and in vitro studies, FDA will examine information from other types of nonclinical studies to determine whether they adequately support the clinical studies identified in the IND if the proposed changes are finalized.

9. Section 312.23(a)(10)(i)

Section 312.23(a)(10)(i) provides that “[i]f the drug is a psychotropic substance or otherwise has abuse potential,” then the IND must include “a section describing relevant clinical studies and experience and studies in test animals.” We are proposing to amend the regulation by replacing the phrase “clinical studies and experience and studies in test animals” with the phrase “clinical and nonclinical studies and experience.” This change would provide flexibility and clarify that the relevant experience and studies do not have to be limited to that which occurred in humans and test animals, but may include studies and experience using nonclinical tests. The proposed change does not mandate what types of studies are performed to generate this information but would continue to require submission in the IND of this information regardless of the type of nonclinical study generating the data. This would not be an increase in burden because FDA already permits the use of non-animal studies to satisfy these requirements where appropriate, this change would not preclude sponsors from using any types of studies that are currently permitted to meet these requirements, and this change would not increase the amount of information required to meet these requirements. As with clinical studies and experience and studies in test animals, FDA will examine studies and experience from nonanimal nonclinical studies to determine their relevance to support an IND for a drug that is a psychotropic substance or otherwise has abuse potential if the proposed changes are finalized.

10. Section 312.23(a)(10)(ii)

Section 312.23(a)(10)(ii) provides that if the drug is a radioactive drug, then the IND must include “sufficient data from animal or human studies to allow a reasonable calculation of radiation-absorbed dose to the whole body and critical organs upon administration to a human subject.” We are proposing to amend the regulation by replacing the

word “animal” with the word “nonclinical.” This proposed change would add flexibility and clarify that the data sufficient to allow a reasonable calculation of radiation-absorbed dose to the whole body and critical organs upon administration to a human subject may be obtained from a broader range of studies than animal studies. The change would not mandate what types of studies are performed to generate this information but would continue to require submission in the IND of this information regardless of the type of nonclinical study generating the data. We believe that this is not an increase in burden because FDA already permits the use of non-animal studies to satisfy these requirements where appropriate, this change will not preclude sponsors from using any types of studies that are currently permitted to meet these requirements, and this change does not increase the amount of information required to meet these requirements. As with data obtained from animal studies or human studies, FDA will examine any data from nonanimal nonclinical studies to determine whether they allow a reasonable calculation of radiation-absorbed dose to the whole body and critical organs of a human subject if the proposed changes are finalized.

11. Section 312.32(b)

Section 312.32 describes what must be contained in IND safety reporting. Paragraph 312.32(b) requires the sponsor to “promptly review all information relevant to the safety of the drug obtained or otherwise received by the sponsor from foreign or domestic sources, including information derived from any clinical or epidemiological investigations, animal or in vitro studies, reports in the scientific literature, and unpublished scientific papers, as well as reports from foreign regulatory authorities and reports of foreign commercial marketing experience for drugs that are not marketed in the United States.” We are proposing to amend the regulation by replacing the phrase “animal or in vitro studies” with the phrase “nonclinical studies.” This proposed change clarifies that “all information relevant to the safety of the drug obtained or otherwise received by the sponsor from foreign or domestic sources” includes information from nonclinical studies. This proposed change would not expand the scope of information sponsors must review under this provision; rather, it clarifies FDA’s longstanding position that sponsors are required to review all information relevant to the safety of the drug that the sponsor received or obtained from foreign or domestic

sources. The list of specific sources of information to be reviewed is a list of examples and has never been intended to be an exhaustive list of potentially relevant sources of information that should be reviewed by a sponsor. The proposed change from “animal or in vitro studies” to the broader term “nonclinical studies” better captures that intent by explicitly including modern technologies such as computer modeling and organ chips. This proposed change would not impose any new testing requirements.

12. Section 312.32(c)(1)(iii)

Section 312.32(c) requires a sponsor to notify FDA and all participating investigators “of potential serious risks, from clinical trials or any other source” in a safety report provided as soon as possible (but not later than 15 calendar days after the sponsor determines that the information qualifies for reporting under the regulation). Section 312.32(c)(1)(iii) is headed “Findings from animal or in vitro testing.” The first sentence of the paragraph states: “The sponsor must report any findings from animal or in vitro testing, whether or not conducted by the sponsor, that suggest a significant risk in humans exposed to the drug, such as reports of mutagenicity, teratogenicity, or carcinogenicity, or reports of significant organ toxicity at or near the expected human exposure.” We are proposing to amend the regulation by replacing the phrase “animal or in vitro” with the word “nonclinical” in both the heading and first sentence. This change would clarify FDA’s longstanding position that any findings “from clinical trials or any other source” (21 CFR 312.32(c)(1)), including non-clinical studies, that suggest a significant risk to humans from exposure to the drug must be reported to FDA, including from modern technologies like computer modeling and organ chips that were not commonly used when the regulation was originally written. The information covered by this provision is critical to FDA’s ability to protect human subjects in clinical investigations, as it encompasses data that would “[o]rdinarily . . . result in a safety-related change in the protocol, informed consent, investigator brochure (excluding routine updates of these documents), or other aspects of the overall conduct of the clinical investigation.” This proposed change brings the language up-to-date, consistent with scientific progress and the modernization of testing methods; it would not impose any additional testing requirements.

13. Section 312.32(c)(1)(v)

Section 312.32(c)(1)(v) describes the format in which sponsors must submit IND safety reports and contains the statement “Reports of overall findings or pooled analyses from published and unpublished in vitro, animal, epidemiological, or clinical studies must be submitted in a narrative format.” We are proposing to amend the regulation by replacing the phrase “in vitro, animal” with “nonclinical” in this sentence. This proposed change clarifies FDA’s longstanding position that any findings “from clinical trials or any other source,” including non-clinical studies, that suggest a significant risk to humans from exposure to the drug must be reported to FDA (and participating investigators) (21 CFR 312.32(c)(1)). Further, this revision would conform section 312.32(c)(1)(v) with the changes made to sections 312.32(b) and 312.32(c)(1)(iii) in describing the format for the IND safety reports required by the remainder of section 312.32(c)(1). It would not impose any additional testing requirements.

14. Section 312.33(b)(6)

Section 312.33(b)(6) requires, as part of annual reports, a summary of information “obtained during the previous year’s clinical and nonclinical investigations,” including “[a] list of the preclinical studies (including animal studies) completed or in progress during the past year and a summary of the major preclinical findings.” We are proposing to amend the regulation by replacing the phrase “preclinical studies (including animal studies)” with “nonclinical studies” and replacing “preclinical findings” with “nonclinical findings.” This proposed change would conform the terminology in this regulation with that used in the rest of part 312, as amended in this rule. Paragraphs (b)(1) through (b)(6) of section 312.33 identify the type and scope of information to be included but the proposed change to paragraph (b)(6) does not change the purpose of the summary section of the annual report to “bring together data from individual studies and *briefly communicate* what was learned during the past year about the investigational drug’s safety and effectiveness” (75 FR 8819 [emphasis added]). The proposed change would not expand the requirements, because section 312.33(b) already specifies that the summary of information covers both clinical and non-clinical information. Although paragraph (b)(6) specifies “preclinical” studies and findings (meaning studies and tests before clinical, that is testing or use in

humans), the proposed revision to refer to nonclinical studies and findings leaves out that temporal component because some nonclinical studies may take place after the start of clinical studies. Nonetheless, this section of the annual report is intended to be brief and does not require extensive discussion of all activities during the year. Otherwise, the scope of tests and studies described in this provision is the same. Based on these points, we believe that the change to section 312.33(b) and the scope of the required summary of information in the annual report would not increase burden.

15. Section 312.82

Section 312.82 provides that for “products intended to treat life-threatening or severely-debilitating illnesses, sponsors may request to meet with FDA-reviewing officials early in the drug development process to review and reach agreement on the design of necessary preclinical and clinical studies.” We are proposing to amend the regulation by replacing “preclinical” with “nonclinical.” This proposed change would conform the terminology in this regulation with that used in the rest of part 312, as amended in this rule, and reflects the fact that some nonclinical studies may take place after the start of clinical studies. This proposed change also reflects that scientific and regulatory recommendations provided during drug development meetings with sponsors may result in more efficient and robust development programs and that engagement with FDA may occur and be fruitful at multiple stages in drug development.

16. Section 312.82(a)

Section 312.82(a) provides that the “primary purpose of this meeting is to review and reach agreement on the design of animal studies needed to initiate human testing.” We are proposing to amend the regulation by replacing “animal” with “nonclinical.” This change would provide flexibility and clarify that the meeting may also be used to review and reach agreement on the design of any nonclinical studies needed to initiate human testing, which is consistent with FDA’s support for moving away from animal testing.

17. Section 312.86

Section 312.86 states that “FDA may undertake focused regulatory research on critical rate-limiting aspects of the preclinical, chemical/manufacturing, and clinical phases of drug development and evaluation.” We are proposing to amend this paragraph by replacing

“preclinical” with “nonclinical.” This proposed change would conform this regulation with the changes we are making in the rest of part 312 and better reflect the potential scope of FDA regulatory research.

18. Section 312.88

Section 312.88 states that the safeguards for patient safety incorporated within parts 50, 56, 312, 314 and 600 “include the review of animal studies prior to initial human testing (§ 312.23).” We are proposing to amend the regulation by replacing “animal” with “nonclinical” to conform to the changes we are proposing in section 312.23 and to be more consistent with FDA’s support for moving away from animal testing.

B. Amendment of Part 314—Applications for FDA Approval To Market a New Drug

1. Section 314.3(b)

Section 314.3(b) lists definitions of terms in alphabetical order that apply to parts 314 and 320. We are proposing to amend the section by adding, after the definition of “Newly acquired information,” the following definition of “nonclinical study” adapted from the definition of “nonclinical test” added to section 505 of the FD&C Act by section 3209(a) of FDORA:

Nonclinical study means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such a test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

This proposed definition varies from the definition added to § 312.3(b) in that it only defines “nonclinical study” rather than both “nonclinical test” and “nonclinical study.” This is because part 314 generally uses the term “study” rather than “test.” To be consistent in terminology across the provisions in this proposed rule, all proposed definitions list “animal tests and studies” as an example of non-clinical studies whether the definition is for “nonclinical studies” or “nonclinical test” and “nonclinical study.”

2. Section 314.50(d)(2)

Section 314.50 establishes the content and format of an application, new drug application or NDA. It provides that the NDA is required to contain reports of all

investigations of the drug product sponsored by the applicant, and “all other information about the drug pertinent to an evaluation of the NDA that is received or otherwise obtained by the applicant from any source.” Section 314.50(d)(2) requires that an NDA contain a “section describing, with the aid of graphs and tables, animal and in vitro studies with drug, . . .” We are proposing to amend the regulation by replacing “animal and in vitro” with “nonclinical” and correcting the typographical error “with drug” so that the relevant part of the sentence will read “nonclinical studies with the drug.” This change would provide flexibility and clarify that nonclinical studies other than animal or in vitro studies may be used to support the pharmacology and toxicology section of an NDA. As discussed above, FDA has treated the paired terms “animal” and “in vitro” to encompass all nonclinical testing conducted outside of humans and this change is consistent with that position. Furthermore, the proposed changes does not specify which types of nonclinical studies must be used and thus does not broaden the testing requirement or impose any additional testing requirements. As with such data and information derived from animal studies, if FDA receives data and information from other types of nonclinical studies, FDA will examine it to determine whether it adequately supports the NDA if the proposed changes are finalized.

3. Section 314.50(d)(2)(iv)

Section 314.50(d)(2)(iv) requires that the NDA’s nonclinical pharmacology and toxicology section include “Any studies of the absorption, distribution, metabolism, and excretion of the drug in animals.” We are proposing to amend this sentence to read: “Any nonclinical studies of the absorption, distribution, metabolism, and excretion of the drug.” This change would provide flexibility and clarify that nonclinical studies other than animal studies may be used to provide data and information on the absorption, distribution, metabolism, and excretion of the drug. The proposed change would not impose any additional testing requirements. As with such data and information derived from animal studies, if FDA receives data and information from other types of nonclinical studies, FDA will examine it to determine whether it adequately supports the NDA if the proposed changes are finalized.

4. Section 314.50(d)(4)(ii)

Section 314.50(d)(4)(ii) requires that the microbiology section of an NDA for

an anti-infective drug include a “description of the antimicrobial spectra of the drug, including results of in vitro preclinical studies to demonstrate concentrations of the drug required for effective use.” We are proposing to amend the regulation by replacing the phrase “in vitro preclinical” with “nonclinical.” This change would provide flexibility and clarify that we will accept additional types of nonclinical studies to support the microbiology section of an NDA for an anti-infective drug. The proposal does not add any testing requirements. As with such information derived from in vitro preclinical studies, if FDA receives data and information from other types of nonclinical studies, FDA will examine it to determine whether it adequately supports the microbiology section of the NDA if the proposed changes are finalized. We also are proposing to correct a typographical error by replacing “antimicrobial spectra” with “antimicrobial spectrum.”

5. Section 314.50(d)(5)(i)

Section 314.50(d)(5)(i) requires that the clinical data section of the NDA include “[a] description and analysis of each clinical pharmacology study of the drug, including a brief comparison of the results of the human studies with the animal pharmacology and toxicology data.” We are proposing to amend the regulation by replacing the word “animal” with “nonclinical”. This change would provide flexibility and clarify that we will accept comparison of the results of the human studies with pharmacology and toxicology data from nonanimal nonclinical studies to support the clinical data section of an NDA. The proposed change does not add any testing requirements. As with animal pharmacology and toxicology data, if FDA receives pharmacology and toxicology data from nonanimal nonclinical studies, FDA will examine it to determine whether it adequately supports the NDA if the proposed changes are finalized.

6. Section 314.50(d)(5)(vi)(a)

The first sentence of section 314.50(d)(5)(vi)(a) requires the applicant to “submit an integrated summary of all available information about the safety of the drug product, including pertinent animal data, demonstrated or potential adverse effects of the drug, clinically significant drug/drug interactions, and other safety considerations, such as data from epidemiological studies of related drugs.” We are proposing to amend the regulation by replacing the word “animal” with “nonclinical.” This proposed change clarifies that “all

available information about the safety of the drug product” includes pertinent nonclinical data not obtained from animals. The proposal does not require that applicants conduct additional studies. The proposal recognizes that there are newer methods of assessing safety and brings the requirements up-to-date, consistent with scientific progress and the modernization of testing methods.

7. Section 314.50(d)(5)(vi)(b)

The second sentence of section 314.50(d)(5)(vi)(b) requires that an applicant’s safety update reports “include the same kinds of information (from clinical studies, animal studies, and other sources) . . .” We are proposing to amend the regulation by replacing the word “animal” with “nonclinical” to conform to the amendment we are making to section 314.50(d)(5)(vi)(a). This proposed change would not expand the requirements because this provision already contemplates including information from sources outside of animal studies through the use of the phrase “and other sources.” The proposal recognizes that there are newer methods of assessing safety and brings the requirements up-to-date, consistent with scientific progress and the modernization of testing methods.

8. Section 314.81(b)(2)(v)

Section 314.81(b)(2)(v) requires that the postmarketing annual report of an NDA holder include “[c]opies of unpublished reports and summaries of published reports of new toxicological findings in animal studies and in vitro studies (e.g., mutagenicity) conducted by, or otherwise obtained by, the applicant concerning the ingredients in the drug product.” The paragraph heading reads, “Nonclinical laboratory studies.” We are proposing to amend the regulation by replacing the phrase “toxicological findings in animal studies and in vitro studies (e.g., mutagenicity)” with “nonclinical toxicological findings, including, for example, from mutagenicity studies.” As discussed above, FDA has treated the paired terms “animal” and “in vitro” to encompass all nonclinical testing conducted outside of humans and this change is consistent with that position. This proposed change does not require NDA holders to conduct new or additional studies. The proposal simply brings the reporting requirements up to date, to capture newer methods of generating toxicological findings, consistent with scientific progress and the modernization of testing methods.

9. Section 314.81(b)(2)(vii)(a)(7)

Section 314.81(b)(2)(vii)(a)(7) specifies that the status report of the schedule for completion and reporting of the postmarketing study commitment “should include the actual or projected dates for submission of the study protocol to FDA, completion of patient accrual or initiation of an animal study, completion of the study, submission of the final study report to FDA, and any additional milestones or submissions for which projected dates were specified as part of the commitment.” We are proposing to amend the regulation by replacing the phrase “an animal” with “a nonclinical.” This proposed change would provide flexibility by recognizing that a postmarketing study commitment may include nonanimal nonclinical studies, and therefore, the status report should include the date for initiation of a nonanimal nonclinical study that is part of a postmarketing study commitment. We note that the obligation to include information in the status report required under section 314.81(b)(2)(vii)(a) is limited to postmarketing study commitments and this proposed amendment would not require additional reporting of nonclinical studies that are outside of such commitments.

10. Section 314.93

Section 314.93 describes conditions under which FDA will or will not approve a petition to submit an ANDA for a drug product that is not identical to a listed drug in route of administration, dosage form, and strength, or in which one active ingredient is substituted for one active ingredient in a listed combination drug. Paragraph (e)(1) of section 314.93 lists a series of conditions under which FDA will not approve such a petition, one of which is if it finds that “[i]nvestigations must be conducted to show the safety and effectiveness of the drug product . . .” The first sentence of paragraph 314.93(e)(2) states that “[f]or purposes of this paragraph, ‘investigations must be conducted’ means that information derived from animal or clinical studies is necessary to show that the drug product is safe or effective.” We are proposing to amend § 314.93(e)(2) by replacing “animal” with “nonclinical.” This proposed change in terminology would not alter FDA’s implementation through regulation of the requirement articulated in section 505(j)(2)(C)(i) that if the Agency finds investigations must be conducted to show safety and effectiveness of the petitioned drug product then it will not approve a petition to submit such an ANDA. The

proposal would bring the regulation up-to-date, consistent with scientific progress and the modernization of testing methods, by recognizing that when studies are necessary to determine that a drug product is safe or effective, nonclinical methods other than animal studies might be used to make that determination.

11. Section 314.200(d)(3)

Section 314.200 addresses the procedures for issuing a notice of opportunity for a hearing on CDER's proposal to refuse to approve an application or to withdraw the approval of an application or abbreviated application under section 505(e) of the FD&C Act, filing a notice of participation and request for a hearing, and submitting studies and comments. Section 314.200(d) provides that the person requesting a hearing is required to submit certain information on which the person relies to justify a hearing with respect to the drug product and paragraph (d)(3) specifies FDA's preferred format for such submissions. Roman numeral heading I, letter A of that format identifies "Animal safety data" as a component of such submissions. FDA is amending the regulation by replacing "Animal" with "Nonclinical." This change would provide flexibility and clarify that the safety data in support of the submission may come from nonclinical tests other than animal tests. To the extent that such tests have not been performed or the submitter does not rely on the data to justify a hearing with respect to the drug product, the regulation, including as amended under this proposal, does not require such tests to be performed or data submitted.

12. Section 314.430(a)

Section 314.430(a) specifies that the safety and effectiveness data for which FDA will determine public availability include "all studies and tests of a drug on animals and humans" as well as studies and tests to establish identity, stability, purity, potency, and bioavailability. FDA is proposing to amend the regulation by replacing the phrase "all studies and tests of a drug on animals and humans" with "all nonclinical and clinical studies and tests of a drug." This proposed change conforms the regulation to the scope of data that may be submitted to support the safety and effectiveness of a drug.

C. Amendment of Part 315—Diagnostic Radiopharmaceuticals

1. Section 315.2

Section 315.2 is the definition section of part 315, with paragraphs (a) and (b) currently defining two types of diagnostic radiopharmaceuticals. We are proposing to amend the section by first redesignating the introductory text as paragraph (a) and redesignating current paragraphs (a) and (b) as paragraphs (a)(1) and (a)(2) such that the two types of diagnostic radiopharmaceuticals are defined in paragraph (a); our amendments include minor revisions to refer to "paragraph (a)(1)" rather than "paragraph (a)" in the cross-reference in the definition of nonradioactive reagent kit. We are also proposing to add, as a new paragraph (b), the definition of "nonclinical study" adapted from the definition of "nonclinical test" added to section 505 of the FD&C Act by section 3209(a) of FDORA as follows: (b) For purposes of this part, *nonclinical study* means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.

(5) Animal tests or studies. This proposed definition varies from the definition added to § 312.3(b) in that it only defines "nonclinical study" rather than both "nonclinical test" and "nonclinical study". This is because part 315 generally uses the term "study" rather than "test." To be consistent in terminology, all proposed definitions list "animal tests or studies" as an example of non-clinical studies, whether the definition is for "nonclinical studies" or "nonclinical test" and "nonclinical study".

2. Section 315.6(c)(2)

Section 315.6(c)(2) states that safety data required by FDA for diagnostic radiopharmaceuticals "may include, but is not limited to, the dose, route of administration, frequency of use, half-life of the ligand or carrier, half-life of the radionuclide, and results of clinical and preclinical studies." We are proposing to amend the regulation by replacing "preclinical" with "nonclinical." This proposed change conforms the terminology in this regulation with the other regulations in this rule; as noted earlier, part of the intent of this rule is to bring more consistency to these regulations in

referring to non-clinical tests. This proposed revision would not expand the requirements because the revision is to an example of the type of information that the regulation requires.

3. Section 315.6(d)

Section 315.6(d) states that "[t]he radiation safety assessment must establish the radiation dose of a diagnostic radiopharmaceutical by radiation dosimetry evaluations in humans and appropriate animal models." We are proposing to amend the regulation by replacing the phrase "animal" with "nonclinical." This change would provide flexibility and clarify that radiation dosimetry evaluations may be conducted in appropriate nonclinical models other than animal models. As with data obtained from animal models and human studies, FDA will examine data from nonanimal nonclinical models to determine whether they support the establishment of a safe radiation dose if the proposed changes are finalized.

D. Amendment of Part 361—Prescription Drugs for Human Use Generally Recognized as Safe and Effective and Not Misbranded: Drugs Used in Research

1. Section CFR 361.1(d)(7)

Section CFR 361.1(d)(7) states in the second sentence after the heading that a protocol for determining the safety of radioactive drugs to be used for human research "shall be based upon a sound rationale derived from appropriate animal studies or published literature and shall be of sound design such that information of scientific value may result." We are proposing to amend the regulation by replacing "animal studies" with "nonclinical studies, as defined in § 312.3(b) of this chapter." This change would add flexibility and clarify that the sound rationale may be derived from appropriate nonclinical studies other than animal studies. As with animal studies, FDA will examine information from nonanimal nonclinical studies to determine if it supports a sound rationale for the use of the radioactive drugs in human research if the proposed changes are finalized.

E. Amendment of Part 601—Licensing

1. Section 601.31

Section 601.31 establishes definitions for certain terms used in part 601, with paragraphs (a) and (b) currently defining two types of diagnostic radiopharmaceuticals. We are proposing to amend the section by first redesignating the introductory text as paragraph (a) and redesignating current

paragraphs (a) and (b) as paragraph (a)(1) and (a)(2) such that the two types of diagnostic radiopharmaceuticals are defined in paragraph (a); our amendments include minor revisions to refer to “paragraph (a)(1)” rather than “paragraph (a)” in the cross-reference in the definition of nonradioactive reagent kit. We are proposing to add, as a new paragraph (b), the proposed definition of “nonclinical study” adapted from the definition of “nonclinical test” added to section 505 of the FD&C Act by section 3209(a) of FDORA as follows:

(b) For purposes of this part, *nonclinical study* means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

This proposed definition varies from the definition added to § 312.3(b) in that it only defines “nonclinical study” rather than both “nonclinical test” and “nonclinical study.” This is because part 601 generally uses the term “study” rather than “test.” To be consistent in terminology, all proposed definitions list “animal tests or studies” as an example of non-clinical studies, whether the definition is for “nonclinical studies” or “nonclinical test” and “nonclinical study.”

2. Section 601.35(c)(2)

Section 601.35(c)(2) states that safety data required by FDA for diagnostic radiopharmaceuticals “may include, but is not limited to, the dose, route of administration, frequency of use, half-life of the ligand or carrier, half-life of the radionuclide, and results of clinical and preclinical studies.” We are proposing to amend the regulation by replacing “preclinical” with “nonclinical.” This change would conform the terminology in this regulation with that used in its counterpart regulation section 315.6(c)(2); as noted earlier, part of the intent of this rule is to bring more consistency to these regulations in referring to non-clinical tests.

3. Section 601.35(d)

Section 601.35(d) states that “[t]he radiation safety assessment must establish the radiation dose of a diagnostic radiopharmaceutical by radiation dosimetry evaluations in humans and appropriate animal

models.” We are proposing to amend the regulation by replacing “animal” with “nonclinical.” This change would conform the terminology in this regulation with that used in its counterpart regulation section 315.6(d) and is being proposed for the same reasons; as noted earlier, part of the intent of this rule is to bring more consistency to these regulations in referring to non-clinical tests.

4. Section 601.70(b)(7)

Section 601.70(b)(7) states that the schedule of a BLA holder’s completion and reporting of a postmarketing study commitment in the holder’s annual progress report “should include the actual or projected dates for submission of the study protocol to FDA, completion of patient accrual or initiation of an animal study, completion of the study, submission of the final study report to FDA, and any additional milestones or submissions for which projected dates were specified as part of the commitment.” We are proposing to amend the regulation by replacing the phrase “an animal” with “a nonclinical” in this provision. This change would provide flexibility by recognizing that a postmarketing study commitment may include nonanimal nonclinical studies, and therefore, the status report should include the date for initiation of a nonanimal nonclinical study that is part of a postmarketing study commitment. We note that this obligation to include information in the status report required under section 601.70(b)(8) is limited to postmarketing studies described in 21 CFR 601.70(a) and this amendment would not require additional reporting of nonclinical studies that are outside of such commitments.

VI. Preliminary Economic Analysis of Impacts

A. Introduction

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 14192, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Orders 12866 and 13563 direct us to assess all benefits and costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits. The Office of Information and Regulatory Affairs (OIRA) has determined that this proposed rule is a significant regulatory action under section 3(f) of Executive Order 12866.

Executive Order 14192 requires that any new incremental costs associated with certain significant regulatory actions “shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.” This proposed rule is classifiable as an Executive Order 14192 deregulatory action.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because we estimate that this proposed rule would produce no quantifiable costs, we propose to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes estimates of anticipated impacts, before proposing “any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any one year.” The current threshold after adjustment for inflation is \$193 million, using the most current (2025) Implicit Price Deflator for the Gross Domestic Product. If finalized as proposed, this proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

B. Overview of Benefits, Costs, and Transfers

This proposed rule would substitute “nonclinical” for “animal” in phrases like “animal test,” substitutes “nonclinical” for “preclinical” and “in vitro” for consistency in terminology, and add a definition of “nonclinical test” and “nonclinical study” to the definitions section of FDA’s drug and biological product regulations. Nonclinical tests and studies include but are not limited to the following: cell-based assays, organ chips and microphysiological systems, computer modeling, other nonhuman or human biology-based test methods (e.g., bioprinting), and animal tests or studies. FDA already permits the use of nonanimal studies and this rule will not preclude sponsors from using any types of studies that are currently permitted; industry will continue to provide information on the nonanimal studies that they use and rely on. The terminology changes in this rule also address existing obligations to submit and report information on nonclinical testing to FDA. Where the proposed rule would substitute the term “nonclinical” for the paired terms “animal” and “in

vitro,” this proposed change does not expand the scope of data that must be reviewed, submitted, or reported, because FDA has historically treated those paired terms in the context of the regulations being amended in this proposed rule to encompass all nonclinical testing conducted outside of humans. These regulatory requirements generally focus on the significance or relevance of the information to human safety rather than on the methodology used to generate it. As described in section V of this rule, sponsors have

submitted data from in silico, in chemico, and other nonclinical methodologies under the current regulations consistent with this position and FDA has accepted such data under these provisions when appropriate. In short, the proposed regulatory changes in rule would impose no new requirements on industry and so are expected to generate no costs. Hence, we estimate that this proposed rule will produce no quantifiable savings, costs, or transfers. We do not expect any loss of public health benefits as a result of

this rule. In fact, the proposed changes in this rule may foster the development and use of scientifically valid non-animal methods and so may yield benefits from this added flexibility.

Table 1 summarizes the estimated benefits and costs of the proposed rule using a 10-year time horizon. We estimate that annualized benefits would be \$0 million per year using either a 3 or 7 percent discount rate and that annualized costs would be \$0 million per year using either a 3 or 7 percent discount rate.

TABLE 1—SUMMARY OF BENEFITS, COSTS, AND DISTRIBUTIONAL EFFECTS OF THE PROPOSED RULE
[Millions of 2025 dollars]

Category	Primary estimate	Low estimate	High estimate	Units			Notes
				Year dollars	Discount rate (%)	Period covered	
Benefits:							
Annualized Monetized (\$millions/year)	\$0 0	\$0 0	\$0 0	2025 2025	7 3	2025–2034 2025–2034	
Annualized Quantified .....	..... .....	..... .....	..... .....	..... .....	7 3	..... .....	
Qualitative	The rule may foster the development and use of scientifically valid new testing methodologies.						
Costs:							
Annualized Monetized (\$millions/year)	0 0	0 0	0 0	2025 2025	7 3	2025–2034 2025–2034	
Annualized Quantified .....	..... .....	..... .....	..... .....	..... .....	7 3	..... .....	
Qualitative							
Transfers:							
Federal Annualized Monetized (\$millions/year) .....	..... .....	..... .....	..... .....	..... .....	7 3	..... .....	
Other Annualized Monetized (\$millions/year)	From:			To:			
	..... .....	..... .....	..... .....	..... .....	7 3	..... .....	
	From:			To:			
Effects:							
State, Local or Tribal Government: None.							
Small Business: None.							
Wages: None.							
Growth: None.							

This proposed rule addresses provisions in human drug and biological product regulations that refer to animal studies or tests. It proposes updates to definitions based on new statutory provisions enacted in the Consolidated Appropriations Act, 2023 (Pub. L. 117–328) that unambiguously allow for a broader range of nonclinical studies to meet current requirements without imposing new requirements. Prior to legislative action, some sponsors likely relied on existing terminology in codified regulations that emphasized the use of animal testing as the only scientific methodology to assess the safety of a drug in the nonclinical setting. Adopting a pre-

statutory baseline for analysis, we anticipate that this proposed rule would serve as an enabling action that results in an incremental shift by some sponsors from animal testing to other types of nonclinical testing, when appropriate. Under the new proposed definition, some sponsors will shift to other methods, including those enumerated in a new definition of “nonclinical test”: (1) cell-based assays; (2) organ chips and microphysiological systems, (3) computer modeling, and (4) other nonhuman or human biology-based test methods, such as bioprinting; or they may continue to pursue the methods emphasized in the baseline scenario of (5) animal tests or studies.

Because the proposed rule updates terminology to unambiguously allow for a broader range of nonclinical studies to meet current requirements without limiting existing options or imposing new requirements, if finalized as proposed, it is classified as a deregulatory action under Executive Order 14192.

In line with Executive Order 14192, in Table 2 we estimate present and annualized values of costs, cost savings, and net costs over a perpetual time horizon. We estimate that this proposed rule would generate \$0 million per year in annualized net cost savings at a 7 percent discount rate, discounted relative to year 2024 over a perpetual

time horizon. Since this proposed rule would update terminology to unambiguously allow for a broader range of nonclinical studies to meet

current requirements without limiting existing options or imposing new requirements, we conclude this proposed rule is classifiable as an

Executive Order 14192 deregulatory action.

TABLE 2—EXECUTIVE ORDER 14192 SUMMARY TABLE

[Millions of 2025 dollars, discounted over a perpetual time horizon relative to year 2024 at a 7 percent discount rate]

	Primary estimate	Low estimate	High estimate
Present Value of Costs	\$0	\$0	\$0
Present Value of Cost Savings	0	0	0
Present Value of Net Costs	0	0	0
Annualized Costs	0	0	0
Annualized Cost Savings	0	0	0
Annualized Net Costs	0	0	0

VII. Analysis of Environmental Impacts

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VIII. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) is not required.

IX. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We tentatively determine that this proposed rule does not contain policies that 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive Order and, consequently, a federalism summary impact statement is not required.

X. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We tentatively determine that the rule does not contain policies that would 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.

XI. References

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at <https://www.regulations.gov>. FDA has verified the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. FDA guidance for industry “S6 Addendum to Preclinical Safety Evaluation of Biotechnology-Derived Pharmaceuticals,” May 2012, available at <https://www.fda.gov/media/78034/download>.
2. FDA guidance for industry “S2(R1) Genotoxicity Testing and Data Interpretation for Pharmaceuticals Intended for Human Use,” June 2012, available at <https://www.fda.gov/media/71980/download>.
3. FDA guidance for industry “S3A Guidance: Note for Guidance on Toxicokinetics: The Assessment of Systemic Exposure in Toxicity Studies: Focus on Microsampling, Questions and Answers,” May 2018, available at <https://www.fda.gov/media/100027/download>.
4. FDA guidance for industry “S9 Nonclinical Evaluation for Anticancer Pharmaceuticals, Questions and Answers,” June 2018, available at <https://www.fda.gov/media/100344/download>.
5. FDA guidance for industry “Microdose Radiopharmaceutical Diagnostic Drugs: Nonclinical Study Recommendations,” August 2018, available at <https://www.fda.gov/media/107641/download>.
6. FDA guidance for industry “Testicular Toxicity: Evaluation During Drug Development,” October 2018, available at <https://www.fda.gov/media/117948/download>.
7. FDA guidance for industry “Oncology Pharmaceuticals: Reproductive Toxicity Testing and Labeling Recommendations,” May 2019, available

at <https://www.fda.gov/media/124829/download>.

8. FDA guidance for industry “Oncology Therapeutic Radiopharmaceuticals: Nonclinical Studies and Labeling Recommendations,” August 2019, available at <https://www.fda.gov/media/129547/download>.
9. FDA guidance for industry “Long Term Follow-Up After Administration of Human Gene Therapy Products,” January 2020, available at <https://www.fda.gov/media/113768/download>.
10. FDA guidance for industry “Human Gene Therapy for Hemophilia,” January 2020, available at <https://www.fda.gov/media/113799/download>.
11. FDA guidance for industry “Human Gene Therapy for Retinal Disorders,” January 2020, available at <https://www.fda.gov/media/124641/download>.
12. FDA guidance for industry “Human Gene Therapy for Rare Diseases,” January 2020, available at <https://www.fda.gov/media/113807/download>.
13. FDA guidance for industry “S9 Nonclinical Evaluation for Anticancer Pharmaceuticals,” March 2010, available at <https://www.fda.gov/media/73161/download>.
14. FDA guidance for industry “S5(R3) Detection of Reproductive and Developmental Toxicity for Human Pharmaceuticals,” May 2021, available at <https://www.fda.gov/media/148475/download>.
15. FDA guidance for industry “Formal Meetings Between the FDA and Sponsors or Applicants of PDUFA Products,” August 2026, available at <https://www.fda.gov/media/172311/download>.
16. FDA draft guidance for industry “General Considerations for the Use of New Approach Methodologies in Drug Development,” March 2026, available at <https://www.fda.gov/media/191589/download>.
17. FDA “Predictive Toxicology Roadmap,” December 2017, available at <https://www.fda.gov/files/science%20&%20research/published/FDA's-Predictive-Toxicology-Roadmap.pdf>.
18. PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2023 through 2027 (Commitment Letter),

available at <https://www.fda.gov/media/151712/download>.

19. Report to the Science Board to FDA “Potential Approaches to Drive Future Integration of New Alternative Methods for Regulatory Decision-Making,” October 2024, available at <https://www.fda.gov/media/182478/download>.
20. ICCVAM “Validation, Qualification, and Regulatory Acceptance of New Approach Methodologies,” March 2024, available at https://ntp.niehs.nih.gov/sites/default/files/2024-03/VWG_Report_27Feb2024_FD_508.pdf.
21. FDA “Roadmap to Reducing Animal Testing in Preclinical Safety Studies,” April 2025, available at <https://www.fda.gov/media/186092/download?attachment>.

List of Subjects

21 CFR Part 312

Drugs, Exports, Imports, Investigations, Labeling, Medical research, Reporting and recordkeeping requirements, Safety.

21 CFR Part 314

Administrative practice and procedure, Confidential business information, Drugs, Reporting and recordkeeping requirements.

21 CFR Part 315

Biologics, Drugs.

21 CFR Part 361

Medical research, Prescription drugs, Radiation protection.

21 CFR Part 601

Administrative practice and procedure, Biologics, Confidential business information.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, we propose that 21 CFR parts 312, 314, 315, 361, and 601 be amended as follows:

PART 312—INVESTIGATIONAL NEW DRUG APPLICATION

■ 1. The authority citation for part 312 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360bbb, 371; 42 U.S.C. 262.

■ 2. Section 312.3(b) is amended by adding, after the definition of “Marketing application,” a definition of the “nonclinical test” and “nonclinical study” to read as follows:

§ 312.3 Definitions and interpretations.

* * * * *

(b) * * *

Nonclinical test and *nonclinical study* mean a test or study conducted in vitro, in silico, or in chemico, or a nonhuman

in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

* * * * *

■ 3. Section 312.22(c) is amended in the second sentence by removing the word “animal” and replacing it with the word “nonclinical”.

■ 4. Section 312.23(a)(3)(iv)(f) is amended by removing the word “animals” and replacing it with the phrase “nonclinical studies”.

■ 5. Section 312.23(a)(5) is amended in paragraphs (ii) and (iii) by removing the word “animals” and replacing it in both locations with the phrase “nonclinical studies”.

■ 6. Section 312.23(a)(8) is amended to read as follows:

§ 312.23 IND content and format.

(a) * * *

(8) *Pharmacology and toxicology information.* Adequate information about nonclinical pharmacological and toxicological studies of the drug, on the basis of which the sponsor has concluded that it is reasonably safe to conduct the proposed clinical investigations. The kind, duration, and scope of nonclinical tests required varies with the duration and nature of the proposed clinical investigations.

* * *

(i) *Pharmacology and drug disposition.* A section describing the pharmacological effects and mechanism(s) of action of the drug in nonclinical tests, and information on the absorption, distribution, metabolism, and excretion of the drug, if known.

(ii) *Toxicology.* (a) An integrated summary of the toxicological effects of the drug based on nonclinical studies. Depending on the nature of the drug and the phase of the investigation, the description is to include the results of acute, subacute, and chronic toxicity tests; tests of the drug’s effects on reproduction and the developing fetus; any special toxicity test related to the drug’s particular mode of administration or conditions of use (e.g., inhalation, dermal, or ocular toxicology); and any nonclinical studies intended to evaluate drug toxicity.

* * * * *

■ 7. Section 312.23(a)(10) is amended by:

■ a. Removing the phrase “clinical studies and experience and studies in

test animals” in paragraph (i) and replacing it with the phrase “clinical and nonclinical studies and experience”; and

■ b. Removing the word “animal” paragraph (ii) and replacing it with the word “nonclinical”.

■ 8. Section 312.32(b) is amended by removing the phrase “animal or in vitro studies” and replacing it with the phrase “nonclinical studies”.

■ 9. Section 312.32(c)(1)(iii) is amended by removing the phrase “animal or in vitro” in both the heading and first sentence and replacing it in both places with the word “nonclinical”.

■ 10. Section 312.32(c)(1)(v) is amended by removing the phrase “in vitro, animal” in the fourth sentence after the heading and replacing it with the word “nonclinical”.

■ 11. Section 312.33(b)(6) is amended by:

■ a. Removing the phrase “preclinical studies (including animal studies)” and replacing it with the phrase “nonclinical studies”; and

■ b. Removing the phrase “preclinical findings” at the end of the sentence and replacing it with the phrase “nonclinical findings”.

■ 12. Section 312.82 is amended by:

■ a. Removing the word “preclinical” in the first sentence of the section and replacing it with the word “nonclinical”; and

■ b. Amending paragraph (a) by removing the word “animal” and replacing it with the word “nonclinical”.

■ 13. Section 312.86 is amended by removing the word “preclinical” and replacing it with the word “nonclinical”.

■ 14. Section 312.88 is amended by removing the word “animal” and replacing it with the word “nonclinical”.

PART 314—APPLICATIONS FOR FDA APPROVAL TO MARKET A NEW DRUG

■ 15. The authority citation for part 314 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 355a, 355f, 356, 356a, 356b, 356c, 356e, 360cc, 360ddd, 360ddd–1, 371, 374, 379e, 379k–1.

■ 16. Section 314.3(b) is amended by adding, after the definition of “*Newly acquired information*,” the following definition of “*nonclinical study*”:

§ 314.3 Definitions.

* * * * *

(b) * * *

Nonclinical study means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or

study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

* * * * *

■ 17. Section 314.50(d)(2) is amended by:

■ a. Removing the phrase “animal and in vitro studies with drug” in the sentence after the heading and replacing it with the phrase “nonclinical studies with the drug”;

■ b. Amending paragraph (iv) by inserting the word “nonclinical” before the word “studies”; and

■ c. Amending paragraph (iv) by removing the phrase “in animals” at the end of the sentence.

■ 18. Section 314.50(d)(4)(ii) is amended by

■ a. Removing the word “spectra” and replacing it with the word “spectrum”; and

■ b. Removing the phrase “in vitro preclinical” and replacing it with the word “nonclinical”.

■ 19. Section 314.50(d)(5)(i) is amended by removing the word “animal” and replacing it with the word “nonclinical”.

■ 20. Section 314.50(d)(5)(vi) is amended by:

■ a. Removing the word “animal” in paragraph (a) and replacing it with the word “nonclinical”; and

■ b. Removing the word “animal” in paragraph (b) and replacing it with the word “nonclinical”.

■ 21. Section 314.81(b)(2)(v) is amended by removing the phrase “toxicological findings in animal studies and in vitro studies (e.g., mutagenicity)” and replacing it with the phrase “nonclinical toxicological findings, including, for example, from mutagenicity studies”.

■ 22. Section 314.81(b)(2)(vii)(a)(7) is amended by removing the phrase “an animal” and replacing it with the phrase “a nonclinical” in the first sentence after the header.

■ 23. Section 314.93(e)(2) is amended by removing the word “animal” and replacing it with the word “nonclinical”.

■ 24. Section 314.200(d)(3) is amended by removing the word “Animal” and replacing it with the word “Nonclinical.”

■ 25. Section 314.430(a) is amended by removing the phrase “all studies and tests of a drug on animals and humans”

and replacing it with the phrase “all nonclinical and clinical studies and tests of a drug.”

PART 315—DIAGNOSTIC RADIOPHARMACEUTICALS

■ 26. The authority citation for part 315 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 371, 374, 379e; sec. 122, Pub. L. 105–115, 111 Stat. 2322 (21 U.S.C. 355 note).

■ 27. Section 315.2 is amended to read as follows:

§ 315.2 Definitions.

(a) For purposes of this part, *diagnostic radiopharmaceutical* means:

(1) An article that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans and that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(2) Any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of such article as defined in paragraph (a)(1) of this section.

(b) For purposes of this part, *nonclinical study* means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

■ 28. Section 315.6(c)(2) is amended by removing the word “preclinical” and replacing it with “nonclinical”.

■ 29. Section 315.6(d) is amended by removing the word “animal” and replacing it with “nonclinical”.

PART 361—PRESCRIPTION DRUGS FOR HUMAN USE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED: DRUGS USED IN RESEARCH

■ 30. The authority citation for part 361 continues to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 371; 42 U.S.C. 262.

■ 31. Section 361.1(d)(7) is amended in the second sentence after the heading by removing the phrase “animal studies” and replacing it with the phrase “nonclinical studies, as defined in § 312.3(b) of this chapter”.

PART 601—LICENSING

■ 32. The authority citation for part 601 continues to read as follows:

Authority: 15 U.S.C. 1451–1561; 21 U.S.C. 321, 351, 352, 353, 355, 356b, 360, 360c–360f, 360h–360j, 371, 374, 379e, 381; 42 U.S.C. 216, 241, 262, 263, 264; sec. 122, Pub. L. 105–115, 111 Stat. 2322 (21 U.S.C. 355 note), sec. 7002(e), Pub. L. 111–148, 124 Stat. 817, as amended by sec. 607, Division N, Pub. L. 116–94, 133 Stat. 3127.

■ 33. Section 601.31 is amended to read as follows:

§ 601.31 Definitions.

(a) For purposes of this part, *diagnostic radiopharmaceutical* means:

(1) An article that is intended for use in the diagnosis or monitoring of a disease or a manifestation of a disease in humans and that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons; or

(2) Any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of such article as defined in paragraph (a)(1) of this section.

(b) For purposes of this part, *nonclinical study* means a test or study conducted in vitro, in silico, or in chemico, or a nonhuman in vivo test or study. Such test or study may include the following:

- (1) Cell-based assays.
- (2) Organ chips and microphysiological systems.
- (3) Computer modeling.
- (4) Other nonhuman or human biology-based test methods, such as bioprinting.
- (5) Animal tests or studies.

■ 34. Section 601.35(c)(2) is amended by removing the word “preclinical” and replacing it with the word “nonclinical”.

■ 35. Section 601.35(d) is amended by removing the word “animal” and replacing it with the word “nonclinical”.

■ 36. Section 601.70(b)(7) is amended by removing the phrase “an animal” and replacing it with the phrase “a nonclinical”.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–19349 Filed 9–21–26; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–1024]

RIN 1625–AA00

Safety Zone; Neuse River, New Bern, NC

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain navigable waters of the Neuse River in New Bern, North Carolina. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards during an aerobatic air show. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless specifically authorized by the Captain of the Port, North Carolina. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before October 22, 2026.

ADDRESSES: To submit comments and view available documents, go to <https://www.regulations.gov> and search for USCG–2026–1024.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact MSTC Shawn Stanley, Sector North Carolina Waterways Management Division, U.S. Coast Guard; telephone 571–607–6971, or email shawn.w.stanley2@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
RFA Regulatory Flexibility Act of 1980
§ Section
U.S.C. United States Code

II. Background and Authority

On July 13, 2026, an organization notified the Coast Guard that they will be hosting an aerobatic air show on the Neuse River, New Bern, NC on November 28, 2026. The Captain of the Port, Sector North Carolina (COTP) has determined that potential hazards associated with air shows, such as the risk of being hit by aircraft doing low altitude maneuvers, are a safety concern for anyone within the aerobatic display

area. Therefore, the COTP is proposing 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 the Rule

This proposed rule would establish a safety zone from 2 p.m. until 7:30 p.m. on November 28, 2026. The safety zone would cover all navigable waters within the aerobatic display area, which is approximately one square mile large on the Neuse River adjacent to Union Point Park. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or their designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

Vessel traffic will be able to safely transit around this regulated area. In addition, the Coast Guard will issue a Broadcast Notice to Mariners via VHF FM marine channel 16, which will allow small entities to adjust their transit plans, and the rule allows vessels to request permission to enter the regulated area from the COTP.

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

qualifies and how and to what degree this proposed rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this proposed rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247).

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

significant effect on the human environment.

This proposed rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A record of environmental consideration is available in the docket.

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments at <https://www.regulations.gov>. To do so, go to <https://www.regulations.gov>, type USCG-2026-1024 in the search box and click “Search.” Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

Viewing material in the docket. To view available documents, find the docket as described in the previous paragraph, and then select “Supporting & Related Material” in the Document Type column. We will post public comments in our online docket. Additional information is on the <https://www.regulations.gov> Frequently Asked Questions web page.

Personal information. We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions to the docket in response to this document, see DHS’s eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T05-1024 to read as follows:

§ 165.T05-1024 Safety Zone; Neuse River, New Bern, NC

(a) *Location.* The following area is a safety zone: All waters of the Neuse River in New Bern, NC from surface to bottom, encompassed by a line connecting the following points beginning at latitude 35°07′03.55″ N, longitude 77°02′04.73″ W, thence to latitude 35°07′04.55″ N, longitude 77°01′23.69″ W, thence to latitude 35°06′02.30″ N, longitude 77°01′20.92″ W, thence to latitude 35°06′00.93″ N, longitude 77°01′57.6618″ W then north to the point of origin, for a total area of approximately 1 mile square. These coordinates are based on the World Geodetic System (WGS 84).

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

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

(2) To seek permission to enter, contact the COTP or the COTP’s representative on VHF-FM channel 16 or by telephone at (833) 732-8628. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP’s designated representative.

(d) *Enforcement period.* This section will be enforced from 2 p.m. to 7:30 p.m. on November 28, 2026.

J.A. Harlow,

Captain, U.S. Coast Guard, Captain of the Port Sector North Carolina.

[FR Doc. 2026-19352 Filed 9-21-26; 8:45 am]

BILLING CODE 9110-04-P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2026-7; Order No. 9734]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a recent Postal Service filing requesting the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 30, 2026.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Proposal
- III. Notice and Comment
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I. Introduction

On September 16, 2026, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate a rulemaking proceeding to consider changes to analytical principles relating to periodic reports.¹ The Petition presents a proposal to update the methodology for developing labor productivity data for selected mail processing operations using Management Operating Data System (MODS) data. Petition at 1.

II. Proposal

Background. The Postal Service states that MODS-based labor productivities are “important inputs” into the mailflow models for letter-, flat-, and parcel-shaped products that are used to develop cost avoidances for workshare discounts. Petition, Proposal at 1.

¹ Petition of the United States Postal Service to Initiate a Proceeding to Change Analytical Principles, September 16, 2026 (Petition). The proposed change is attached to the Petition (Proposal).

MODS classifies Postal Service work activities, including, but not limited to, mail processing activities, using a system of standardized operation numbers. *Id.* The Postal Service states that “MODS collects workhours associated with the operations and, as applicable, workload data from data systems such as the Time and Attendance Collection System (TACS) and [the Web End-of-Run system (webEOR)].” *Id.*

For automated mail processing, workloads are passively obtained using machine counts of processed articles that are automatically transmitted to MODS. *Id.* The Postal Service asserts that, accordingly, these automated workloads “generally are measured reliably.” *Id.* at 1–2. The Postal Service states that accurate workhour measurement requires employees to “clock into the appropriate operation number(s) for their work activities and to re-clock during shifts, as needed, to reflect changes of work activities during the workday.” *Id.* at 2. The Postal Service states that labor productivity methodology “must balance needs for sufficiently detailed productivities to reflect materially different costs among mailflows, while ensuring that workhour and workload data are well aligned given data generation processes.” *Id.* The Postal Service states that the currently accepted methodology “mitigates data issues by aggregation over time, facilities, and/or operations as well as by outlier screening.” *Id.* According to the Postal Service, the Proposal retains these methodologies with certain changes discussed below. *See id.*

Proposal. The Proposal updates the methodology for developing MODS-based labor productivity data for selected mail processing operations based on certain operational, facility, and time aggregation changes. *Id.* The Proposal reflects, among other things, “the discontinuation of certain flats operations, including the Flats Sequencing System (FSS) and the UFSM 1000; the supplanting of Sack Sorting Machine (SSM) processing with universal sorters; and [the] incorporat[ion of] additional operations related to the processing of undeliverable-as-addressed (UAA) letters and flats.” *Id.* (internal footnotes omitted). Additionally, the Proposal updates the role of network distribution centers (NDCs) in mail processing operations to reflect that NDCs provide significant processing, particularly for parcels, but “no longer have a distinct network role.” *Id.* The Proposal combines data for NDCs with other MODS plants in order to provide “more

comprehensive coverage of operations” carried out by both types of facilities. *Id.* at 2, 6. The Proposal also increases the frequency of MODS data inputs from monthly to weekly. *Id.* at 7. The Postal Service contends that “[t]he increased frequency would improve data quality by requiring workload and workhour data to be aligned at the weekly level and . . . reject data from periods where workhours and workloads are not both recorded.” *Id.* at 8. The Proposal provides detail on these and other proposed changes to labor productivities to reflect operational, network, and equipment changes. *Id.* at 6–20. The Postal Service presents the proposed updates to MODS-based labor productivities in its Proposal. *Id.* at 4–5, Table 1.

Rationale and Impact. The Postal Service states that “[t]he proposed [labor] productivities better reflect current mailflows, incorporate additional operation groups to facilitate future mailflow model refinements, and cease reporting of certain discontinued operations.” *Id.* at 1. The Proposal compares Fiscal Year (FY) 2025 labor productivities under the proposed methodology compared to current FY 2025 labor productivities. *Id.* at 21–22, Table 4. The Postal Service states that new labor productivities “will decrease the associated model costs if the new productivity is higher or increase them if the new productivity is lower, other things equal.” *Id.* at 23. The Postal Service describes the impacts of the Proposal on FY 2025 First-Class Mail and USPS Marketing Mail letter mail processing models, FY 2025 First-Class Mail and USPS Marketing Mail flat mail processing models, and FY 2025 Parcel Select cost models. *Id.* at 23–28.

III. Notice and Comment

The Commission establishes Docket No. RM2026–7 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission’s website at <https://www.prc.gov>. Interested persons may submit comments on the Petition and Proposal no later than October 30, 2026. Pursuant to 39 U.S.C. 505, Jana Slovinska is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding. The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2026–7 for consideration of the matters raised by the Petition of the United States Postal Service to Initiate a Proceeding to Change Analytical Principles, filed September 16, 2026.

2. Comments by interested persons in this proceeding are no later than due October 30, 2026.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Jana Slovinska to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. This order, or abstract thereof, will be published in the **Federal Register**.

By the Commission.

Sarah Wessel,

Senior Paralegal Specialist.

[FR Doc. 2026–19361 Filed 9–21–26; 8:45 am]

BILLING CODE 7710–FW–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 390

[Docket Number MARAD–2026–1552]

RIN 2133–AC06

Capital Construction Fund Revision

AGENCY: Maritime Administration (MARAD), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM), request for comments.

SUMMARY: MARAD proposes to revise its regulations governing the filing of applications and administration of Capital Construction Fund (CCF) Program accounts. The proposed rule would (i) conform the regulations to recent statutory amendments extending CCF Program application to all U.S. built vessels engaged in United States domestic or foreign commerce, (ii) eliminate limitations on CCF Program availability to certain geographic trades, (iii) clarify the maximum allowable completion time for reconstruction projects, and (iv) provide for funds to be used for acquisitions under certain circumstances. In addition, the NPRM proposes a mechanism to terminate inactive accounts, accounts with a zero balance, and accounts where a CCF Program objective has failed to commence within a 10-year period. The proposed rule would also correct numerous citations, modernize text, update agency contact information, and remove obsolete references.

DATES: MARAD invites the public to comment on this proposed rule and

information collection. Comments should be filed on or before November 23, 2026. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments identified by DOT Docket Number listed above 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 and mailing address, an email address, or a 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 8½ 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 making any changes to the DOT 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. Persons who use a telecommunications device for the deaf (TDD) may 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 the following address: U.S. 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, including a summary of the rule as required by 5 U.S.C. 553(b)(4), 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, or other entity). 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 (October 4, 1993), and section 610 of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* That process is summarized in Appendix D of DOT's semi-annual regulatory agenda. In addition, E.O. 14192, Unleashing Prosperity Through Deregulation (February 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative (February 19, 2025), directed agencies to further scrutinize their regulations to reduce unnecessary costs, clear barriers to emerging technology, and alleviate unnecessary regulatory burdens.

Accordingly, MARAD has identified its CCF regulations governing applications and administrative procedures for consideration. In this proposed rule, MARAD seeks comment to ensure that the program remains current and is the least burdensome to the public. MARAD welcomes your comments to ensure that agency programs reflect current and comprehensive best practices.

This rule proposes revision of the CCF regulations found at 46 CFR part 390. The program was established by the Merchant Marine Act of 1936 (MMA) and is codified at 46 U.S.C. chapter 535.

The CCF Program

The purpose of the program is to assist owners and operators of United

States flagged vessels in accumulating the large amount of capital necessary for the modernization of their commercial fleets. The CCF Program was expanded significantly in December 2022 with the passage of the National Defense Authorization Act for Fiscal Year 2023 (2023 NDAA). Section 3544 of the 2023 NDAA extended the use of the program to all U.S. built vessels engaged in the domestic or foreign commerce of the United States, removing limitations on the availability of the CCF Program to certain geographic trades. The requirements in the current regulations have been superseded by these statutory updates.

The program encourages construction, reconstruction, or acquisition of vessels through deferment of Federal income taxes. Owners and operators of vessels deposit income from operations of eligible vessels into CCF accounts prior to paying income taxes. All deferred taxes are eventually recovered upon the sale of the vessel because the cost basis of the vessel is reduced by the dollar amount of CCF funds used for its acquisition or reconstruction.

To participate in the program, a vessel owner applies to MARAD's Office of Marine Financing in advance of the relevant Federal tax filing due date. The application identifies the income earning vessel(s), the type of project(s) anticipated, and the financial institution that will hold the CCF deposits. Once MARAD determines that an application complies with the CCF statute and regulations, a CCF Agreement is executed between the United States and the vessel owner or operator.

Currently, there are 129 CCF Agreements with a total of approximately \$2.56 billion on deposit. Many of these CCF Agreements were established years ago and identify scheduled projects that are no longer viable. Consequently, CCF participants are faced with either having funds languish on deposit for nonviable scheduled projects or making non-qualified withdrawals of funds and paying deferred taxes at the highest marginal rate. The number of CCF Agreements has been increasing since the expansion of the program to all U.S. built vessels engaged in the domestic or foreign commerce of the United States. Without an update to the regulations to address this issue, it is expected to become more acute. MARAD's proposed regulatory revisions establish a mechanism to amend obsolete agreements to avoid non-qualified withdrawals or top-rate deferred tax penalties and to direct participants to invest idle capital into viable modern projects.

The authority to issue regulations to implement the program is granted under 46 U.S.C. 53502(a), which permits the Secretary of Transportation (delegated to MARAD) to prescribe regulations (except for the determination of tax liability) to carry out the program. Although the CCF Program regulations have been amended over the years, the current requirements and limitations remain substantially the same as when MARAD introduced them in 1976. The proposed rule would (i) conform the regulations to recent statutory amendments extending the application of the CCF Program to all U.S. built vessels engaged in the domestic or foreign commerce of the United States, (ii) eliminate certain geographic trade limitations, (iii) clarify the maximum allowable completion time for reconstruction projects, and (iv) provide for funds to be used for acquisitions under certain circumstances pursuant to 46 U.S.C. 53509. Revisions would also correct numerous citations in accordance with the codification of title 46 of the United States Code, improve accessibility by modernizing text, update agency contact information, remove obsolete references, and provide a mechanism to terminate inactive accounts, accounts with a zero balance, and accounts where a CCF Program objective has failed to commence within a 10-year period.

The proposed changes to the CCF regulations are deregulatory and intended to ease current restrictions on the allowable uses of CCF accounts while remaining consistent with current agency priorities of incentivizing private investment in the construction of commercial vessels. For example, currently, when establishing a CCF, unless there is new construction of at least one vessel as a program goal, there must be a reconstruction program goal of at least \$1,000,000 for each vessel. This limitation is without regard for the number of vessels being reconstructed. This minimum threshold for reconstruction restricts the number of participants in the program. The intent of the revision to the reconstruction program goal is to allow for participation by applicants with smaller vessels that would otherwise be excluded by permitting the reconstruction costs of multiple vessels to be aggregated to meet minimum program requirements.

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 the Docket Management System website at <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 Office of Management and Budget (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.opm.gov/information-management/information-quality-guidelines/>. 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 Docket Management 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, Docket Management 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 proposed 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. You may also see the comments on the internet. To read the comments on the internet, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

Please note that, even after the comment closing date, MARAD will continue to file relevant information to 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 Revisions

MARAD proposes to redesignate the sections and to amend the program regulations for purposes of clarity and brevity.

Section 390.1 Purpose (formerly Scope of the regulations).

Specifies clearly the purpose of the regulation.

Section 390.3 Definitions (formerly Application for an agreement).

Groups all definitions into one section to improve overall readability.

Section 390.5 Applying for a Capital Construction Fund Agreement ("Agreement") (formerly Policy considerations).

Identifies the eligibility requirements and summarizes the application process in one section for clarity and improved accessibility.

Section 390.7 Acquisition, construction, or reconstruction (formerly Description of the agreement).

Highlights the acceptable objectives of the program to clarify the requirements of the statutory provision governing qualified withdrawals at 46 U.S.C. 53509.

Section 390.9 Non-qualified and permissible operations (formerly Agreement vessels).

Proposes edits to this section to reflect the updates to 46 U.S.C. 53501, which was amended by the 2023 NDAA to substitute "foreign or domestic trade of the United States" for "United States foreign, Great Lakes, noncontiguous domestic, or short sea transportation trade."

Section 390.11 Constructive deposits, constructive withdrawals, and ratification of withdrawals without consent (formerly Administration of the agreement).

Outlines the constructive deposit and withdrawal process and makes other non-substantive edits to this section for clarity.

Section 390.13 First Tax Year for which an agreement is effective (formerly Deposits into the fund).

Proposes minor, non-substantive edits to this section for clarity and improved accessibility.

Section 390.15 Annual reporting and modification of agreement (formerly Investment in the fund).

Clarifies the reporting requirements and process to modify the agreement.

Section 390.17 Automatic termination of agreement (formerly Qualified withdrawals).

Proposes revisions to provide for termination of inactive CCF agreements and agreements with zero balances on deposit.

Section 390.19 Maximum deposit amounts and time to deposit (formerly Non-qualified withdrawals).

Sets forth the maximum annual ceiling established by 46 U.S.C. 53505 and other non-substantive edits to this section for clarity.

Section 390.21 CCF Accounts (formerly Sale or other disposition of agreement vessels).

MARAD is proposing to make minor, non-substantive edits to this section for clarity.

Section 390.23 Conditional consent to withdrawal qualification (formerly Liquidated damages).

Proposes to update the items needed for a withdrawal determination.

Section 390.25 Sale or other disposition of agreement vessels (formerly Failure to fulfill a substantial obligation under the agreement).

Updates the citations for accuracy.

Section 390.27 Failure to fulfill a substantial obligation under the agreement (formerly Departmental reports and certification).

MARAD is proposing to update contact information.

Section 390.29 Miscellaneous.

Section added to provide for confidentiality and timing of filings.

Rulemaking Analysis and Notices

Executive Order 12866

This NPRM is not a significant regulatory action under E.O. 12866; therefore, it was not reviewed by OMB. It is also not considered a major rule for purposes of congressional review under the Congressional Review Act. This NPRM is limited to (i) conforming the regulations to recent statutory amendments extending the application of the CCF Program to all U.S. built vessels engaged in the domestic or foreign commerce of the United States, (ii) eliminating limitations on the availability of the CCF Program to certain geographic trades, (iii) clarifying the maximum allowable completion time for reconstruction projects, and (iv) providing for funds to be used for

acquisitions under certain circumstances as specified in section 53509.

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 incorporates changes to reflect statutory changes from the National Defense Authorization Act for fiscal year 2022 (NDAA 2022). Specifically, the NDAA 2022 modified the definition of qualified vessels (46 U.S.C. 53501(5)) and removed trading restrictions on vessels eligible to participate in the program (46 U.S.C. 53503(b)) to expand the program to include almost any commercial vessel owner and operator in the U.S. registry. In addition, the proposed revision reorganizes the regulation and modernizes the language for clarity and ease of use.

Baseline

Under this baseline, existing account holders in the CCF Program are assumed to comply with the statutory expansion enacted by Section 3544 of the NDAA 2022. This update extended CCF eligibility to all vessels operating in foreign and domestic commerce of the U.S. as long as they were built in the U.S. and are registered with the U.S. Coast Guard. Affected entities follow the statutory program, but face uncertainty and unnecessary delay because of the regulation, which does not conform to the statute. Vessel operators experience administrative burden and uncertainty regarding outdated criteria, such as the requirement to pay liquidated damages when operating in an unauthorized geographic trade. In addition, applicants may overlook the CCF Program as an option to assist with construction of new vessels or reconstruction of their existing vessels because the regulation would lead many to believe incorrectly that they are ineligible to participate in the program or that any vessels constructed or reconstructed utilizing the program are subject to geographic trading restrictions.

Costs

The revised rule does not impose any new or additional compliance requirements or costs. Many of the revisions are intended to conform with statutory updates, and others are simply incorporating current practices in evaluating eligibility. The revised rule will apply current policy practices and use modern regulatory language intended for simplicity, clarity, and

brevity. Improvements are expected to result in administrative efficiencies and clarity in applicant and vessel eligibility requirements.

Benefits

Improved administrative efficiency and clarification of practices will make the rule and the program more accessible and attractive to industry. As a result, the CCF Program should garner better prepared program participants that can best use the program for the benefit of the maritime sector. In addition, expanding the reconstruction threshold to \$3,000,000 across multiple vessels provides access to smaller operators who were previously excluded by per-vessel minimums, deleting the geographic trading restrictions opens additional markets to owners for sale of vessels, and clarifying obligations of account holders to maintain accounts with active objectives. According to the latest available data from the U.S. Army Corps of Engineers, there were over 1,800 operators operating about 37,000 vessels (tugs, barges, push boats, etc.) on the inland waterways. Over 80 percent of these operators operate 10 or fewer vessels. provides a clear path for the deployment of capital into active and useful projects. Together, these updates should build applicant confidence in the program.

Executive Order 14192 (Deregulation)

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 would, if adopted, have total costs less than zero and therefore be an E.O. 14192 deregulatory action.

Executive Order 13132 (Federalism)

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 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.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), Public Law 104–121, whenever an agency is required to publish a notice of proposed rulemaking, the agency must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations and small governmental jurisdictions), unless the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Agencies must also provide a statement of the factual basis for this certification.

For the following reasons, the MARAD Administrator certifies that this rulemaking action would not have a significant economic impact on a substantial number of small entities. The revisions to the regulations update administrative criteria, conform to statutory requirements, update citations and addresses, and modernize text. The revisions will also allow for easier submission of applications due to the elimination of obsolete requirements and clarifications in requirements for vessel owners and projects eligible to participate.

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 proposed rule that will affect the privacy of individuals. This rulemaking, which (i) conforms the regulations to statutory amendments extending the application of the CCF Program to all U.S. built vessels engaged in the domestic or foreign commerce of the United States, (ii) eliminates limitations on the availability of the CCF Program to certain geographic trades, (iii) clarifies the maximum allowable completion time for reconstruction projects, and (iv) provides for funds to be used for acquisitions under certain circumstances, 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), Public Law 104–4, 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 \$212 million or more (as adjusted for inflation in 2026) in any one year, and if so, to take steps to minimize these unfunded mandates. This rulemaking will not impose unfunded mandates under the UMRA. It will not result in costs of \$212 million or more to either State, local, or Tribal governments, in the aggregate, or to the private sector, so the analytical requirements of the UMRA do not apply. The rule is the least burdensome alternative that achieves MARAD's stated objectives for the rule.

National Environmental Policy Act (NEPA)

Pursuant to 49 CFR 1.81, the Secretary has delegated the “functions” under NEPA to the DOT Administrators “as they relate to the matters within the primary responsibility of each Operating Administration.” MARAD has determined that this rule is categorically excluded pursuant to DOT Order 5610.1D, subpart C, section (e)(3). A categorical exclusion (CE) is an action identified in an agency's NEPA procedures that does not normally have a significant impact on the environment and therefore does not require either an environmental assessment (EA) or environmental impact statement (EIS). See DOT Order 5610.1D, section 9. In analyzing the applicability of a CE, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* at section 9(b). MARAD may utilize its own CEs, in addition to CEs listed in DOT Order 5610.1D Appendix A or another Operating Administration's CEs, using the procedures described in DOT Order 5610.1D, section 9, and subpart C, section (e). This proposed rulemaking, *Capital Construction Fund Revision*, is categorically excluded pursuant to DOT Order 5610.1D, subpart C, section (e)(3): “Internal orders and procedures not required to be published in the **Federal Register**, promulgation of rules, regulations, directives, and amendments thereto that do not require a regulatory impact analysis under section 3 or do not have a potential to cause a significant impact on the environment . . .” MARAD does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Regulation Identifier Number

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

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), 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. This proposed rule would establish a new requirement for the collection of information for all CCF applicants. MARAD has requested that OMB review and approve the information collection requirements under the PRA.

In accordance with the PRA, MARAD invites public comments regarding the collection of information arising under this proposed rule.

—Copies of this notice and information collection may be found by going to <https://www.reginfo.gov/public/do/PRAMain>.

—*Title of Information Collection:* Information Collection to Apply for and Maintain a Capital Construction Fund.

—*OMB Control Number:* Pending.

—*Form Number:* None.

—*Expiration Date of Approval:* Three years following approval by the Office of Management and Budget.

—*Abstract:* Persons or Entities applying for MARAD approval to open and maintain Capital Construction Fund (CCF) accounts. Persons or Entities applying must submit certain information described in 46 CFR part 390 and agree to certain conditions. MARAD is proposing the use of three separate instruments to apply for and maintain a CCF—the form of application, agreement, and annual report form. All information described in part 390 will be required to be submitted and is necessary for proper review of the applicant's qualifications and the maintenance of their account over time. The information collected will be used by MARAD to (1) ensure MARAD's action to open a CCF account is consistent with pertinent IRS regulations; (2) monitor relevant financial and vessel construction and reconstruction information to assess account holder compliance with the agreement terms and activities within

the CCF program; (3) evaluate the applicant's U.S. citizenship status and eligibility; and (4) demonstrate to MARAD that the applicant has the financial capabilities to accomplish its proposed program, by submitting audited balance sheets and income statements (unaudited statements are accepted from smaller companies that do not have audited statements).

- Respondents*: Individuals, partnerships, companies, or corporations seeking or maintaining accounts.
- Estimated number of respondents*: 243 respondents annually.
- Annual estimated total annual burden hours*: 3037.5 hours.
- Frequency of response*: Annually.

List of Subjects in 46 CFR Part 390

Income taxes, Investments, Maritime carriers, Reporting and recordkeeping requirements, Vessels.

For the reasons described in the preamble, MARAD proposes to revise 46 CFR part 390 as set forth below:

SUBCHAPTER K—REGULATIONS UNDER PUBLIC LAW 91–469

PART 390—CAPITAL CONSTRUCTION FUND FOR VESSELS

Sec.

- 390.1 Purpose.
- 390.3 Definitions
- 390.5 Applying for a Capital Construction Fund Agreement.
- 390.7 Acquisition, construction, or reconstruction.
- 390.9 Non-qualified operations.
- 390.11 Constructive deposits, constructive withdrawals, and ratification of withdrawals without consent.
- 390.13 First tax year for which an agreement is effective.
- 390.15 Annual reporting and modification of agreement.
- 390.17 Automatic termination of agreement.
- 390.19 Maximum deposit amounts and time to deposit.
- 390.21 CCF Accounts.
- 390.23 Conditional consent to withdrawal qualification.
- 390.25 Sale or other disposition of agreement vessels.
- 390.27 Failure to fulfill a substantial obligation under the agreement.
- 390.29 Miscellaneous.

Authority: 46 U.S.C. ch. 535, 49 CFR 1.93(a)

§ 390.1 Purpose.

This part prescribes rules and regulations pertaining to the filing of Capital Construction Fund Program applications and the administration of funds subject to a Capital Construction Fund Agreement, for the purpose of providing replacement vessels, additional vessels, or the reconstruction

of vessels to be built and documented in the United States and operated in the United States Foreign and Domestic Trade.

§ 390.3 Definitions.

Agreement means the contract to participate in the program between the approved CCF applicant (party) and the Maritime Administration (MARAD).

Act means ch. 535 of title 46 of the U.S. Code (46 U.S.C. 53501–53517), amended from time to time.

Agreement Vessel means any Eligible Vessel or Qualified Vessel that is subject to an Agreement. For purposes of generating ceilings and making Qualified Withdrawals, the term agreement vessel includes containers, trailers or barges that are part of the complement of an agreement vessel. The complement is limited to three times the container, trailer, or barge capacity of the vessel, unless MARAD agrees to a different complement.

CCF means Capital Construction Fund for Vessels.

Citizen of the United States or U.S. Citizen means any individual who is a United States citizen, and any corporation, partnership, association, or company organized under the laws of any State that meets the requirements of 46 U.S.C. 50501, as amended.

Constructed in the United States means a Vessel that:

- (a) Is built entirely in a shipyard or shipyards within any of the United States and its territories;
- (b) Has all the major components of its hull and superstructure fabricated in the United States; and
- (c) Is assembled entirely in the United States.

Depository or Depositories means the designated bank or brokerage account(s) listed in Schedule D where the CCF funds will be physically held.

Domestic Trade means:

- (a) Commerce or trade between two points in the contiguous United States; and
- (b) Noncontiguous commerce or trade as defined in 46 U.S.C. 53501(4).

Eligible Vessel means a Vessel as defined in 46 U.S.C. 53501(2).

Extension Period means the period beginning the first day following the end of the Filing Period and ending on the last day of the party's last filing extension.

Filing Period means the period beginning the first day following the end of the Tax Year and ending on the party's last day to file their tax return absent a filing extension.

Foreign Trade means foreign commerce or trade as defined in 46 U.S.C. 109.

Joint Regulations mean regulations prescribed jointly by MARAD and Treasury under section 53502(b) of title 46.

MARAD means the Maritime Administration, an agency within the U.S. Department of Transportation.

Non-qualified Withdrawal means any withdrawal from an account that is not a Qualified Withdrawal.

Qualified Withdrawal means any withdrawal as defined in 46 U.S.C. 53509.

Qualified Vessel means a Vessel as defined in 46 U.S.C. 53501(5).

Schedule A means the section of the Agreement that designates the income producing vessel(s) from which deposits are made into a Depository.

Schedule B means the section of the Agreement that designates the qualified project(s) for which the CCF funds are to be expended.

Schedule C means the section of the Agreement that designates the Depository or Depositories for the CCF.

Schedule D means the section of the Agreement that indicates the deposits into the CCF.

Share Interest in a Vessel means the right to use the Vessel to generate income or a right to the proceeds or a portion of the proceeds from the Vessel's use (*i.e.*, proceeds that may result from a joint venture or partnership) even if the applicant does not have a proprietary interest in the Vessel for purposes of State or Federal law.

Tax Due Date means the date the party's Federal tax return must be filed, including extensions, with the Internal Revenue Service.

Tax Year means the period between January 1 and December 31 for calendar year filers or the designated fiscal year for fiscal year filers.

United States means the States of the United States of America, the District of Columbia, and, for citizenship purposes, includes the Commonwealth of Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, the Northern Mariana Islands, and any other territory, or possession of the United States.

Vessel means a vessel as defined at 1 U.S.C. 3 and 46 U.S.C. 53701 and includes the following:

(a) Non-loading equipment (*i.e.*, cargo handling equipment) ordinarily carried from port to port and not typically subject to frequent replacement due to normal wear and tear;

(b) Share Interest in a Vessel; and

(c) An Eligible Vessel under construction or has been contracted for, but construction has not yet begun.

§ 390.5 Applying for a Capital Construction Fund Agreement.

(a) *General eligibility requirements.* To be eligible to enter into an Agreement an applicant must:

(1) Be a Citizen of the United States;
(2) Own or lease one or more Eligible Vessels or share thereof (as defined in the Act), be party to a contract for the construction of one or more Eligible Vessels or share thereof operating in the Foreign or Domestic Trade of the United States;

(3) Have an acceptable plan to acquire, construct, or reconstruct one or more Qualified Vessels. The plan must be a firm representation of the applicant's actual intentions. Qualified Vessels must be operated in Foreign or Domestic Trade of the United States; and

(4) Demonstrate the financial capabilities to accomplish the program objective.

(b) *Application.* Applicants seeking an Agreement must submit a completed application form. The form of application and submission guidance may be found on the program web page of MARAD's website at <http://www.maritime.dot.gov>. The application must be received on or prior to the Tax Due Date for the Filing Period of the Federal tax return to be effective for the Tax Year to which that return relates. The applicant should file at least 45 days in advance of such date.

(c) *Additional information may be required.* An applicant must provide such facts, documents, and materials as MARAD may require in considering whether to enter into an Agreement. An applicant should be ready to make available such applicable materials, including but not limited to design plans, data concerning the reasonableness of the cost of the program objective, construction contracts, financial statements, certificates of incorporation, bylaws, articles of partnership, stock ownership data, and other information including judgments and pending litigation that would affect the proposed program objective. The specific information required to be submitted is set forth in MARAD submission guidance.

§ 390.7 Acquisition, construction, or reconstruction.

(a) *Acceptable objective.* Generally, CCF funds may only be used for the acquisition, construction, or reconstruction of vessels documented in the United States and manned with United States Citizens in support of maintaining and increasing the Foreign and Domestic Trade of the United States.

(b) *Acquisition.* CCF funds may be used for the:

(1) Purchase of a new vessel from the constructing shipyard;

(2) Purchase of a vessel that is more than one year old for which there will be substantial reconstruction completed within 18 months of withdrawing CCF funds;

(3) Acquisition of a contract to construct a new Qualified Vessel;

(4) Acquisition of interest in a partnership or limited liability company; and

(5) Acquisition of existing vessels as part of the purchase of a corporation, limited liability company, partnership, or association.

(c) *Construction.* CCF funds may be used to construct a new Qualified Vessel.

(d) *Reconstruction.* The following applies to reconstruction:

(1) CCF funds may be used for the reconstruction of a vessel that can include rebuilding, replacing, reconditioning, refurbishing, converting, or improving any portion of a vessel;

(2) Reconstruction must substantially prolong the useful life of the vessel, increase its value, materially increase its safety, reliability, or energy efficiency, or adapt it to a different commercial use in the industry;

(3) Reconstruction must increase a vessel's competitiveness, efficiency, and productivity with an economically useful life for a substantial period of time beyond the date reconstruction is completed; and

(4) Repairs necessary to meet any regulatory standards or any applicable classification standards, or for previous inadequate maintenance and repair do not constitute reconstruction for purposes of this rule.

(e) *Indebtedness.* CCF funds may be used for new indebtedness incurred for one of the acceptable program objectives set forth in this section.

(f) *Time permitted for construction or reconstruction.* Construction or reconstruction must be completed within 36 months from the date construction or reconstruction first commences, unless otherwise consented to by MARAD.

(g) *Unacceptable objectives.* MARAD will not enter into an Agreement where the application:

(1) Fails to provide for one or more replacement, additional, or reconstructed vessel for operation in the Foreign or Domestic Trade of the United States;

(2) Proposes reconstruction of existing vessel(s) with no additional program objective, unless such reconstruction will:

(i) Collectively exceed \$3,000,000 in cost;

(ii) Will be capitalized under the Internal Revenue Code of 1986, as amended, implementing regulations; and

(iii) Will result in (a) significantly more competitive vessel(s).

(3) Proposes reconstruction of an existing vessel that is more than 25 years old at the time of withdrawal;

(4) Proposes acquisition of an existing vessel (except as provided for in paragraph (b) of this section); or

(5) Proposes payment of the principal on existing indebtedness.

§ 390.9 Non-qualified operations.

Non-qualified operations for Qualified Vessels include:

(a) The use of barges as docks and ramps;

(b) The use of a vessel as housing, restaurant, public space, or other similar primary use in a fixed location;

(c) The foreign-to-foreign trade, consisting of voyages originating and ending in foreign ports, with no intermediate domestic cargo operation;

(d) Trade from foreign ports to and from U.S. oil rigs in international waters; and

(e) Bunkering in support of non-qualified trade operations.

§ 390.11 Constructive deposits, constructive withdrawals, and ratification of withdrawals without consent.

(a) *Constructive deposits and withdrawals before Agreement executed date.* Constructive deposits and withdrawals are deemed to have been deposited to and withdrawn from a designated CCF account even if the funds are not physically deposited.

(1) Constructive deposits and withdrawals are permissible only during the tax year for which a written application for an Agreement is submitted to MARAD.

(2) Once MARAD executes the Agreement, the constructive deposit and withdrawal period ends, and all deposits must be physically deposited into a designated CCF account.

(b) *Consent for constructive deposits and withdrawals.* All qualified deposits and withdrawals occurring within the period specified in paragraph (a) of this section may be consented to by MARAD as constructive deposits and withdrawals so long as the following criteria are met:

(1) The amount deposited into the account for a taxable year does not exceed the sum of—

(i) That portion of the taxable income of the owner or lessee for the taxable year (computed under chapter 1 of the

Internal Revenue Code of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net operating loss or net capital loss or this chapter) attributable to the operation of Agreement Vessels in the foreign or domestic trade of the United States or in the fisheries of the United States;

(ii) The amount allowable as a deduction under section 167 of such Code (26 U.S.C. 167) for the taxable year for Agreement Vessels;

(iii) If the transaction is not taken into account for purposes of paragraph (i), the net proceeds (as defined in Joint Regulations) from the disposition of an Agreement Vessel or from insurance or indemnity attributable to an Agreement Vessel;

(iv) The receipts from the investment or reinvestment of amounts held in the account; and

(v) For a lessee, the maximum amount that may be deposited for an Agreement Vessel under subsection (b)(1)(ii) for any period must be reduced by any amount the owner is required or permitted, under the Agreement, to deposit for that period for the Vessel under subsection (b)(1)(ii).

(2) For MARAD to consent to constructive deposit and withdrawal treatment, the applicant must include a written request with the application and provide sufficient supporting data to enable MARAD to evaluate the request; and

(3) The written request must be submitted no later than the extension period for that party's initial tax year.

(c) *Constructive deposits and withdrawals after the Agreement effective date.* Constructive deposits or withdrawals are not permitted after the effective date of an Agreement. Deposits made after the effective date of an Agreement must be physically deposited into a dedicated CCF account.

§ 390.13 First tax year for which an agreement is effective.

(a) *First tax year for which an Agreement is effective.* For an Agreement to be effective for any applicant's tax year, the written application must be submitted to MARAD before the end of the 'Filing Period' or 'Extension Period' for that tax year, whichever applies.

(1) If the written application is received by MARAD after the end of the 'Filing Period' or 'Extension Period,' whichever applies, then the Agreement will be first effective for the next succeeding tax year.

(2) An applicant must submit a written application at least 45 days in advance of the end of the applicant's tax due date. If the written application is

submitted too close to the tax due date, and MARAD does not execute the Agreement prior to the tax due date, the applicant bears the burden of negotiating with the Internal Revenue Service for relief.

(3) Penalties related to a denied application will be considered due to the applicant's failure to apply for an Agreement in a timely manner.

(b) *Ratification of withdrawals.*

(1) Any withdrawals that require MARAD's consent made after the effective date of an Agreement and without MARAD's consent are automatically Non-qualified Withdrawals, unless MARAD subsequently consents to them by ratification;

(2) MARAD may ratify, as qualified, any withdrawal made under paragraph (1), provided the withdrawal would have resulted in MARAD's consent had it been requested before withdrawal;

(3) MARAD may issue retroactive consent, if appropriate. However, if MARAD does not issue retroactive consent for withdrawals made without consent, those withdrawals and any associated penalties will be deemed due to the party's failure to apply in a timely manner;

(4) A party must submit a request for withdrawal at least 45 days in advance of the expected withdrawal date;

(5) Withdrawals made without MARAD's consent or in reliance on obtaining MARAD's consent are made purely at a party's own risk;

(6) Should any withdrawal be made without MARAD's consent prove, for any reason, to be one that MARAD will not or cannot consent to ratify, then the result will be a Non-qualified Withdrawal or an involuntary termination of the Agreement or both;

(7) Should a party withdraw CCF funds for a project not previously deemed an eligible Schedule B objective without having first obtained MARAD's consent, MARAD may entertain an application to amend the Agreement's Schedule B objectives as the prerequisite to consenting by ratification to the withdrawal; and

(8) Redeposit of any withdrawals made without MARAD's consent, and for which such consent is not subsequently given (either by ratification or otherwise), is not permitted. If the Non-qualified Withdrawal adversely affects the Agreement's general status, MARAD may terminate the Agreement.

§ 390.15 Annual reporting and modification of agreement.

(a) *Annual reporting requirements.*

(1) Every party to an Agreement must file a final deposit and withdrawal

report annually for each Depository at the end of the tax year. Each report must be—

(i) Filed no later than 30 days after expiration of the due date for filing the party's Federal income tax return;

(ii) Made using a MARAD form (including all exhibits and, if applicable, a copy of the applicant's extension of time to file the tax return) using a separate form for each Depository; and

(iii) Include the certification of an independent certified public accountant to the effect that the report and supporting exhibits include all deposit and withdrawal activity and are prepared in accordance with all published orders, rules, regulations, and instructions issued by MARAD. Where there is no deposit or withdrawal activity with respect to a Depository during the party's tax year, a report must be submitted showing the lack of activity.

(2) Failure to submit the report will be cause for involuntary termination of the associated Agreement.

(3) MARAD may, at its discretion, after due notice, disqualify withdrawals and involuntarily terminate the Agreement of any participant that fails to submit the required annual report(s).

(b) *Modification of Agreement.*

(1) The Agreement is subject to modification and amendment by mutual consent. MARAD will normally agree to modification or amendment of the schedules unless such modification or amendment delays imposition of Federal income tax in a manner not contemplated or authorized by the Act, or if the proposed modification or amendment would not be in consonance with the policies of the Act, this part, or the Joint Regulations.

(2) MARAD may require a Non-qualified Withdrawal if the modification or amendment results in an amount held in the account in excess of an amount determined to be necessary to meet the Agreement's objectives.

§ 390.17 Automatic termination of agreement.

(a) If a Schedule B objective has not commenced within 10 years from the date the Agreement was established and the Agreement has not been extended by written approval of MARAD, the Agreement will be considered inactive and subject to termination; and

(b) If the account balance of all depositories of an Agreement is zero dollars 10 years after the date it was established, and the Agreement has not been extended through amendment, the Agreement will be considered inactive

and subject to termination unless a Schedule B objective has commenced.

§ 390.19 Maximum deposit amounts and time to deposit.

(a) Deposits cannot be made once a party has deposited 100 percent of the anticipated cost of all Schedule B objectives unless the Agreement is then amended to establish additional Schedule B objectives.

(b) MARAD will permit deposits of any given Schedule B objective to accumulate for a maximum of 25 years.

§ 390.21 CCF Accounts.

(a) *General.* Each CCF account in a scheduled depository will have an account number that must be reflected in the reports required in section 390.15. All CCF accounts must be reserved only for CCF transactions. Intermingling of CCF and non-CCF transactions is prohibited.

(1) CCF accounts may not be pooled without the prior consent of MARAD; and

(2) Safe deposit boxes, safes, or the like are not eligible as CCF depositories without MARAD's consent, which may be granted solely at MARAD's discretion.

(b) *Assignment.* The use of funds held in a CCF depository for transactions structured as a countervailing balance, compensating balance, pledge, assignment, or similar security arrangement without the prior written consent of MARAD will constitute a material breach of the Agreement.

(c) *Depositories.* Amounts in a CCF account must be kept in the depository or depositories specified in the Agreement and be subject to such trustee or other fiduciary requirements as MARAD may require. Unless otherwise specified in the Agreement, the party may select the type or types of accounts in which assets may be deposited.

(d) *Dual use account.* A CCF account may, with MARAD approval, serve in lieu of a restricted or reserve fund account required in connection with a financing through the Federal Ship Financing Program in accordance with 46 U.S.C. ch. 537 and MARAD implementing regulations. Approval will be conditioned upon the execution by the party of an Agreement, satisfactory in form and substance to MARAD, governing the dual use of the CCF account. Requests for permission to use a CCF account in this dual capacity must be made in writing to MARAD.

(e) *Timing of deposits.*

(1) All amounts deposited in the CCF account are presumed to have been deposited pursuant to an Agreement

unless, after an examination of the facts upon the request of the Commissioner of Internal Revenue or the Commissioner's delegate, MARAD determines otherwise. The Commissioner or the Commissioner's delegate will request such a determination where MARAD determines there is a substantial question as to whether a deposit is made in accordance with an Agreement;

(2) Deposits are not taxable for the applicable taxable year only when made in accordance with the Agreement and not later than the time provided in the Joint Regulations;

(3) A party may make deposits for any taxable year prior to the time provided in the Joint Regulations in accordance with the following:

(i) Amounts representing taxable income attributable to the operation of Agreement Vessels for a taxable year may be deposited at any time during such taxable year, and thereafter within the time provided for in the Joint Regulations, based upon the party's estimated Federal taxable income for such vessels for the entire taxable year;

(ii) Amounts representing net proceeds from the sale or other disposition (including mortgaging) with respect to Agreement Vessels may be deposited when received or accrued and thereafter within the time provided for in the Joint Regulations;

(iii) Amounts representing receipts from the investment or reinvestment of amounts held in a CCF account may be deposited when received or accrued and thereafter within the time provided for in the Joint Regulations; and

(iv) Amounts representing depreciation with respect to Agreement Vessels for a taxable year may be deposited at any time during such taxable year, and thereafter within the time provided for in the Joint Regulations.

(4) MARAD may require that deposits be made earlier than the latest time provided for in the Joint Regulations; and

(5) MARAD will require early deposits only when necessary for the party to meet its agreed upon obligations.

§ 390.23 Conditional consent to withdrawal qualification.

(a) MARAD may conditionally consent to the classification of a withdrawal that would otherwise be considered a Non-qualified Withdrawal as a Qualified Withdrawal. Such consent will be conditioned upon the timely submission to MARAD of the items requested in the conditional approval letter. Failure to provide these items in a timely manner will result in

the withdrawal being determined to be a Non-qualified Withdrawal, involuntary termination of the Agreement, or both.

(b) MARAD will administer a withdrawal subject to this section as follows:

(1) Any withdrawal from a CCF account that has not received conditional consent from MARAD or if the requestor does not timely provide the items required by the conditional approval letter is a Non-qualified Withdrawal.

(2) For the tax implications of a Qualified and Non-qualified Withdrawal, see the Act and the Joint Regulations.

(c) Prior written consent of MARAD is required before a withdrawal requested pursuant to this section may be made and not considered a Non-qualified Withdrawal.

§ 390.25 Sale or other disposition of agreement vessels.

(a) *Eligible Vessels.* Prior MARAD approval is not required for a party to an Agreement to sell or otherwise dispose (including the mortgage) of an Eligible Vessel but the party must provide written notification within 30 days after the sale or other disposition to include a description of the transaction, the identity of the transferee, the proceeds to be realized, the date of the transaction, and whether the proceeds will be deposited into the CCF account.

(b) *Qualified vessels.* (1) MARAD approval is required prior to the sale or other disposition (including the mortgage) of a Qualified Vessel.

(2) The sale or other disposition (including the mortgage) of a Qualified Vessel that has had its cost basis reduced within the last year using Qualified Withdrawals is prohibited.

(3) If MARAD determines that the sale or other disposition of a Qualified Vessel is in violation of this section, MARAD will require the following from the party to the Agreement:

(i) Payment of interest on the amount of the gain on the Qualified Vessel attributable to the basis reduction; and

(ii) The deposit into the CCF account of the net proceeds from the sale of the Qualified Vessel or deposit of the net proceeds from the mortgage of the Qualified Vessel for which Qualified Withdrawals from the CCF account have been made.

(4) For purposes of this section, *last year* is 365 calendar days from the date of final delivery or redelivery from the shipyard for new construction or reconstruction, respectively, or from the

date of first loading of the vessel for acquisition.

(c) *Sale or other disposition of Agreement Vessels to related persons.*

(1) Net proceeds from the sale or other disposition of an Agreement Vessel will be the fair market value of the vessel when the party and the purchaser are owned or controlled directly or indirectly by the same interests within the meaning of section 482 of the Internal Revenue Code of 1986, as amended, and implementing regulations. In such case, the party must furnish data to establish that the amount realized or to be realized is the fair market value; and

(2) Sufficient data must be submitted to support a MARAD determination of the fair market value including the original cost of the vessel, dates of original delivery, acquisition, and reconstruction (as applicable), cost of improvements, sales price, costs of sale, and any other information that would assist in making such determination.

§ 390.27 Failure to fulfill a substantial obligation under the agreement.

If MARAD determines that a party to an Agreement holder fails to fulfill a substantial obligation under the Agreement, MARAD will send a certified letter informing the party that the Agreement will terminate 60 days after the date of the letter unless the deficiencies identified in the letter are addressed to MARAD's satisfaction.

§ 390.19 Miscellaneous.

Wherever MARAD prescribes time constraints, the postmark date will control if mailed. If a courier service is used the date listed on the label will control.

By order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2026-19367 Filed 9-21-26; 8:45 am]

BILLING CODE 4910-81-P

**GENERAL SERVICES
ADMINISTRATION**

48 CFR Part 538

[GSAR Case 2026-G501; Docket No. GSA-GSAR-2026-0563; Sequence No. 1]

RIN 3090-AL13

**General Services Administration
Acquisition Regulation; GSAR
Implementation of Executive Order
14275, Federal Supply Schedule
Ordering Procedures**

AGENCY: Office of Acquisition Policy,
General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: GSA is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to move Federal Supply Schedule (FSS) ordering procedures from the Federal Acquisition Regulation (FAR) to GSAR part 538. This rule would direct ordering activities to use the FSS ordering procedures established by GSA.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before October 22, 2026 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to GSAR case 2026-G501 to: <https://www.regulations.gov> via the Federal eRulemaking portal by searching for "GSAR Case 2026-G501". Select the link "Comment Now" that corresponds with GSAR Case 2026-G501. Follow the instructions provided at the "Comment Now" screen. Please include your name, company name (if any), and "GSAR Case 2026-G501" on your attached document. If your comment cannot be submitted using <https://www.regulations.gov>, call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

To view the docket summary, click on "View docket" on the top left corner of the screen."

Instructions: Please submit comments only and cite GSAR Case 2026-G501, in all correspondence related to this case. Comments received generally will be posted without change to <https://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check <https://www.regulations.gov> approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Thomas O'Linn at GSARPolicy@gsa.gov or call 202-445-0390 and cite "GSAR Case 2026-G501". For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or GSARRegSec@gsa.gov. Please cite GSAR Case 2026-G501.

SUPPLEMENTARY INFORMATION:

I. Background

Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB); Department of Defense (DoD); General Services Administration (GSA); and National Aeronautics and Space Administration (NASA)

(collectively referred to as the Federal Acquisition Regulatory Council or FAR Council) are working to amend the FAR to implement Executive Order (E.O.) 14275, Restoring Common Sense to Federal Procurement. The E.O. directs the elimination of excessive acquisition regulations to stop the inefficient use of American taxpayer dollars. In response to E.O. 14275, the Office of Management and Budget issued memorandum M-25-26, Overhauling the Federal Acquisition Regulation. The Memo directed the FAR Council to complete a "revolutionary overhaul" of the FAR (herein referred to as "Revolutionary FAR Overhaul" or "RFO").

The FAR Council's RFO FAR case 2026-003 includes the complete revision to FAR part 8. FAR part 8, specifically FAR subpart 8.4, is where FSS ordering procedures are currently located. FAR case 2026-003 removes FSS ordering procedures and instead directs agencies to use the FSS ordering procedures provided by GSA. As a result, GSA is proposing to amend the GSAR to move FSS ordering procedures to GSAR part 538.

II. Discussion and Analysis

Currently, FAR part 8 contains requirements, guidance, and procedures for acquiring and using excess property and ordering products and/or services from Federal Prison Industries (FPI), AbilityOne participating nonprofit agencies, the Federal Supply Schedule (FSS) program, and the Government Publishing Office.

FAR case 2026-003 removes duplicative requirements, guidance, and procedures currently found in the FAR part 8 and directs agencies to rely on the requirements, guidance, and procedures provided by these sources.

The FSS program pursuant to 41 U.S.C. 152(3) is directed and managed by GSA. GSA develops and oversees FSS ordering procedures. Currently, FSS ordering procedures are codified in Chapter 1 of Title 48 of the CFR (see FAR subpart 8.4). FSS ordering procedures would be moved under this proposed rule to Chapter 5 of title 48 of the CFR. At the same time, FSS ordering procedures are being reorganized to harmonize with RFO efforts and improve readability. The removal of FSS ordering procedures from FAR part 8 provides GSA with the flexibility necessary to better manage FSS ordering procedures and support customers' use of the FSS program. A summary of proposed changes to existing FSS ordering procedures follows:

A. General

The changes to FSS ordering procedures reflect the principles of the RFO and address only the essential requirements for placing orders and establishing blanket purchase agreements (BPAs) against FSS contracts. These changes enhance the speed of acquisition and empower acquisition professionals to use innovative approaches to acquire products, services, and solutions under the FSS program.

B. Summary of changes

1. Statutory Requirements

The proposed rule retains GSA's statutory requirements and principles regarding the FSS program, including:

- 40 U.S.C. 501, Services for Executive Agencies
- 40 U.S.C. 1103 Note, Architectural and Engineering Services
- 41 U.S.C. 152(3), Competitive Procedures
- 41 U.S.C. 3302, Requirements for Purchase of Property and Services Pursuant to Multiple Award Contracts

2. Plain Language Requirements

The proposed rule reorganizes requirements and simplifies the text into plain language. This aligns with the Federal plain language guidelines as directed by the Plain Writing Act of 2010 (Pub. L. 111–274; 5 U.S.C. 301 note). Plain language efforts include:

- Changes to active voice.
- Edits to improve readability and clarity.
- Reorganization to present information more logically.
- Replacing the use of the term “shall” with “must” or “will,” as appropriate to impose requirements.

3. Harmonization With the RFO [for Federal Acquisition Regulation (FAR)]

The proposed rule harmonizes FSS ordering requirements with revisions being made by the FAR Council under their RFO FAR efforts. Revisions include updating cross-references and use of consistent language, where appropriate (e.g., harmonization with language used in RFO part 12 and subpart 16.5).

4. Improve Readability and Organization of Content

The proposed rule improves clarity, organization, and usability while preserving existing statutory authorities and long-standing FSS program policy. Specifically, the proposed rule reorganizes existing text into a more direct and streamlined format that is easier to read and allows ordering

activities to quickly and easily identify the requirements that apply to their specific acquisition. These efforts include:

- Creating a single unified approach to order placement based on dollar threshold vs. type of order. Currently, ordering requirements are spread across three different sections in FAR subpart 8.4 (i.e., FAR 8.405–1 (for products/services not requiring a Statement of Work—non-Blanket Purchase Agreement (BPA) orders); FAR 8.405–2 (for services requiring an SOW—non-BPA order); and FAR 8.405–3 (for orders against BPAs)). This reorganization ensures ordering procedures are logically grouped and do not include unnecessary repetition, thereby simplifying the regulatory structure and enhancing clarity for ordering activities; and
- Relocating Order-level materials (OLM) requirements from GSAR clause 552.238–115 into GSAR subpart 538.71. This reorganization ensures OLM order-level requirements are located with FSS ordering procedures, thereby ensuring ordering activities have awareness of these requirements.

III. Expected Impact of the Rule

This proposed rule creates no significant new or additional costs. The rule moves the procedures from the FAR to GSA and reorganizes and improves the readability of the language. The revisions proposed by this rule will significantly benefit the FSS program as a whole (i.e., GSA and VA, ordering activities, businesses interested in doing business with GSA, and existing FSS contractors).

The proposed rule streamlines the Federal Supply Ordering procedures at FAR 8.4 from over 10,000 words to approximately 2,600. Removing, reducing, and streamlining content ensures GSA, ordering activities, businesses interested in doing business with GSA, and existing FSS contractors don't:

- Waste time or effort navigating a maze of scattered instructions as currently required;
- Unnecessarily complete requirements not required by statute, executive order, or for sound procurement that don't support faster acquisitions or better results.

GSA anticipates that these revisions will result in qualitative benefits, such as:

- Increasing competition;
- Improving customer satisfaction and reduced customer costs (e.g., time) associated with ordering products, services, and solutions under the FSS program);

- Encouraging businesses to consider seeking an FSS contract;

- Reducing administrative costs for ordering activities and existing FSS contractors;

- Clarifying burdensome procedures, like FAR part 15 source selection procedures that don't apply to FSS orders (e.g., there is no requirement for evaluation plans, quotation scoring, or establishing a competitive range before communicating with quoters or soliciting revised quotations);

- Encouraging coordination between FSS contractors, such as through FSS contractor team arrangements and OLMs; and

- Encouraging an increase in the number and extent of offerings available under the FSS program.

GSA anticipates non-recurring costs associated with familiarization and training related to the rule. GSA anticipates these costs will apply to ordering activities and business concerns, including those interested in seeking a FSS contract and existing FSS contractors. These entities will likely need to take the time to familiarize themselves with the changes to FSS ordering procedures. Additionally, it is anticipated that GSA will need to update existing FSS program resources to reflect the revisions made under this proposed rule.

GSA calculates the estimated cost for ordering activities to familiarize themselves with the updates to FSS ordering procedures as \$1,390,830.¹ GSA calculates the estimated cost for existing FSS contractors and potential interested business concerns seeking to obtain a FSS contract to familiarize themselves with the updates to FSS ordering procedures as \$567,775.² GSA calculates the estimated cost for training and updating existing FSS program

¹ The anticipated costs is calculated as follows: estimated .5 hours * \$66.23 hourly rate * 42,000 (estimated impacted ordering entities). The hourly rate is based on GS–12 Step 5 base pay plus “Rest of US Locality Pay” plus “Fringe”. The hourly rate for GS–12 is \$66.23 (\$48.61 as a GS–12/step 5 salary OPM 2026 pay scale Rest of US, with a 36.25% (\$17.62) fringe factor pursuant to OMB memorandum M–08–13). The total estimated impacted entities is calculated by adding the approximate 42,000 Federal employees within the 1102, 1103 and 1104 job series (source OPM Federal Workforce Data).

² The anticipated costs is calculated as follows: estimated .5 hour * \$66.23 hourly rate * 16,700 (impacted entities). The hourly rate is based on GS–12 Step 5 base pay plus “Rest of US Locality Pay” plus “Fringe”. The hourly rate for GS–12 is \$66.23 (\$48.61 as a GS–12/step 5 salary OPM 2026 pay scale Rest of US, with a 36.25% (\$17.62) fringe factor pursuant to OMB memorandum M–08–13). The total estimated impacted entities is calculated by adding the approximate 14,445 active FSS contractors and approximate 2,700 annual offerors.

resources for purposes of reflecting these revisions as \$33,115.³

In whole, the movement of FSS ordering procedures from the FAR to the GSAR and the qualitative benefits outlined offset any new, de minimis non-recurring costs identified above.

IV. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action under section 3(f) of E.O. 12866 and, therefore, was subject to review under Section 6(b) of E.O. 12866.

V. Executive Order 14192

This proposed rule, if finalized as proposed, is not an E.O. 14192 regulatory action because it does not impose any more than de minimis regulatory costs. See discussion in the “Expected Impact of the Rule” section of this preamble.

VI. Regulatory Flexibility Act

GSA does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because this rule is to move to the GSAR, reorganize, and improve readability of existing ordering procedures related to FSS program currently found in FAR subpart 8.4. The underlying purpose of the rule remains the same (*i.e.*, supporting the placement of orders and establishment of blanket purchase agreements against FSS contracts). However, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared consistent with 5 U.S.C. 603.

The analysis is summarized as follows:

1. Reasons for the action.

OFPP, DoD, GSA, and NASA (collectively referred to as the Federal Acquisition Regulatory Council or FAR Council) are working to amend the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 14275, Restoring Common Sense to

Federal Procurement, and Office of Management and Budget issued memorandum M–25–26, Overhauling the Federal Acquisition Regulation. This effort is collectively referred to as the Revolutionary FAR Overhaul (RFO).

One of the FAR Council’s RFO efforts, specifically FAR case 2026–003, includes the complete revision to FAR part 8, which currently contains requirements, guidance, and procedures for ordering products and/or services from the following sources: Federal Prison Industries (FPI), AbilityOne participating nonprofit agencies, the Federal Supply Schedule (FSS) Program, and the Government Publishing Office. FAR case 2026–003 removes duplicative requirements, guidance, and procedures currently found in the FAR part 8 and has ordering activities rely on the requirements, guidance, and procedures provided by each source, instead. This approach simplifies the acquisition process for ordering activities when ordering from these sources and provides each of these sources with the flexibility to manage how customers use their programs (*e.g.*, the FSS Program).

As a result, GSA is proposing to amend the GSAR to move FSS ordering procedures to GSAR part 538.

2. Objective of, and legal basis for, the rule.

The rewrite of the FAR under the RFO represents a paradigm shift in federal acquisition. It emphasizes streamlining, clarity, and accessibility, while ensuring that the regulation focuses only on statutory mandates and foundational procurement principles. The RFO is designed to streamline compliance for contracting professionals, improve acquisition speed and agility, and reinforce mission outcomes over process formalities.

For purposes of moving FSS ordering procedures the GSAR, GSA is reorganizing and improving readability of existing requirements currently codified in FAR subpart 8.4. The proposed changes support the RFO objectives and do not create any new burden on the Government or industry. Instead, these changes simplify the requirements needed for customers to acquire products, services, and solutions from the FSS program, thereby making the acquisition process faster and more efficient.

The basis for the RFO, which encompasses the basis for this rule, is E.O. 14275, Restoring Common Sense to Federal Procurement. GSA’s authority for promulgation of ordering procedures for the FSS Program is 10 U.S.C. 3012(3); 40 U.S.C. 121(c); 40 U.S.C. 501; 41 U.S.C. 152(3); and 41 U.S.C. 3302.

These ordering procedures have been coordinated with The Administrator for Federal Procurement Policy in accordance with 41 U.S.C. 4104(c).

3. Description of, and estimate of, the number of small entities to which the rule will apply.

The proposed changes to the GSAR do not impose any new requirements or burdens on small business concerns. The proposed changes impact the internal procedures of the Government concerning the placement of orders and establishment of blanket purchase agreements under the FSS program. Therefore, the changes proposed by this rule are not expected to have a significant economic impact on a substantial number of small entities.

It is recognized that small business concerns seeking to do business with the Federal Government, specifically those seeking to obtain a FSS contract as well as existing FSS contractors will have to familiarize themselves with the updates to FSS ordering procedures. As of January 2026, there were 401,196 entities registered in the System for Award Management (SAM) that were small for at least one NAICS code they had selected. At the end of Fiscal Year 2025, there were approximately 14,000 active vendors holding a FSS contract (out of which approximately 12,400 (89 percent) were small business FSS contractors).

4. Description of projected reporting, recordkeeping, and other compliance requirements of the rule.

The proposed rule does not impose any new reporting, recording keeping, or compliance requirements.

5. Relevant Federal rules which may duplicate, overlap, or conflict with the rule.

The proposed rule, if finalized, would not duplicate, overlap, or conflict with other Federal rules.

6. Description of any significant alternatives to the rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the rule on small entities.

There are no significant alternatives that would minimize the impact of the rule on small entities.

The Regulatory Secretariat Division has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. The FAR Council invites comments from small business concerns and other interested parties on the expected impact of this proposed rule on small entities.

³ The anticipated costs is calculated as follows: estimated hours 500 * 66.23 hourly rate. The hourly rate is the same hourly rate used for the familiarization cost.

GSA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (GSAR Case 2026–G501), in correspondence.

VII. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 538

Government procurement.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.

Therefore, GSA proposes to amend 48 CFR part 538 as set forth below:

PART 538—FEDERAL SUPPLY SCHEDULE CONTRACTING

■ 1. The authority citation for 48 CFR Part 538 continues to read as follows:

Authority: 40 U.S.C. 121(c).

■ 2. Add subpart 538.71 to read as follows:

- Sec.
- 538.7100 Scope of subpart.
 - 538.7101 Definitions.
 - 538.7102 FSS program.
 - 538.7103 Procedures.
 - 538.7103–1 General requirements.
 - 538.7103–2 Acquisitions at or not more than the micro-purchase threshold.
 - 538.7103–3 Acquisitions exceeding the micro-purchase threshold, but not more than the simplified acquisition threshold (SAT).
 - 538.7103–4 Acquisitions exceeding the SAT.
 - 538.7104 Additional requirements.
 - 538.7104–1 FSS Blanket purchase agreements.
 - 538.7104–2 Order-level materials.
 - 538.7104–3 FSS Sole source justifications.
 - 538.7104–4 Items peculiar to one manufacturer.
 - 538.7105 Postaward requirements.

Subpart 538.71 Federal Supply Schedule Ordering Procedures

538.7100 Scope of subpart.

This subpart prescribes the procedures for placing orders and establishing blanket purchase agreements (BPAs) against Federal Supply Schedule (FSS) contracts. Learn more about the FSS program at <http://www.gsa.gov/schedules>.

538.7101 Definitions.

As used in this subpart—

Ordering activity means an entity that is eligible to place orders or establish BPAs against FSS contracts.

Order-level materials (OLMs) means products, services, and/or solutions (a combination of products and/or services) included in an order against an FSS contract or BPA in direct support of the primary purpose of the order or BPA, when the products, services, and/or solutions are not awarded on the contractor's FSS contract. OLMs do not include costs that are separately addressed elsewhere in the FSS contract (e.g., travel).

538.7102 FSS program.

(a) The procedures in this subpart are considered competitive procedures under the Competition in Contracting Act (see 41 U.S.C. 152(3) and 10 U.S.C. 3012(3)).

(b) Unless otherwise prescribed, FAR parts 5, 6, 14, 15, 16, and 19 do not apply to this subpart.

(c) Requirements that substantially or to a dominant extent specify performance of architect-engineer services (as defined in FAR 2.101) are not within scope of the FSS program (see 40 U.S.C. 1103 note).

(d) Two or more FSS contractors can combine their offerings and propose an FSS contractor team arrangement (CTA) to meet an ordering activity's needs, unless prohibited by the ordering activity.

(e) In performance of an FSS order, including orders under FSS BPAs, GSA has authorized FSS contractors to acquire products, services, or solutions from other FSS contracts, unless prohibited by the ordering activity. A separate authorization under FAR 8.105 is not required at the order level.

(f) GSA may establish special ordering procedures for a particular FSS schedule, category, or special item number (SIN). When established, the special ordering procedures will be identified within the applicable FSS, category, or SIN. Except when otherwise stated, special ordering procedures take precedence over the procedures in this subpart.

538.7103 Procedures.

These procedures apply to placing orders and establishing BPAs against FSS contracts. See 538.7104–1(e) for the procedures for placing orders against FSS BPAs.

538.7103–1 General requirements.

(a) Ordering activities must—

(1) Follow FAR parts 4, 7, and 11, to the extent necessary, for purposes of

planning, conducting market research, and defining their needs. For example, ordering activities may use FSS e-tools to search for and compare products, services, and solutions offered under the FSS program. Refer to 538.7104–4 if the requirement involves items peculiar to one manufacturer.

(2) Comply with the requirements of FAR 12.104(b) when placing an order on a time-and-materials or labor-hour basis.

(3) Based on the total estimated value of the acquisition, follow the applicable requirements in 538.7103–2 through 538.7103–4 and any applicable requirements in 538.7104.

(i) To solicit quotations for orders and BPAs against FSS contracts, issue a Request for Quotation (RFQ). A quotation is not an offer. Consequently, the procedures described in this subpart are not considered negotiations or source selection. RFQs must describe the requirement and the basis on which selection will be made. Ordering activities have broad discretion in establishing how quotations will be evaluated.

(ii) Ordering activities are not required to have evaluation plans, score quotations, or establish a competitive range before communicating with quoters or soliciting quotations. To maximize efficiency, ordering activities are encouraged to use innovative approaches when placing orders and establishing FSS BPAs, commensurate with the risk and complexity of the requirement. Learn more about innovative approaches in the Periodic Table of Acquisition Innovations at <https://acquisitiongateway.gov/periodic-table>.

(4) Check the System for Award Management (SAM.gov) for active contractor exclusion records prior to award.

(5) Document the file to the extent necessary to support the award decision, commensurate with the risk and complexity of the requirement, such as demonstrating that each quotation was fairly considered.

(6) Award the FSS order to (or establish the FSS BPA with) the FSS contractor that represents the best value (as defined by FAR 2.101). This may include considering the level of effort and the mix of labor proposed to perform a specific task being ordered.

(b) Ordering activities may—

(1) Set aside or otherwise place orders or establish FSS BPAs with small business concerns identified in FAR 19.000(a)(3).

(2) Seek further price discounts or other concessions before placing an order or establishing an FSS BPA.

(3) Place orders orally, ahead of written confirmation, when using the procedures in 538.7103–2 or 538.7103–3(a).

(4) Use the Governmentwide commercial purchase card or other authorized means—

(i) As a payment mechanism for orders, regardless of dollar amount, subject to any applicable limitations (*e.g.*, limitations established by the FSS BPA, ordering activity policies, or the Governmentwide commercial purchase card program).

(ii) To place orders, regardless of dollar amount subject to any applicable limitations (*e.g.*, limitations established by the FSS BPA, ordering activity policies, or the Governmentwide commercial purchase card program).]

(c) Ordering activities are not required to—

(1) Determine contractor responsibility at the order level or BPA level as contractor responsibility has been determined at the FSS contract level.

(2) Make a fair and reasonable price determination at the order level or BPA level for FSS products, services, or solutions priced in the contractor's FSS contract because FSS contract pricing has been determined fair and reasonable.

538.7103–2 Acquisitions at or not more than the micro-purchase threshold.

Place the order or establish the BPA with any FSS contractor that can meet the need. Although not required to solicit from a specific number of FSS contractors, ordering activities should attempt to distribute orders among FSS contractors.

538.7103–3 Acquisitions exceeding the micro-purchase threshold, but not more than the simplified acquisition threshold (SAT).

(a) When the product, service, or solution is clearly defined and is available for purchase at a fixed-price (*e.g.*, capability-as-a-service, subscription, training)

(1) Publish an RFQ on GSA's eBuy;

(2) Issue an RFQ to three or more FSS contractors; or

(3) Consider reasonably available information about the product, service, or solution offered by three or more FSS contractors.

(b) When the product, service, or solution is not clearly defined, involves OLMs, requires a statement of objectives, statement of work, or performance work statement, or is not available for purchase at a fixed-price—

(1) Publish an RFQ on GSA's eBuy; or

(2) Issue an RFQ to three or more FSS contractors.

(c) When the product, service, or solution is to be procured on a sole source basis, execute a justification in accordance with 538.7104–3(a).

538.7103–4 Acquisitions exceeding the SAT.

(a) Unless a justification is executed and approved in accordance with 538.7104–3(b)—

(1) Publish an RFQ on GSA's eBuy; or

(2) Issue an RFQ to as many FSS contractors offering the product, service, or solution as practicable, to reasonably ensure that quotations will be received from at least three FSS contractors. If fewer than three quotations are received, document the file by describing how no additional FSS contractors capable of meeting the need could be identified despite reasonable efforts taken.

(b) After award, provide prompt notification to unsuccessful quoters. If, within 3 days after receipt of the award notice, an unsuccessful quoter requests information on an award that was based on factors other than price alone, provide a brief explanation of the basis for award decision that explains why the unsuccessful quoter was not selected. *Day*, as used in this paragraph, has the meaning set forth at FAR 33.102.

538.7104 Additional requirements.

538.7104–1 FSS Blanket purchase agreements.

(a) *General.* FSS BPAs may be established with one or more FSS contractors to fill repetitive needs. Pricing is generally established as a discount off of the established FSS contract. When establishing multiple-award BPAs, one or more BPAs may be reserved for small business concerns identified in FAR 19.000(a)(3).

(b) *Content requirements.* FSS BPAs must, at a minimum, include—

(1) Sufficient detail about the need, such as scope of work or objectives;

(2) An ordering period, inclusive of any options or award terms;

(3) Ordering activity requirements (*e.g.*, invoicing, delivery, and discounts/other concessions) that are not otherwise included in the FSS contract; and

(4) Ordering procedures that—

(i) Identify the customers/individuals authorized to place orders and any limitations surrounding the placement of orders;

(ii) Ensure compliance with FAR 12.104(b) when placing an order on a time-and-materials or labor-hour basis; and

(iii) For multiple-award BPAs, ensure that orders exceeding the SAT are solicited from—

(A) All BPA holders; or

(B) As many BPA holders as practicable. If fewer than three BPA holders are solicited, document the reason.

(c) *Duration.* FSS BPAs may be established with an ordering period that extends beyond the current term of a contractor's FSS contract, so long as there are option periods in the contractor's FSS contract that, if exercised by the FSS contracting officer, will cover the FSS BPA's ordering period, including any options and award terms.

(d) *Review.* On an annual basis or prior to exercise of an option or award of an award term, FSS BPAs must be reviewed and a written determination made as to whether—

(1) The BPA still represents the best value;

(2) Estimated quantities, if applicable, or the total estimated value has been reached or exceeded;

(3) The BPA ordering procedures are being followed;

(4) Additional price discounts or other concessions can be obtained;

(5) The FSS contract, against which the BPA is established, is still in effect; and

(6) If OLMS are included in the BPA, whether

(i) Their pricing is still considered fair and reasonable;

(ii) They are still necessary; and

(iii) If OLMs are still necessary in the BPA, whether they should be added to the contractor's FSS contract.

(e) *Ordering.* When placing orders against FSS BPAs, follow the ordering procedures established by the FSS BPA.

538.7104–2 Order-level materials.

(a) *Mandatory requirements.* For OLMs to be included in an order or BPA—

(1) They must not be the primary purpose of the order or BPA. For administrative convenience, OLMs may be concentrated in individual orders under a BPA, provided they are not the primary purpose of the BPA itself.

(2) They must be clearly identified in the order and BPA as OLMs.

(3) The underlying FSS contract must include the OLM SIN.

(4) A fair and reasonable price determination must be made for each OLM at the order level or, if applicable, the BPA level. This determination—

(i) Is not required for OLMs acquired from other FSS contracts under 538.7102(e).

(ii) Is not required to be made prior to award of the order, but must be made prior to the FSS contractor acquiring the OLM.

(iii) May be based on a comparison of the quotes for OLMs received in response to the RFQ, information provided by the FSS contractor, or any other information available.

(5) The FSS contractor must have any necessary authorization before acquiring OLMs from other Government sources (see FAR 8.105). Authorization is not required for a FSS contractor to propose or acquire OLMs from other FSS contracts under 538.7102(e).

(6) OLMs may not be used to circumvent any limitations on the ordering activity's eligibility or authority to use the FSS program, such as the Cooperative Purchasing program or other initiatives which limit purchases to certain FSS categories.

(b) *Optional requirements.* The ordering activity should—

(1) Provide notification in the RFQ of any restrictions or conditions concerning OLMs, such as mandating or limiting the use of Government sources (see FAR 8.105).

(2) Include any requirements governing OLMs that are not otherwise included in the contractor's FSS contract or BPA, such as requirements for indirect costs and contract type requirements (see FAR 12.104(b)).

538.7104–3 FSS Sole source justifications.

Orders placed and BPAs established against FSS contracts are exempt from the competition requirements in FAR part 6. However, the ordering activity contracting officer must justify, in writing, placing an order or establishing a BPA exceeding the MPT on a sole source basis in accordance with this subsection.

(a) *Exceeding the MPT, but not more than the SAT.* Document the circumstances, including rationale, as to why only one source is reasonably capable of providing the products, services, or solutions (e.g., urgency, exclusive licensing agreements, items particular to one manufacturer).

(b) *Exceeding the SAT.* Document the circumstances, including sufficient detail and supporting rationale to support the statutory exception used. (1) *Statutory exceptions.* The exceptions permitting an order or an FSS BPA to be established on a sole source basis are:

(i) The need is of such unusual urgency that following the procedures in 538.7103–4 would result in unacceptable delays in fulfilling that need;

(ii) Only one source is capable of providing the products, services, or solution required at the level of quality required because the products, services, or solutions are unique or highly specialized;

(iii) The order or BPA must be issued on a sole source basis in the interest of economy and efficiency because it is a logical follow-on to an FSS order already issued or BPA already established on a competitive basis (see 538.7103–4);

(iv) It is necessary to place an order to satisfy a minimum guarantee; or

(v) A statute expressly authorizes or requires that the purchase be made from a specified source.

(vi) For DoD, NASA, and the Coast Guard, the order satisfies one of the exceptions permitting the use of other than full and open competition listed in 10 U.S.C. 3406(c)(5). The public interest exception may only be used when Congress is notified in accordance with 10 U.S.C. 3204(a)(7).

(2) *Publication requirements.* (i) Justifications must be made publicly available within 14 days after award, except—

(A) For justifications made under paragraph (b)(1)(i) of this subsection, which must be posted within 30 days after award; and

(B) When publication is not required in the event of extraordinary circumstances or where publication would compromise national security (e.g., would result in disclosure of classified information) or create other security risks.

(ii) Justifications must be made publicly available—

(A) At the Government-wide Point of Entry (GPE); and

(B) On the website of the ordering activity, which may provide access to the justifications by linking to the GPE; and

(C) For a minimum of 30 days.

(iii) Before publication, justifications must be carefully screened—

(A) To identify and remove any contractor proprietary data, including references and citations as are necessary to protect such proprietary data.

(B) To determine whether the justification, or portions of the justification, are exempt from publication under any of the exemptions to disclosure of information contained in the Freedom of Information Act (5 U.S.C. 552) and the prohibitions against disclosure contained in FAR part 24.

(c) *Documentation and approval.* Agency procedures may establish similar content and approval requirements as prescribed by FAR 16.507–6(d)(2) and FAR 16.507–6(e).

538.7104–4 Items peculiar to one manufacturer.

(a) *General.* An item peculiar to one manufacturer can be a particular brand

name, product, or a feature of a product, that is peculiar to one manufacturer.

(b) *Requirement.* Items peculiar to one manufacturer may only be acquired when—

(1) The particular brand name, product, or feature is essential to the ordering activity's requirements, and market research indicates other companies' similar products, or products lacking the particular feature, do not meet, or cannot be modified to meet, the ordering activity's need; and

(2) The file is documented accordingly—

(i) If the order is to be placed (or FSS BPA established) competitively, the file must be documented concerning the basis for restricting consideration to an item peculiar to one manufacturer, or

(ii) If the order is to be placed (or FSS BPA established) on a sole source basis, a justification must be executed in accordance with 538.7104–3.

538.7105 Postaward requirements.

(a) Under the Disputes clause of the FSS contract, the ordering activity contracting officer must—

(i) Consult with the FSS contracting officer prior to resolving a dispute arising under or relating to an FSS order that requires interpretation of material FSS contract terms or involves a significant FSS contract administration issue.

(ii) Issue the final decision in accordance with FAR 33.205–6.

(b) The ordering activity contracting officer should use the alternative dispute resolution (ADR) procedures (see FAR 33.205–8), to the maximum extent practicable.

[FR Doc. 2026–19331 Filed 9–21–26; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. NHTSA–2023–0031]

RIN 2127–AM20

Part 572; Anthropomorphic Test Devices; Test Device for Human Occupant Restraint 50th Percentile Adult Male Dummy (THOR–50M)

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This document supplements NHTSA's September 2023 notice of

proposed rulemaking to amend NHTSA's regulations to include an advanced crash test dummy (the Test Device for Human Occupant Restraint (THOR) 50th percentile adult male) by requesting comment on specifying an additional spine configuration and an alternative to the face foam, and announcing the availability of additional documents.

DATES: The documents referenced in this notification will be available in the docket as of September 22, 2026. You should submit your comments early enough to be received not later than October 22, 2026.

ADDRESSES: You may submit comments electronically to the docket identified in the heading of this document by visiting the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Alternatively, you can file comments using the following methods:

- **Mail:** Docket Management Facility: Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Suite W58–213, Washington, DC 20590.
- **Hand Delivery or Courier:** Docket Management, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Suite W58–213, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To be sure someone is there to help you, please call (202) 366–9826 or (202) 366–9317 before coming.
- **Fax:** (202) 493–2251.

Regardless of how you submit your comments, you should mention the docket number identified in the heading of this document.

Instructions: All submissions must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>. You may also access the docket at 1200 New Jersey Avenue SE, West Building, Room W58–213, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through

Friday, except Federal Holidays. Telephone: 202–366–9826 or 202–366–9317.

Confidential Business Information: If you claim that any of the information in your comment (including any additional documents or attachments) constitutes confidential business information within the meaning of 5 U.S.C. 552(b)(4) or is protected from disclosure pursuant to 18 U.S.C. 1905, please see the detailed instructions given under the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy Act: Please see the Privacy Act heading under the Regulatory Analyses section of this document.

FOR FURTHER INFORMATION CONTACT: For technical issues, you may contact Garry Brock at garry.brock@dot.gov. For legal issues, you may contact John Piazza at John.Piazza@dot.gov. You can reach these officials by phone at 202–366–1810. Address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

On September 7, 2023, NHTSA published a Notice of Proposed Rulemaking (NPRM) to amend NHTSA's regulations to include an advanced crash test dummy, the Test Device for Human Occupant Restraint (THOR) 50th percentile adult male (THOR–50M).¹ The dummy represents an adult male of roughly average height and weight and is designed for use in frontal crash tests. The documentation for the dummy, including engineering drawings, qualification procedures and specifications, and procedures for assembly, disassembly, and inspection (PADI), would be incorporated by reference in 49 CFR part 572, Anthropomorphic Test Devices.

On July 9, 2024, NHTSA published a Supplemental Notice of Proposed Rulemaking (SNPRM)² to announce the availability of additional research reports and a Memorandum of Understanding (MOU) supplementing the September 2023 NPRM. The research reports described NHTSA's evaluation of alternative configurations of the THOR–50M, including an alternative shoulder design to the patented SD–3 shoulder and an alternative thoracic deflection measurement instrumentation, and presented further analysis of an in-dummy data acquisition system. Under

the MOU, no restrictions will apply to copyrighted designs and drawings used as part of a NHTSA final rule issued under 49 CFR part 572 upon the effective date of the final rule. Similarly, no restrictions will apply to a patented design used as part of a NHTSA final rule issued under 49 CFR part 572 upon effective date of the final rule, if the final rule does not specify the use of another design as an alternative to the patented design. Based on the MOU, NHTSA tentatively concluded that it would be preferable if the final rule specifies only the SD–3 shoulder.

Since the NPRM, and in response to the NPRM comments, NHTSA has evaluated additional modifications to the dummy. The main modifications proposed in this notice are specifying the four-position spine as an alternative or replacement for the proposed spine and an updated face insert as an alternative to the proposed face foam. NHTSA is also proposing a minor modification to the upper arm to address a durability concern. These supplemental proposals are discussed below.

II. Four-Position Spine

The NPRM version of the THOR–50M spine contains a posture adjustment joint known as the lumbar spine pitch change mechanism (original spine), which allows the posture of the THOR–50M to be adjusted into various seating configurations in three-degree increments, including, but not limited to, four designated positions (erect, neutral, slouched, and super slouched). The NPRM also proposed an alternate configuration that accommodates use of an in-dummy data acquisition system (DAS).³

The original spine differs from the spine in THOR–50M units used in the European New Car Assessment Programme (Euro NCAP). Euro NCAP TB026 specifies a four-position lumbar spine box (four-position spine) that allows the spine to be set only in four distinct positions (erect, neutral, slouched, and super slouched). The four-position spine design accommodates the in-dummy installation of some DAS brands by providing a mounting surface for data loggers. Additional modifications to support cable routing and DAS

³ The proposed specifications were based on, but not necessarily limited to, the system installed in the majority of the NHTSA fleet of THOR–50M anthropomorphic test devices (ATDs) equipped with in-dummy DAS, which was manufactured by Diversified Technical Systems (DTS), under their product name “SLICE6.” The SLICE6 is not explicitly specified or called out by name, so that another system fitting with the defined specifications could also be utilized.

¹ 88 FR 61896.

² 89 FR 56251.

attachments are made throughout the dummies. THOR–50M units utilized in Euro NCAP are configured with a four-position spine and an in-dummy DAS.⁴

NHTSA is aware of two versions of the four-position spine, both of which are approved by Euro NCAP.⁵ Humanetics Innovative Solutions (Humanetics) manufactures a version of the four-position spine which contains patented elements.⁶ Kistler Group (Kistler) manufactures a different version of the four-position spine (*i.e.*, the specifications differ) for which Kistler does not hold a patent. NHTSA explained in the NPRM that it had tentatively decided not to specify the four-position spine because it had not tested with that spine, it was patented, and the original spine was more adjustable.

A. NPRM Comments on the Proposed Spine Specification

NHTSA received several comments on the proposed original spine specification in response to the NPRM. Several commenters (Automotive Safety Council [ASC], Partnership for Dummy Biomechanics [PDB], Mercedes-Benz Research and Development North America [Mercedes], General Motors [GM], Autoliv, Volkswagen [VW], the Alliance for Automotive Innovation [Auto Innovators], and Humanetics) requested that NHTSA align with Euro NCAP and allow use of the four-position spine. Commenters noted what they viewed as advantages of the four-position spine.

ASC, Auto Innovators, and GM commented that the four-position spine is easier to change with reduced risk of positioning errors. VW added that the four-position spine can be adjusted by a single user, whereas adjustment of the original spine requires an additional user. PDB, GM, and VW commented that incorrect adjustment of the original spine can result in damage. ASC, GM, and Autoliv commented that the positions available in the four-position spine are adequate for most applications, including qualification tests, a wide variety of crash test protocols, and global NCAP load cases.

ASC, PDB, Mercedes, VW, Autoliv, and Humanetics commented that the four-position spine allows integration of additional in-dummy DAS that are not possible with the original spine. Mercedes and VW commented further

that the four-position spine is required for use of in-dummy DAS based on a central DAS device (recorder) such as the Kistler Digital Transducer Interface (DTI) system.

Mercedes stated that it has extensive experience testing with a four-position spine and found the design to be equivalent to the original spine. It noted that all its THOR–50M dummies use a four-position spine manufactured by Kistler, which differs from the four-position spine manufactured by Humanetics. Mercedes commented and provided supporting evidence that the Kistler four-position spine has the same weight and center of gravity (CG) as the original spine. VW also commented that the four-position spine has the same geometry and dynamic properties as the original spine.

Humanetics commented that the weight, CG location, and moment of inertia (MOI) in its four-position spine closely match the original spine, and ASC and Humanetics commented that the proposed and four-position spines should provide equivalent performance if set in the same position. Humanetics provided data from qualification tests showing that dummies in both the four-position spine and original spine configurations meet the qualification specifications for the head, upper thorax, lower thorax, and abdomen test modes.

B. Additional NHTSA Research

In light of the NPRM comments, NHTSA has investigated whether the four-position spine is equivalent⁷ to the original spine. NHTSA is docketing two documents related to this effort.

One is an additional research report that is being placed in the crashworthiness research docket.⁸ The report provides an analysis of the Humanetics four-position spine and its equivalence to the original spine specified in the 2023 drawing package. NHTSA analyzed equivalence by comparing a dummy with the four-position spine to dummies with the

original spine. This included a comparison of the mass, CG, and MOI; responses in qualification tests; responses in Gold Standard 1 and 2 sled tests;⁹ and responses in frontal vehicle crash tests. The testing showed equivalence between the original spine and the four-position spine within expected test-to-test variation. NHTSA also conducted some of these same tests on a dummy manufactured by Kistler and equipped with the Kistler four-position spine. However, NHTSA encountered issues with durability of the dummy during testing and was therefore unable to evaluate the Kistler four-position spine fully. Accordingly, the test report only includes information from testing the Humanetics four-position spine. However, information on the tests of the Kistler four-position spine can be found in NHTSA's crash test database.¹⁰

The other document NHTSA is placing in the research docket contains updated dummy drawings reflecting the component changes necessary to incorporate the four-position spine, as well as additional minor modifications for an in-dummy DAS system.¹¹ These drawings show the overall assembly of the four-position spine and in-dummy DAS components. (The drawing package that is being docketed includes all the dummy drawings, not just those that have changes related to the four-position spine and in-dummy DAS.)

C. Proposed Spine Specification

In light of the NPRM comments and the supplemental research described above and in the docketed documents, NHTSA is now proposing to specify the Humanetics four-position spine as a permitted optional configuration.¹² If NHTSA were to adopt this proposal, there would be two separate drawing packages: one for the original spine and one for the four-position spine. NHTSA could perform compliance tests using a

⁹ The Gold Standard conditions are simplified sled tests used in biofidelity assessment and development of thoracic injury criteria. The Gold Standard 1 condition uses a 40 km/h 12g peak pulse, a standard lap and shoulder belt, and a rigid knee restraint. The Gold Standard 2 condition uses a 30 km/h 9g peak pulse, a 3 kN load-limited shoulder belt, a standard lap belt, and a rigid knee restraint.

¹⁰ Available at: <https://www.nhtsa.gov/research-data/research-testing-databases/#/biomechanics>, test numbers: 15258, 15259, 15260, 15261, 15265, 15266, 15267.

¹¹ “THOR–50th Percentile Male with In-Dummy DAS Frontal Crash Test Dummy (THOR–50M with In-Dummy DAS) Drawings, External Dimensions, and Mass Properties” in Docket No. NHTSA–2019–0106.

¹² Because the specifications for the Humanetics and Kistler four-position spines are not identical, the proposed specification would not accommodate the Kistler four-position spine.

⁴ Previous versions of this document were referred to as TB 026, but it has been referred to as CP 106 since 2026.

⁵ Previous versions of this document were referred to as TB 029, but it has been referred to as G 003–1 and G 002–3 since 2026.

⁶ U.S. Patent No US9965977 and EP3040960.

⁷ In this context, equivalent means that the dummy components would provide the same form, fit, and function, and ultimately dummies in either configuration would provide the same results from a full-scale vehicle crash test. Two components would be considered equivalent if the variation in results from a given test is within the expected test-to-test variability of the test. In other words, the results of the test would not be dependent on which configuration of the dummy was tested.

⁸ “THOR–50M Four-Position Spine System Evaluation” in Docket No. NHTSA–2019–0106. As NHTSA explained in the NPRM, it is placing the documentation and reports in the research docket and not the rulemaking docket but nevertheless intends these documents to be included in the rulemaking record for this rulemaking action. See further explanation in 88 FR at 61904.

dummy with either configuration. The four-position spine configuration contains modifications to incorporate an in-dummy DAS, as described in the research report. The specifications for the in-dummy DAS are generic, so that any conforming in-dummy DAS could be installed. Humanetics' four-position spine was designed to accommodate multiple DAS brands; it would accommodate the SLICE6 DAS, as well as other brands. The four-position spine configuration would not accommodate an external DAS. This is because NHTSA's understanding is that users, including the test labs that NHTSA utilizes, prefer an in-dummy DAS.

Should users desire to test with an external DAS, the originally proposed drawing package with the original spine—which accommodates an external DAS—would still be incorporated into part 572. However, under this supplemental proposal, the configuration consisting of the original spine with an in-dummy DAS that was proposed in the NPRM would not be incorporated into part 572; the four-position spine with an in-dummy DAS would take its place. Again, this is because NHTSA is unaware of demand from users to test with this configuration, and the agency would prefer to test with the four-position spine utilizing an in-dummy DAS, which also enables harmonization with Euro NCAP ATDs.

Under this supplemental proposal, Humanetics would not need to provide either a notice of abandonment or letter of non-enforcement with respect to patented spine elements because the original spine would also be specified as a permissible alternate configuration.¹³ NHTSA has generally avoided specifying patented components or copyrighted designs in part 572 without securing agreement from the rights-holder for the free use of the item, licensing it on reasonable terms, or developing an alternative unencumbered by any rights claims. In this case, because there would be an alternative configuration (the original spine) free of any intellectual property claims, NHTSA tentatively believes that specifying a patented component would be acceptable.

Though NHTSA is now proposing to specify the original spine and the Humanetics four-position spine as permissible configurations, NHTSA is also considering two other regulatory options.

One regulatory alternative would be to specify only the Humanetics four-position spine. Under the Memorandum

of Understanding (MOU), Humanetics would provide either a notice of abandonment or letter of non-enforcement. The advantage of this approach (in addition to the advantages of the four-position spine) would be that, even though the two configurations are believed to be equivalent, it would rule out any possible variation between the two configurations in the event that NHTSA compliance testing was conducted using a different configuration than an OEM used for self-certification. The disadvantages would be that NHTSA and other industry members may already have THOR-50M dummies configured with the original spine, and would need to perform costly updates to these dummies to use them for compliance or self-certification purposes.

The other regulatory alternative would be to specify only the original spine. The advantage of this approach would minimize the risk of disparate outcomes if different configurations were used in compliance and self-certification testing. It would also reduce risk in that NHTSA has more experience testing with the original spine configuration than the four-position spine configuration. The disadvantages would be that the benefits of the four-position spine would not be realized.

NHTSA seeks comment on all aspects of this supplemental proposal and regulatory alternatives. NHTSA also seeks comments and any additional data on the equivalency between the Humanetics four-position spine and the original spine.

D. Technical Data Package

NHTSA is docketing an alternative dummy drawing package that specifies the four-position spine assembly and other modifications related to the in-dummy DAS.¹⁴ Therefore, if NHTSA adopts the proposal, there would be two dummy drawing packages: one with the original spine and an external DAS, and one with the four-position spine and an in-dummy DAS.

After consideration of the comments that it receives in response to this SNPRM, NHTSA will make changes to the qualification procedures and PADI previously submitted as materials Incorporated by Reference. If NHTSA decides to include the four-position spine, NHTSA would also update the qualification procedures and PADI accordingly. For the qualification procedures, this would involve adding a section for setting the four-position

spine, similar to the discussion currently in section 3, ATD Adjustment. For the PADI, this would include adding a section describing how to install the four-position spine in place of the original spine and a discussion of components which can be switched to incorporate in dummy DAS. If NHTSA decides not to include the original spine, references to the original spine will be removed from both documents. NHTSA intends to update the references to the material incorporated by reference in the final rule regulatory text, but make no other changes to the regulatory text proposed in the September 2023 NPRM.

III. Face Insert

The NPRM proposed use of a confor memory foam (confor face foam) between the head skin and the face load cells on the skull. As the NPRM explained, the confor face foam has a few characteristics that necessitate care in qualification and crash testing. In the face impact qualification test, a fully-assembled THOR-50M is seated on a table and impacted on the face with rigid impactor. The test assesses the head CG accelerometers¹⁵ at a level of severity similar to that expected from vehicle crash tests. The qualification procedure specifies acceptance intervals (consisting of minimum and maximum values) for the peak probe force and peak head CG resultant acceleration. The foam progressively degrades after each impact so that the peak probe force and peak head resultant acceleration increases with each test. If the response of the confor face foam is initially below the lower bound of the acceptance interval, repeated tests can therefore bring it within the acceptance interval. A recovery period is needed after a dynamic impact to allow the foam to recover (partially). NHTSA's current protocol is to impact the confor face foam until it is within the acceptance interval, with a 24-hour wait period between qualification tests. After repeated impacts, the response of the foam will eventually exceed the upper bound of the acceptance interval, so that the foam must be replaced.

Euro NCAP does not use the face impact qualification test and instead visually checks the confor face foams for cracking or damage.

The following section discusses the comments received on the confor face foam; NHTSA testing to validate an alternative to the confor face foam; and

¹³ See 89 FR 56251 (July 9, 2024).

¹⁴ "THOR-50M 2026 SNPRM Drawing Packages" in Docket No. NHTSA-2019-0106.

¹⁵ The head CG accelerometers are used to calculate HIC₁₅, a head injury criterion that is based on the integration of resultant head acceleration over a 15-millisecond duration.

NHTSA's supplemental proposal for the face insert.

A. NPRM Comments Regarding Confor Face Foam

NHTSA received a number of comments in response to the 2023 NPRM regarding the proposed confor face foam. Mercedes, GM, PDB and Auto Innovators commented on the face impact qualification procedure and expressed concerns regarding the 24-hour recovery period and presence of damage on the foam. Mercedes and Auto Innovators proposed to omit the face impact test and to add an inspection procedure for the confor face foam according to Euro NCAP (Euro NCAP TB026).

GM commented that the 24-hour recovery period is not practicable for an organization that may be conducting a high volume of tests every week. GM commented in support of the development of a more durable facial insert. PDB commented that the conditioning/recovering time of the confor face foam of 24 hours is too long and not practicable, especially as this test causes serious problems (e.g., damage of the confor face foam). PDB commented that, if the confor face foam requires this time to recover, it should be replaced by another material. PDB also commented that the face impact qualification test could be removed because there is no available technical solution. PDB stated that, if there are no injury criteria required for the face, there is not a strong need for this test.

B. Additional NHTSA Research on Face Insert

Since the publication of the NPRM, Humanetics has developed a new face insert as an alternative to the confor face foam. The alternative face insert is a 3D-printed component comprised of thermoplastic polyurethane. The design incorporates an outer shell with a patterned infill. The face insert is designed to fit in the cavity between the head skin and the skull of the dummy.

In response to the comments regarding concerns with recovery time and use of the confor face foam, NHTSA has evaluated this face insert for use in THOR-50M. NHTSA's testing demonstrated similar weight, CG, and MOI as compared to the confor face foam. Face impact qualification testing showed that the face insert has advantages over the confor face foam, including that the face insert does not need to be struck multiple times before the response is within the corridor, and does not experience drift within the corridor with each successive impact. The 24-hour recovery period also was

not necessary. Qualification testing of three inserts also showed improved repeatability and reproducibility compared to the confor face foam, with limited variability between tests. Testing for durability at elevated energy did not cause damage to the face insert or change its response when re-tested at face impact qualification levels; the face insert therefore should not need frequent replacement. Results from this testing are provided in a research report NHTSA is placing in the crashworthiness research docket.¹⁶ Based on this evaluation, NHTSA has tentatively concluded that the face insert is equivalent to the confor face foam, and leads to repeatable and reproducible measurements.

C. Proposed Face Insert Specification

Because NHTSA has tentatively concluded that the face insert improves on the face foam in several respects while still leading to equivalent measurements, NHTSA is proposing to specify the face insert (drawing 472-1405, Face Insert, THOR-50M) as an alternative to the face foam (drawing 472-1401, Confor Foam, Face). Both the face insert and the confor face foam would be part of the drawing package, and the PADI would note the face insert as an alternate. The face insert drawing defines the overall shape, external dimensions across multiple cross sections, specifications with tolerances on mass, and performance specifications using a quasi-static compression test. This specification is intended to avoid over-specifying the face insert while allowing for technology-neutral solutions. The mass, CG, and MOI of the overall head assembly are also specified (drawing 472-0000, sheet 5). NHTSA anticipates conducting further testing on the face insert, including crash testing, in preparation for the final rule.

Although NHTSA has tentatively concluded that the face insert addresses the issues present with the confor face foam and is appropriate for inclusion in part 572, NHTSA recognizes that this is a new component with which dummy users other than NHTSA may not be familiar. NHTSA therefore tentatively believes it would be prudent to retain the confor face foam in the drawing package as a permissible optional configuration. As shown in a research report NHTSA is placing in the crashworthiness research docket,¹⁷ the qualifications specifications can be met using either the confor face foam or the

face insert, and the resulting Head Injury Criterion (HIC) values are in the same range for both configurations.

NHTSA has also tentatively decided to retain the face impact qualification test and not to follow Euro NCAP and specify a visual inspection procedure. Omitting the face impact test would mean that there is no objective method to check the system response of the head skin, confor face foam, and remainder of the head assembly during impact through the face. This is especially important because an impact to the face can influence the HIC injury metric, which is based on the resultant acceleration at the CG of the head.

NHTSA believes the Euro NCAP visual inspection procedure for the confor face foam is not sufficient. Besides potentially lacking objectivity,¹⁸ it assumes that the foam must have damage to be out of tolerance; this ignores the situation where there is no visible damage to the foam but the response does not meet the qualification specifications for other reasons (e.g., damage not visible on the exterior surface, or improper material specification).

Regarding commenters' concern with waiting 24 hours between qualification tests of the confor face foam, NHTSA notes that other qualification tests can be conducted during that 24-hour span; the 24-hour wait time is for the confor face foam, not using the ATD. In addition, the face foam could be swapped with another one. Regarding commenters' concerns about damage to the confor face foam, NHTSA tentatively believes that the approach for the confor face foam described in the NPRM (and summarized above) continues to be feasible, should users decide to use the confor face foam instead of the face insert.

NHTSA requests comment on all aspects of this proposal, including any information relating to users' experience with the face insert (e.g., usability, durability, test data, etc.), and whether the confor face foam should be retained as an alternate specification.

IV. Upper Arm Clevis

In response to the 2023 NPRM, Humanetics commented that the specification for the arm clevis assembly (472-3831) does not match Humanetics'

¹⁶ "THOR-50M Face Insert Report" in Docket No. NHTSA-2019-0106.

¹⁷ "THOR-50M Face Insert Report" in Docket No. NHTSA-2019-0106.

¹⁸ NHTSA is concerned with the difficulty in defining damage. The foam is a deformable material, which can have shape changes simply from handling it. There is subjectivity regarding what would qualify as damage and when a component needs to be replaced. This can result in the component being replaced more often than necessary or create uncertainty if a component can be used.

current production part. Humanetics commented that, in 2018, it implemented a design update to address a durability concern for the arm clevis. NHTSA conducted tests to assess the range of motion and the durability of the new upper arm clevis, finding both to be acceptable. NHTSA has tentatively decided to update the drawing package to include the current production upper arm clevis specified by Humanetics. NHTSA is not aware of a patent pertaining specifically to the new upper arm clevis design. However, the upper arm clevis is a component of the SD-3 shoulder, for which Humanetics has two patents. The SD-3 shoulder is subject to the MOU¹⁹ as described in the July 2024 SNPRM.²⁰ If NHTSA adopts its tentative conclusion that it would be preferable to specify only the SD-3 shoulder in the final rule, under the MOU Humanetics would provide to NHTSA either a notice of abandonment of the patent to the United States Patent and Trademark Office or a letter stating that the patent will not be enforced against any third-party use.

V. Rulemaking Analyses and Notices

Executive Order 12866 and DOT Rulemaking Procedures

NHTSA has considered the impact of this proposed rule under Executive Order (E.O.) 12866 and DOT's rulemaking procedures (49 CFR part 5). This rule does not meet the criteria of a "significant regulatory action" under E.O. 12866. Therefore, the Office of Management and Budget (OMB) has not reviewed this rule under that E.O. NHTSA has considered the qualitative costs and benefits of the proposed rule under the principles of E.O. 12866. For this discussion, the reader is referred to the NPRM preamble.²¹ Although this rulemaking does not require the use of the THOR-50M in regulatory or consumer information crash testing, the amendments proposed in this SNPRM would not impose any costs on those who choose to purchase and use the dummy. For users that have already purchased a THOR-50M with the original spine, they would not need to upgrade or purchase a new THOR-50M. For users purchasing a new THOR-50M, the two spine options would expand the dummy options available to manufacturers, and the four-position spine would allow installation of an in-dummy DAS that manufacturers are already familiar with and may already own. Furthermore, the proposed

optional face insert could reduce testing and part replacement costs should users choose to install the optional face insert in place of the confor foam insert. NHTSA requests comment on the costs and benefits of the amendments proposed in this SNPRM.

Executive Order 14192

E.O. 14192, *Unleashing Prosperity Through Deregulation* (90 FR 9065 (Jan. 31, 2025)), 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 (Mar. 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 would define the THOR-50M in part 572, but would not require its use, so it would not impose any regulatory burden. As this rule would not require its use, an entity would only choose to use and take on the costs associated with the THOR-50M if it was cost effective.

This regulatory action provides greater flexibility which can result in cost savings. In addition, Memorandum M-25-20 also states that "Regulatory activities associated with regulatory cooperation with foreign governments that reduce costs to entities or individuals within the United States, including at the border, or otherwise lower the cost of regulations on the United States economy, may qualify as E.O. 14192 deregulatory actions." The THOR-50M defined by this rulemaking action, particularly as amended by this SNPRM, shares many similarities with the test device used in foreign consumer information programs such as Euro NCAP. Using a similar crash test dummy in the United States would allow manufacturers to realize cost efficiencies in vehicle design and testing. As such, NHTSA expects this rule to be an E.O. 14192 deregulatory action.

Promoting International Regulatory Cooperation

The policy statement in section 1 of E.O. 13609 provides that the regulatory approaches taken by foreign governments may differ from those taken by the United States to address similar issues, and that, in some cases, the differences between them might not be necessary and might impair the ability of American businesses to export and compete internationally. It further recognizes that, in meeting shared challenges involving health, safety, and other issues, international regulatory cooperation can identify approaches

that are at least as protective as those that are or would be adopted in the absence of such cooperation and can reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

In addition, section 24211 of the Infrastructure Investment and Jobs Act (Pub. L. 117-58), Global Harmonization, provides that DOT "shall cooperate, to the maximum extent practicable, with foreign governments, nongovernmental stakeholder groups, the motor vehicle industry, and consumer groups with respect to global harmonization of vehicle regulations as a means for improving motor vehicle safety."

This proposed change would align with some, but not all, of the specifications of the THOR-50M used internationally in NCAP programs. The proposed use of the four-position spine would align with the Euro NCAP THOR-50M specification.²² However, NHTSA is not proposing to align with the confor face foam visual inspection procedure for reasons explained in the preamble. NHTSA is also not proposing to align with the use of the Hybrid III 50th lower leg and knee slider for reasons explained in the NPRM.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601-612) (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601, *et seq.*), for any rulemaking where publication of a proposed rule is required by 5 U.S.C. 553 or any other law, agencies must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). No regulatory flexibility analysis is required, however, if the head of an agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this rulemaking under the Regulatory Flexibility Act. I hereby certify that this rulemaking action would not have a significant economic impact on a substantial number of small entities. This action would not have a significant economic impact on a substantial number of small entities because the addition of the test dummy to part 572 would not impose any requirements on anyone. This rulemaking only proposes to include the dummy in NHTSA's

¹⁹ NHTSA-2023-0031-0021.

²⁰ 89 FR 56251.

²¹ 88 FR 61896, 61945-46 (Sept. 7, 2023).

²² Euro NCAP Technical Bulletin CP 106, Version 2.1, July 2025.

regulation for crash test dummies; it does not propose NHTSA's use of the ATD in agency testing or to require anyone to manufacture the dummy or to test motor vehicles or motor vehicle equipment with it. Therefore, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of regulatory actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$214 million (the value equivalent of \$100 million in 1995, adjusted for inflation to 2026 dollars) or more in any one year. This proposed rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and Tribal governments, or the private sector of \$206 million or more in any one year. Thus, the analytical requirements of the UMRA do not apply to this action.

Executive Order 13175

E.O. 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. NHTSA has assessed the impact of this proposed rule on Indian tribes and determined that this rule would not have Tribal implications that require consultation under E.O. 13175.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number. This proposed rule would not impose any additional information collection requirements.

E-Government Act Compliance

NHTSA is committed to complying with the E-Government Act, 2002 to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other

purposes. The E-Government Act of 2002 (Pub. L. 107–347, sec. 208, 116 Stat. 2899, 2921, Dec. 17, 2002), requires Federal agencies to conduct a privacy impact assessment for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this proposed rule. Accordingly, NHTSA has not conducted a privacy impact assessment.

Federalism

NHTSA has examined this proposed rule pursuant to E.O. 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the proposed rule would not have federalism implications because the proposed rule 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.” This proposed rule would not impose any requirements on anyone. Businesses will be affected only if they choose to manufacture or test with the dummy.

Further, no consultation is needed to discuss the preemptive effect of this proposed rule. Although NHTSA's safety standards can have preemptive effect, the proposed rule would amend 49 CFR part 572 and is not a safety standard. This part 572 proposed rule would not impose any requirements on anyone.

National Environmental Policy Act

The Department has analyzed the environmental impacts of this final rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*). NHTSA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4). Categorical exclusions are categories of actions that the agency has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See DOT Order 5610.1D § 9. In analyzing the applicability of a categorical exclusion (CE), the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* § 9(b). Each Operating Administration (OA) of DOT may apply

CEs established in another OA's procedures. *Id.* § 9(f). To do so, the OA “must evaluate the action for extraordinary circumstances identified in the OA procedures in which the CE is established to determine if a normally excluded action may have a significant impact and coordinate with the originating OA to ensure that the CE is being applied correctly.” *Id.* This rulemaking, which would add a new crash test dummy to NHTSA's regulations, is categorically excluded pursuant to 23 CFR 771.118(c)(4): “Planning and administrative activities not involving or leading directly to construction, such as: Training, technical assistance and research; promulgation of rules, regulations, directives, or program guidance; approval of project concepts; engineering; and operating assistance to transit authorities to continue existing service or increase service to meet routine demand.” NHTSA has coordinated with the Federal Transit Administration (FTA) to ensure that this CE is being applied correctly. NHTSA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b)(2) of E.O. 12988, “Civil Justice Reform” (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General.

NHTSA has reviewed this rulemaking action and determined that it conforms to the applicable standards in section 3(b)(2) of E.O. 12988, Civil Justice Reform. The issue of preemption is discussed above in connection with E.O. 13132 (Federalism). NHTSA believes that this final rule specifies clearly the changes that would be made to part 572, defines any necessary key terms, and provides a clear legal standard for manufacturers to follow. The amendments do not take effect retroactively. NHTSA notes further that there is no requirement that an

individual submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), “[A]ll Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.” Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as SAE (formerly, the Society of Automotive Engineers). The NTTAA directs this agency to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

There are no technical standards with regard to the THOR–50M spine box.

Plain Language

E.O. 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public’s needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Regulation Identifier Number (RIN)

DOT assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions. The Regulatory Information Service Center publishes the Unified Agenda. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to inform its rulemaking process better. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL–14 FDMS, accessible through www.dot.gov/privacy. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, or other organizations). For information on DOT’s compliance with the Privacy Act, see <https://www.transportation.gov/privacy>.

Rule Summary

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at regulations.gov, Docket No. NHTSA–2023–0031, in the **SUMMARY** section of this proposed rule.

Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the docket, please include the docket number indicated in this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). NHTSA established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

If you are submitting comments electronically as a PDF (Adobe) file, NHTSA asks that the documents be submitted using the Optical Character Recognition (OCR) process, thus allowing NHTSA to search and copy certain portions of your submissions.

Please note that pursuant to the Data Quality Act, in order 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, NHTSA encourages you to consult the guidelines in preparing your comments. OMB’s guidelines may be accessed at <https://www.transportation.gov/regulations/>

dot-information-dissemination-quality-guidelines.

How can I be sure that my comments were received?

If you wish the docket to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, the docket will return the postcard by mail.

How do I submit confidential business information?

You should submit a redacted “public version” of your comment (including redacted versions of any additional documents or attachments) to the docket using any of the methods identified under **ADDRESSES**. This “public version” of your comment should contain only the portions for which no claim of confidential treatment is made and from which those portions for which confidential treatment is claimed has been redacted. See below for further instructions on how to do this.

You also need to submit a request for confidential treatment directly to the Office of Chief Counsel. Requests for confidential treatment are governed by 49 CFR part 512. Your request must set forth the information specified in part 512. This includes the materials for which confidentiality is being requested (as explained in more detail below); supporting information, pursuant to § 512.8; and a certificate, pursuant to § 512.4(b) and part 512, appendix A.

You are required to submit to the Office of Chief Counsel one unredacted “confidential version” of the information for which you are seeking confidential treatment. Pursuant to § 512.6, the words “ENTIRE PAGE CONFIDENTIAL BUSINESS INFORMATION” or “CONFIDENTIAL BUSINESS INFORMATION CONTAINED WITHIN BRACKETS” (as applicable) must appear at the top of each page containing information claimed to be confidential. In the latter situation, where not all information on the page is claimed to be confidential, identify each item of information for which confidentiality is requested within brackets: “[].”

You are also required to submit to the Office of Chief Counsel one redacted “public version” of the information for which you are seeking confidential treatment. Pursuant to § 512.5(a)(2), the redacted “public version” should include redactions of any information for which you are seeking confidential treatment (*i.e.*, the only information that should be unredacted is information for

which you are not seeking confidential treatment).

NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the agency under part 512. Please do not send a hardcopy of a request for confidential treatment to NHTSA's headquarters. The request should be sent to Dan Rabinovitz in the Office of the Chief Counsel at Daniel.Rabinovitz@dot.gov. You may either submit your request via email or request a secure file transfer link. If you are submitting the request via email, please also email a courtesy copy of the request to John Piazza at john.piazza@dot.gov.

Will the agency consider late comments?

We will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that the docket receives after that date. If the docket receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by the docket at the address given above under **ADDRESSES**. The hours of the docket are indicated above in the same location. You may also see the comments on the internet. To read the comments on the internet, go to <https://www.regulations.gov>. Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, NHTSA will continue to file relevant information in the docket as it becomes available. Further, some people may submit late comments. Accordingly, NHTSA recommends that you periodically check the docket for new material. You can arrange with the docket to be notified when others file comments in the docket. See www.regulations.gov for more information.

Issued under authority delegated in 49 CFR 1.95.

Jonathan Morrison,
Administrator.

[FR Doc. 2026-19370 Filed 9-21-26; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 260917-0005]

RIN 0648-BO36

Fisheries of the Caribbean, Gulf of America, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic; Regulatory Amendment 37

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS seeks public comment on proposed regulations to implement Regulatory Amendment 37 under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP). If implemented by NMFS, Regulatory Amendment 37 and this proposed rule would revise several management measures for black sea bass in South Atlantic Federal waters. The purpose of these proposed regulatory changes is to immediately address declining abundance and landings of black sea bass while stock assessment updates are completed and separate longer-term actions are developed.

DATES: Written comments must be received on or before October 22, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2026-1651>. You may submit comments on this document, identified by NOAA-NMFS-2026-1651, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type NOAA-NMFS-2026-1651 in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Mary Vara, NMFS, Southeast Regional Office, Sustainable Fisheries Division, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period will 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, 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.

An electronic copy of Regulatory Amendment 37, which includes an environmental assessment, Regulatory Flexibility Act (RFA) analysis, and regulatory impact review, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/management-plan/south-atlantic-snapper-grouper-fishery-management-plan>.

The unique identification number for the environmental review for Regulatory Amendment 37 is EAXX-006-48-1SE-1776431448.

FOR FURTHER INFORMATION CONTACT:

Mary Vara, telephone: 727-824-5305, or email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS, in collaboration with the South Atlantic Fishery Management Council (Council), manages the South Atlantic snapper-grouper fishery, which includes black sea bass, in Federal waters under the FMP. The FMP was prepared by NMFS and the Council, and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Magnuson-Stevens Act requires that NMFS and the regional fishery management councils prevent overfishing and continually achieve the optimum yield from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act also requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable.

This action is proposed under the statutory authority of the Magnuson-Stevens Act, section 303(a)(1)(A) as necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to promote the long-term health and stability of the fishery.

All weights described in this proposed rule are in round weight. The metric conversion for the imperial measurement used in this document is

1 pound (lb) equals approximately 0.45 kilograms.

Background

The snapper-grouper fishery includes the South Atlantic stock of black sea bass from 35°15.19' N latitude, which is due east of Cape Hatteras Light, North Carolina, southward to the Council's jurisdictional boundary at the Florida Keys. Black sea bass occurring in Federal waters north of 35°15.19' N latitude is a separate stock, which is managed under a different fishery management plan and regulations. Regulatory Amendment 37 and this proposed rule apply to South Atlantic black sea bass in Federal waters only and respond to declines in stock abundance and landings.

South Atlantic black sea bass was previously listed as overfished throughout the 2000s, a 10-year rebuilding plan was implemented in 2006, and the stock was rebuilt in 2013. Amendment 11 to the Snapper-Grouper FMP set the existing maximum sustainable yield (MSY) based proxies used to determine the overfishing and overfished status of black sea bass based on the fishing mortality rate and spawning stock biomass (SSB) that correspond with a reproductive capacity equal to 30 percent of the spawning potential ratio (SPR) of an unfished population (SSB30%_{SPR}). In 2018, NMFS determined, based on the stock assessment completed the same year for South Atlantic black sea bass, Southeast Data, Assessment, and Review (SEDAR 56), that the stock was not undergoing overfishing and not overfished but was below the threshold of the SSB that can produce long-term MSY. In 2023, SEDAR 76 was completed using data through 2021. SEDAR 76 concluded that the stock was subject to overfishing and was overfished. Following the assessment, NMFS recommended that the Council develop measures to improve stock health, as well as a plan to rebuild the black sea bass stock.

Due to concerns from the Council and its Scientific and Statistical Committee (SSC) over assumptions of catch level projections in SEDAR 76, the SEDAR 76 Update was developed between 2023 and 2025. During this time, in March 2024, the Council initiated development of Amendment 56 to the FMP in preparation for catch level recommendations from the SEDAR 76 Update. In 2025, the SEDAR 76 Update was completed using data through 2023 and some additional modeling changes from SEDAR 76. The March 2025 SEDAR 76 Update found that the stock was overfished and overfishing was occurring. The Council's SSC provided

an acceptable biological catch (ABC) recommendation, based on that update assessment. After reviewing the assessment and related ABC recommendation, the Council asked NMFS' Southeast Fisheries Science Center (SEFSC) to further investigate and consider updating several data inputs, including recreational catch estimates, which are expected to be revised in 2026. In response, the SEFSC is revising the SEDAR 76 Update assessment and is scheduled to bring these revisions before the SSC in late 2026, after which the Council will receive ABC advice and updated projections for longer-term advice. The Council paused work on Amendment 56 pending completion of the assessment revisions.

While modifications to and subsequent review of the stock assessment are being conducted, NMFS recognizes the persistent, strong declines in biomass, abundance, fishery-independent indices, and landings, as reflected in the SEDAR 76 Update. To limit this decline in the short-term, the Council developed Regulatory Amendment 37 to: (1) reduce directed fishing mortality, and (2) increase spawning output and recruitment through a spawning season closure. NMFS has reviewed Regulatory Amendment 37 and pursuant to 304(b)(1)(A) of the Magnuson-Stevens Act now issues this proposed rule. To reduce directed fishing mortality, this proposed rule would establish annual catch targets (ACTs), revise AMs to limit commercial and recreational harvest to the new ACTs, and lower the recreational bag limit. Additionally, black sea bass and other winter spawning species in the South Atlantic such as gag and scamp are experiencing recruitment declines. Therefore, Regulatory Amendment 37 recommends that NMFS establish a seasonal spawning closure for both the commercial and recreational sectors during the months of February and March to protect spawning fish and increase stock recruitment.

Management Measures Contained in This Proposed Rule

NMFS seeks public comment on the following proposed management measures for black sea bass.

Commercial and Recreational ACTs

An ACL is the maximum amount of fish that can be harvested in a given year and is set at a level intended to ensure overfishing does not occur. An ACT is a management-focused target set below the ACL to create a buffer against overharvesting and account for

management uncertainty. Currently, the South Atlantic black sea bass commercial ACL is 276,490 lb, and the recreational ACL is 366,510 lb. There are no sector ACTs currently in place for South Atlantic black sea bass. While landings have not reached or exceeded the current ACLs since the 2018 assessment, the stock's abundance estimates have continued to trend downward, indicating that fishing mortality needs to be lowered to increase the SSB of the black sea bass stock. Therefore, if implemented by NMFS, this proposed rule would establish commercial and recreational ACTs below the ACLs and recent harvest levels. ACTs for each sector would be set at 50 percent of the average annual landings for the 5 most recent years of available catch information as detailed in Regulatory Amendment 37. The commercial ACT would be 48,557 lb and the recreational ACT would be 63,143 lb.

Commercial Accountability Measures

The current in-season AM requires NMFS to close the commercial season if landings of black sea bass are projected to reach the commercial quota, which is equal to the commercial ACL, during a fishing year. This proposed rule would revise the commercial AMs so that the commercial season would close if NMFS projects that landings will reach the proposed commercial ACT during a fishing year. The current post-season AM to reduce the following year's commercial ACL by the amount of any overage would not change.

Under the proposed commercial ACT and AM, a commercial in-season closure could be triggered more frequently because the commercial ACT is likely to be met earlier during the season than the current commercial ACL. A commercial ACT set at 50 percent of recent landings could increase the occurrence of in-season commercial closures. In the short term, economic benefits would decrease. There could be long-term economic benefits to the commercial industry through improvements to the status of the black sea bass stock.

Recreational Accountability Measures

Under the current recreational AMs, NMFS sets the recreational season length based on when landings are projected to reach the recreational ACL and announces the end date for the recreational fishing season in the **Federal Register** before the recreational fishing year begins on April 1. This proposed rule would continue to require that NMFS project and announce the recreational season length; however, the

projection would be based on when NMFS estimates recreational landings would reach the proposed recreational ACT.

Over the past 5 years, average recreational landings have only been about one-half of the recreational ACL. Since the recreational sector ACT is notably lower than the sector ACL currently in place, NMFS may announce shorter seasons in the future. This would reduce recreational landings relative to recent levels, which could be expected to reduce fishing mortality from harvest of black sea bass. The proposed ACTs would restrict landings which can result in decreased net economic benefits if harvest decreases. However, in the long term, the ACTs may contribute to improving the status of the black sea bass stock, which would allow for long-term economic benefits.

Seasonal Spawning Closure

Currently, there are no commercial or recreational seasonal spawning closures for black sea bass in or from South Atlantic Federal waters south of Cape Hatteras, North Carolina. However, commercial black sea bass pots are prohibited in certain areas from November 1 through April 30 to minimize gear interactions with migrating whales. This proposed rule would establish a seasonal spawning closure for both the commercial and recreational sectors during the months of February and March. During the spawning closure, the commercial sale, purchase, harvest, or possession of black sea bass in or from South Atlantic Federal waters south of Cape Hatteras, North Carolina, would be prohibited and the commercial trip limit would be zero. During the closed months, the recreational harvest or possession of black sea bass in or from South Atlantic Federal waters south of Cape Hatteras, North Carolina, would be prohibited and the bag and possession limits would be zero.

Spawning season closures are intended to protect and increase the stock biomass by allowing fish to spawn without any fishing mortality from harvest (though there may still be some fishing mortality from fish that are caught and released). The months of February and March were chosen because they overlap with the peak spawning season for black sea bass (February-April), and closures for several other snapper grouper species, some of which are caught with black sea bass, also occur during these months. Including black sea bass in a closure with other snapper-grouper species could reduce discards.

Recreational Bag Limit

The current recreational bag limit for black sea bass, which applies to each person per day, is seven fish. This proposed rule would reduce the recreational bag limit to three fish. The bag limit applies to all anglers who harvest black sea bass from Federal waters south of Cape Hatteras, North Carolina, and for anglers on federally permitted charter and headboat vessels, regardless of whether black sea bass are harvested from state or Federal waters. Constraining recreational harvest by means of bag limits could result in positive long-term biological benefits by reducing fishing mortality.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Regulatory Amendment 37, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the RFA. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action is contained in this **SUPPLEMENTARY INFORMATION** section of the preamble. A summary of the IRFA follows. All monetary estimates in the following analysis are in 2024 dollars. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule.

This proposed rule would implement the following measures for South Atlantic black sea bass: (1) establish a commercial ACT of 48,557 lb and a recreational ACT of 63,143 lb; (2) revise the in-season AM for the commercial sector, such that if NMFS estimates that commercial landings will reach the commercial quota, set at the proposed commercial ACT, during a fishing year NMFS will close the commercial harvest for the remainder of the fishing year; (3) revise the in-season AM for the

recreational sector, such that NMFS will project the length of the recreational fishing season based on when NMFS estimates the proposed recreational ACT will be met and announce the recreational fishing season end date in the **Federal Register** prior to the start of the recreational fishing year begins on April 1; (4) establish a commercial seasonal closure from February 1 through March 31 during which commercial sale, purchase, harvest, or possession of black sea bass in or from South Atlantic Federal waters south of Cape Hatteras, North Carolina, is prohibited and the commercial trip limit is zero; (5) establish a recreational seasonal closure from February 1 through March 31 during which recreational harvest or possession of black sea bass in or from South Atlantic Federal waters south of Cape Hatteras is prohibited and the bag limit is zero; and (6) reduce the recreational bag limit from seven to three fish per person per day.

Action 1 would apply to all commercial fishing businesses, for-hire fishing businesses, and recreational anglers that fish for black sea bass in Federal waters of the South Atlantic. Actions 2 and 4 would only apply to commercial fishing businesses. Finally, actions 3, 5, and 6 would only apply to for-hire fishing businesses and recreational anglers. None of the proposed changes would directly apply to federally permitted dealers. Any change in the supply of black sea bass available for purchase by dealers as a result of the proposed rule, and associated economic effects, would be an indirect effect of the proposed rule and would therefore fall outside the scope of the RFA.

The RFA requires NMFS to describe the impact of the proposed rule on small entities (5 U.S.C. 603). Small entities include small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601(3)–(6)). Recreational anglers are not businesses, organizations, or governmental jurisdictions, so they are outside the scope of this analysis.

Any fishing vessel that harvests and sells any of the snapper-grouper species from South Atlantic Federal waters must have a valid South Atlantic commercial snapper-grouper permit, which is a limited access permit. In 2024, there were 508 valid or renewable South Atlantic snapper-grouper unlimited permits and 86 valid or renewable 225-lb (102-kg) trip-limited permits. On average from 2019 through 2023, there were 148 federally permitted commercial vessels with reported landings of South Atlantic black sea

bass. Ex-vessel revenue from landings of black sea bass averaged \$291,690 during this period, representing 2.9 percent of total ex-vessel revenue for the vessels that harvested black sea bass. The average total revenue per vessel from 2019 through 2023 was \$67,329. For commercial vessels that harvest black sea bass in the South Atlantic, NMFS estimates that economic profits are – \$1,279 or – 1.9 percent of annual gross revenue, on average. However, a negative economic profit does not automatically mean a vessel is losing money, running a negative cash flow, or operating at an accounting loss. Standard accounting tracks real cash coming in and going out. Economic profit goes a step further by including implicit costs, such as the unpaid value of the owner's time compared to what they could earn in their next best alternative. A negative economic profit simply means the business owner is earning less than they theoretically might in a different job or investment. The maximum annual revenue from all species reported by a single vessel that harvested black sea bass from 2019 through 2023 was \$445,119.

Although this proposed rule would apply to for-hire vessels, it would not be expected to have any direct effects on these entities. From 2019 through 2023, there were an average of 3,918 charter vessels that targeted black sea bass in the South Atlantic, which accounts for just under 3 percent of all recreational target trips for black sea bass. In contrast, an average of 45,952 charter vessel trips had landings of black sea bass from 2019 through 2023 (almost 12 times the number of target trips). This indicates that black sea bass are an incidentally harvested species and for-hire vessels do not typically sell targeted trips for these fish. Therefore, NMFS does not expect the proposed changes to the black sea bass management measures to directly alter the services sold by these vessels. Any change in demand for these fishing services, and associated economic effects, as a result of this proposed rule would be a consequence of a change in anglers' behavior, secondary to any direct effect on anglers and, therefore, an indirect effect of the proposed rule. This indirect effect would fall outside the scope of the RFA. In summary, only the impacts on commercial fishing businesses will be discussed.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American

Industry Classification System code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. All of the commercial fishing businesses directly regulated by this proposed rule are believed to be small entities based on the NMFS size standard.

As stated earlier, this proposed rule would establish a commercial ACT of 48,557 lb and would revise the in-season AM for the commercial sector, such that if NMFS estimates that commercial landings will reach the commercial quota, set at the proposed commercial ACT, during a fishing year NMFS will close the commercial harvest of black sea bass for the remainder of the fishing year. Currently, the commercial AMs are triggered if NMFS estimates that landings during a fishing year will reach the commercial ACL of 276,490 lb. When taken together, the proposed commercial ACT and revisions to the commercial AM would result in a reduction in landings of 41,150 lb and a reduction in ex-vessel revenue of \$155,959 annually relative to the status quo, as based on average commercial landings from 2019 through 2023. Divided by the average number of vessels that harvested black sea bass from 2019 through 2023, this results in an annual decrease in ex-vessel revenue of \$1,054 per vessel (approximately 1.6 percent of average annual per vessel gross revenue). Based on the assumed – 1.9 percent economic profit rate for black sea bass vessels, average annual economic profits per vessel would increase by \$20. In practical terms, because harvesting less fish reduces operating expenses (including implicit costs), the resulting cost savings would slightly outweigh the lost sales revenue. Individual fishing businesses, however, may experience varying levels of economic effects, depending on their fishing practices, operating characteristics, and profit maximization strategies.

Additionally, the proposed rule would establish a commercial seasonal closure from February 1 through March 31 during which the commercial sale, purchase, harvest, or possession of black sea bass in or from South Atlantic Federal waters south of Cape Hatteras, North Carolina, would be prohibited and the commercial trip limit would be zero. Although this closure would reduce commercial fishing opportunities during the year, overall landings would still be expected to achieve the proposed ACT and thus no

additional negative economic effects are estimated.

The following discussion describes the significant alternatives to the proposed rule that were not selected by NMFS.

One alternative, the no action alternative, was considered for the proposed action to establish a commercial ACT of 48,557 lb and a recreational ACT of 63,143 lb for South Atlantic black sea bass. This alternative would not establish ACTs and the harvest of black sea bass would continue to be managed under the existing total and sector ACLs, which have not been fully harvested by either sector for several years and presumably would continue to not be fully utilized. Thus, there would be no change in economic benefits to commercial fishing businesses under this alternative. This alternative was not selected because the benefits of reducing fishing mortality and increasing black sea bass population levels through implementation of the proposed ACTs would outweigh the costs of the associated reduction in harvest.

One alternative, the no action alternative, was considered for the proposed action to revise the commercial AMs such that if NMFS estimates that commercial landings of South Atlantic black sea bass will reach the commercial quota, set at the proposed commercial ACT, NMFS will close the commercial harvest of black sea bass for the remainder of the fishing year. This alternative would not revise the AMs and therefore an in-season closure would be triggered when landings are estimated to reach the ACL during a fishing year, as opposed to the proposed ACT. Because this alternative would not modify existing management measures, it would not be expected to alter current harvest levels or result in economic effects relative to the status quo. This alternative was not selected because the proposed revisions to the commercial AMs are required for the proposed ACT to be effective at reducing fishing mortality of black sea bass. Absent the revisions to the AMs, the proposed ACT would be unenforceable.

Finally, one alternative and two sub-alternatives were considered for the proposed action to establish a commercial seasonal closure for black sea bass in or from South Atlantic Federal waters south of Cape Hatteras, North Carolina during February 1 through March 31. The first alternative, the no action alternative, would not implement a seasonal spawning closure for black sea bass and would therefore not affect commercial harvest or result

in direct economic effects. This alternative was not selected because it forgoes the benefits of a spawning closure, specifically, increased reproduction and recruitment necessary to restore the black sea bass stock biomass to a level that would allow for MSY.

The first sub-alternative to the proposed action to implement a February 1 through March 31 commercial seasonal closure for black sea bass in or from South Atlantic Federal waters south of Cape Hatteras would establish a commercial seasonal closure from January 1 through January 31 in the same area as the proposed spawning closure. The second sub-alternative would establish a commercial seasonal closure from April 1 through April 30 in the same area as the proposed spawning closure. These sub-alternatives were considered both individually and in combination with the proposed seasonal closure, such that the closure could occur during any combination of the months from January through April. Considered individually, each sub-alternative would not be expected to result in economic effects because total harvest would be the same as under the proposed seasonal closure and capped at the proposed ACT. If these sub-alternatives were combined with the proposed seasonal closure, they could result in a reduction in landings, ex-vessel revenue, and economic profits relative to the status quo, should a portion of the commercial ACT go unharvested. However, even if all of January through April were closed, effort could still shift to open harvest months, which would eliminate or reduce such losses. Quantified effects estimates for such combinations of closed months are not available. Neither of the two sub-alternatives were selected because the proposed February 1 through March 31 seasonal closure would best balance the benefits of spawning protection with the needs of the commercial sector to maintain access to the fishery during critical times of the year, especially January.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Recreational, Snapper-grouper, South Atlantic.

Dated: September 17, 2026.

Samuel D. Rauch III,

*Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 622 as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF AMERICA, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. Amend § 622.183, by adding paragraph (b)(12) to read as follows:

§ 622.183 Area and seasonal closures.

* * * * *

(b) * * *

(12) *Black sea bass spawning season closure.* The commercial and recreational harvest, possession, sale, or purchase of black sea bass in or from the South Atlantic EEZ is prohibited each year from February 1 through March 31. As specified by table 1 to § 622.1, footnote 2, commercial and recreational management of black sea bass in the South Atlantic EEZ applies south of 35°15.19' N latitude, the latitude of Cape Hatteras Light, North Carolina.

■ 3. Amend § 622.187, by revising paragraph (b)(7) to read as follows:

§ 622.187 Bag and possession limits.

* * * * *

(b) * * *

(7) *Black sea bass*—3.

* * * * *

■ 4. Amend § 622.190, by revising paragraph (a)(5) to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(5) *Black sea bass*—41,150 lb (18,665 kg) in gutted weight or 48,557 lb (22,025 kg) in round weight.

* * * * *

■ 5. Amend § 622.193, by revising the section heading and by revising paragraph (e) to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(e) *Black sea bass*—(1) *Commercial*

sector. (i) The commercial ACL is 234,314 lb (106,283 kg) in gutted weight

or 276,490 lb (125,414 kg) in round weight.

(ii) The commercial ACT is set equal to the commercial quota specified in § 622.190(a)(5).

(iii) If NMFS estimates that commercial landings will reach the commercial quota specified in § 622.190(a)(5) during the fishing year, the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year.

(iv) If commercial landings exceed the commercial ACL specified in paragraph (e)(1)(i) of this section during the fishing year, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the commercial ACL for that following year by the amount of the commercial ACL overage in the prior fishing year, unless NMFS determines that no overage adjustment is necessary based on the best scientific information available.

(2) *Recreational sector.* (i) The recreational ACL is 310,602 lb (140,887 kg) in gutted weight or 366,510 lb (166,246 kg) in round weight.

(ii) The recreational ACT is 53,511 lb (24,272 kg) in gutted weight or 63,143 lb (28,641 kg) in round weight.

(iii) NMFS will project the length of the recreational fishing season based on when NMFS projects the recreational ACT specified in paragraph (e)(2)(ii) of this section is expected to be met and announce the recreational fishing season end date in the **Federal Register** prior to the start of the recreational fishing year on April 1. On and after the effective date of the recreational closure notification, the bag and possession limits for black sea bass in or from the South Atlantic EEZ are zero. The bag and possession limits apply in the South Atlantic on a vessel for which a valid Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, and applies to such species harvested in state or Federal waters.

* * * * *

[FR Doc. 2026–19341 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 91, No. 182

Tuesday, September 22, 2026

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

DEPARTMENT OF COMMERCE

Census Bureau

[Docket Number: 260914-0002; RTID 0607-XC088]

Proposed Data Sharing Activity

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice and request for public comment.

SUMMARY: The U.S. Bureau of the Census (Census Bureau) is proposing to share certain business data with the Bureau of Economic Analysis (BEA) within the Department of Commerce. In accordance with the requirements of the Confidential Information Protection and Statistical Efficiency Act of 2002 (CIPSEA), the Census Bureau and BEA are providing the opportunity for public comment on this data sharing activity.

DATES: Written comments must be submitted on or before November 23, 2026.

ADDRESSES: Comments are being requested through the following method:

Electronic submission: Submit public comments using the Federal eRulemaking Portal.

1. Go to www.regulations.gov and enter Docket Number USBC-2026-0595 in the search field.

2. Click the "Comment Now!" icon, complete the required fields.

3. Enter or attach your comments.

All comments responding to this document will be a matter of public record. Relevant comments will generally be available on the Federal eRulemaking Portal at: <https://www.regulations.gov>.

All comments received are part of the public record. All Personally Identifiable Information (*e.g.*, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business

Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: For additional information concerning this notice, contact Lisa Donaldson, Assistant Associate Director for Economic Programs, U.S. Census Bureau, 4600 Silver Hill Road, Washington, DC 20233-6010, Telephone: 301-763-9844; by email at Lisa.E.Donaldson@census.gov.

SUPPLEMENTARY INFORMATION:

Background

The CIPSEA allows, "designated statistical agencies" to share business data in identifiable form for statistical purposes with BEA (44 U.S.C. 3576). Both the Census Bureau and BEA are primary statistical agencies within the U.S. Department of Commerce and "designated statistical agencies" under CIPSEA (44 U.S.C. 3576(e)). BEA and the Census Bureau are authoritative sources on economic data and statistics, including principal federal economic indicators. These statistics inform the government, private industry, statistical researchers, and the American public about our nation's economic status and progress. To ensure accurate and timely reporting of economic data and indicators, the Census Bureau and BEA partner to measure the U.S. economy. Both the Census Bureau and BEA conduct survey collections, which are critical to the quality of source data and the timely preparation of many key indicators of U.S. economic performance. However, the Census Bureau and BEA recognize that these surveys impose some reporting burden on businesses that are required to respond. Both the Director of the Census Bureau and the Director of BEA are required to identify opportunities to eliminate duplicative collections, reduce reporting burdens, and reduce statistical program costs, while improving the quality of the resulting statistics and protecting the confidentiality of the data collected from survey respondents (44 U.S.C. 3576(b)). To do so, the Census Bureau and BEA have shared and continue to consider increased opportunities to share business data pursuant to CIPSEA.

CIPSEA requires public notice of the intent to share data, whenever the data

to be shared were collected through mandatory reporting and when the respondents were not informed that identifiable data could be shared among the designated statistical agencies (44 U.S.C. 3576(c)(4)). This required notice must allow for 60 days of public comment. CIPSEA also requires the designated statistical agencies to enter into written agreements for the data sharing activity and to provide information about the terms of the written agreement in the public notice (44 U.S.C. 3576(c)(4)).

The Census Bureau and BEA are providing notice that they intend to enter into a written agreement for this data sharing action. Therefore, the following are covered in this notice:

- Data items from the Census Bureau that BEA will access;
- Improvement of statistical products and economic indicators by use of data for statistical purposes; and
- Legal authority regarding confidentiality and data access.

Shared Data

The Census Bureau will provide, and BEA will use, select company-level data from the Census Bureau's Economic Census, the Commodity Flow Survey, the Quarterly Financial Report, the Annual Integrated Economic Survey, the Business and Professional Classification Survey, and the Annual Business Survey (including historical Business Enterprise and Research Development survey data).

The Census Bureau conducts the Quarterly Financial Report under the authority of 13 U.S.C. 91. The Census Bureau conducts all of the other listed surveys under the authority of 13 U.S.C. 131, 182, and/or 193. Response is mandatory under 13 U.S.C. 224 and 225.

The Census Bureau will not provide any Federal Tax Information to BEA.

Statistical Purposes for the Shared Data

BEA will use the shared data exclusively for authorized statistical purposes, as defined in 44 U.S.C. 3561(12). Census Bureau aggregated data from these surveys are a key source of information for BEA national, regional, and international accounts. BEA will use the company-level data to better understand trends, anomalies, coverage, completeness, and other characteristics of the aggregated data. In addition, BEA will compare the Census

Bureau data at the company level with data collected from BEA surveys.

A number of benefits also will accrue to BEA, the Census Bureau, and the Federal government from this data-sharing activity. This data sharing will enhance the reliability of the nation's most important economic indicators, such as the National Income and Product Accounts; increase understanding of the United States economy, especially for key national, industry, international, and regional statistics; improve the comparability and accuracy of Federal economic statistics by allowing BEA and the Census Bureau to update sample frames, develop consistent classifications of establishments and companies into industries; improve coverage, and reconcile significant differences in data produced by the agencies; and develop more accurate measures of the impact of technology on productivity growth. This data sharing also may lead to collaborative efforts to provide new or expanded data products for the public. Through sharing existing data, the Census Bureau and BEA can achieve these efficiencies and improvements without additional burden to respondents, consistent with 44 U.S.C. 3576.

Data Access and Confidentiality

The Census Bureau data are confidential under 13 U.S.C. 9 and 214. BEA employees who will have authorized access to confidential Census Bureau data are required to obtain Census Bureau Sworn Special Status under 13 U.S.C. 23(c). They will be sworn to observe the provisions of 13 U.S.C. 9 and will be advised of the penalties for improper disclosure under 13 U.S.C. 214. The penalties are imprisonment for no more than five years, a fine of no more than \$250,000, or both. These BEA employees must also complete annual training on compliance with these statutory provisions. The authorized BEA employees will use the accessed data for exclusively statistical purposes, as outlined in this Notice.

Dated: September 17, 2026.

George Cook,

Deputy Under Secretary for Economic Affairs, performing the non-exclusive functions and duties of the Director of the Census Bureau.

[FR Doc. 2026–19301 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2185]

Reissuance of the Grant of Authority for Subzone 165A; Phillips 66 Company; Borger, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

The Foreign-Trade Zones (FTZ) Board (the Board) has considered the application (docketed March 4, 2026) submitted by the City of Midland, grantee of FTZ 165, requesting reissuance of the subzone grant of authority for the Phillips 66 Company facilities in Borger, Texas, to the City of Amarillo, grantee of FTZ 252, which has accepted such reissuance subject to approval by the FTZ Board. Upon review, the Board finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest.

Therefore, the Board approves the application and recognizes the City of Amarillo as the new grantee of the Phillips 66 Company subzone, which is hereby redesignated as Subzone 252A, subject to the FTZ Act and the Board's regulations, including section 400.13.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2026–19380 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–174, C–570–175]

Certain Brake Drums From the People's Republic of China: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of compacted graphite iron (CGI) brake drums, from the People's Republic of China (China), constitute later-developed merchandise that is circumventing the antidumping

duty (AD) and countervailing duty (CVD) orders on certain brake drums (brake drums) from China. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 22, 2026.

FOR FURTHER INFORMATION CONTACT: Walter Schaub at (202) 482–0907 or Cassie Graham at (202) 482–2159, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 2025, Commerce published in the **Federal Register** the AD and CVD orders on brake drums from China.¹ On January 27, 2026, in response to a request from Webb Wheel Products, Inc. (Webb, a domestic interested party), Commerce initiated a country-wide circumvention inquiry pursuant to section 781(d) of the Tariff Act of 1930, as amended (the Act), to determine whether imports of CGI brake drums from China constitute later-developed merchandise that is circumventing the *Orders* and, accordingly, should be covered by the scope of the *Orders*.²

On April 20, 2026, Commerce selected, in alphabetical order: (1) CAIEC Trailer Master Co., Ltd. (CAIEC Trailer); (2) Kara CVS Inc. (Kara); and (3) Trailer MASTER CVS INC (Trailer Master), as mandatory respondents in this circumvention inquiry.³ On May 13, 2026, Commerce extended the deadline to issue its preliminary determination by 60 days.⁴ On July 30, 2026, Commerce extended the deadline to issue its preliminary determination by an additional 23 days.⁵ Accordingly, the deadline for this preliminary

¹ See *Certain Brake Drums from the People's Republic of China and the Republic of Türkiye: Antidumping Duty Orders*, 90 FR 38730 (August 12, 2025) (AD Order); see also *Certain Brake Drums from the People's Republic of China and the Republic of Türkiye: Countervailing Duty Orders*, 90 FR 38753 (August 12, 2025) (CVD Order) (collectively, *Orders*).

² See *Certain Brake Drums from the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping and Countervailing Duty Orders*, 91 FR 3435 (January 27, 2026) (*Initiation Notice*), and accompanying Initiation Checklist, “Certain Brake Drums from the People's Republic of China,” dated January 22, 2026 (*Initiation Checklist*).

³ See Memorandum, “Respondent Selection,” dated April 20, 2026 (Respondent Selection Memorandum).

⁴ See Memorandum, “Extension of Deadline for the Circumvention Inquiry Preliminary Determination,” dated May 13, 2026.

⁵ See Memorandum, “Extension of Deadline for the Preliminary Determination in the Circumvention Inquiry,” dated July 30, 2026.

determination is now September 17, 2026.

For a complete description of the events that followed the initiation of this circumvention inquiry, *see* the Preliminary Decision Memorandum.⁶ The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Orders

The merchandise covered by these *Orders* is certain brake drums made of gray cast iron, whether finished or unfinished, with an actual or nominal inside diameter of 14.75 inches or more but not over 16.6 inches, weighing more than 50 pounds. For a full description of the scope of the *Orders*, *see* the Preliminary Decision Memorandum.⁷

Merchandise Subject to the Circumvention Inquiry

The circumvention inquiry covers CGI brake drums with an actual or nominal inside diameter of 14.75 inches or more but not over 16.6 inches, weighing more than 50 pounds, that are produced in China and exported to the United States, including, for example, model number M328D557 produced by PanAsia CVS (HK) Limited (inquiry merchandise).

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(d) of the Act and 19 CFR 351.226(k). For a complete description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum. A list of topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice.

Preliminary Circumvention Determination

As detailed in the Preliminary Decision Memorandum, Commerce preliminarily determines that CGI brake drums from China constitute later-developed merchandise that is

circumventing the *Orders* on a country-wide basis. As a result, in accordance with section 781(d) of the Act, we preliminarily determine that this merchandise should be included within the scope of the *Orders*. *See* the "Suspension of Liquidation and Cash Deposit Requirements" section below for details regarding suspension of liquidation and cash deposit requirements.

Suspension of Liquidation and Cash Deposit Requirements

Based on the preliminary affirmative country-wide determination of circumvention, in accordance with 19 CFR 351.226(l)(2), Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation on unliquidated entries of CGI brake drums from China that were entered, or withdrawn from warehouse, for consumption, on or after January 27, 2026, the date of publication of the *Initiation Notice*.⁸ Commerce also intends to instruct CBP to collect cash deposits for estimated antidumping and countervailing duties at the rates applicable to the AD and CVD *Orders* on brake drums from China (*i.e.*, the AD cash deposit rate established for the China-wide entity (150.25 percent)⁹ and the CVD cash deposit rate established for all-others (11.94 percent)).¹⁰ For companies with their own company-specific rate under the *Orders*, the cash deposit rate will be the company-specific rate.

These suspension of liquidation requirements and cash deposit requirements will remain in effect until further notice.

Public Comment

Pursuant to 19 CFR 351.226(f)(4), case briefs or other written comments should be submitted to the Assistant Secretary for Enforcement and Compliance no later than 14 days after the date of the publication of this notice.¹¹ Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.¹² Parties who submit case or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue;

(2) a brief summary of the argument; and (3) a table of authorities.¹³

As provided under 19 CFR 351.309(c)(2) and (d)(2), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁴ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this proceeding. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁵

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**, filed electronically via ACCESS. Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to issues raised in the respective comments.¹⁶ If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined and will notify the parties through ACCESS.¹⁷ Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

All submissions, including affirmative and rebuttal comments, as well as hearing requests, should be filed using ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

U.S. International Trade Commission (ITC) Notification

Consistent with section 781(e) of the Act, Commerce will notify the ITC of this preliminary determination to

⁶ See Memorandum, "Preliminary Decision Memorandum in the Circumvention Inquiry of the Antidumping Duty and Countervailing Duty Orders on Certain Brake Drums from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ *Id.* at 4.

⁸ See *Initiation Notice*.

⁹ See *AD Order*, 90 FR at 38731.

¹⁰ See *CVD Order*, 90 FR at 38753.

¹¹ See 19 CFR 351.309(f)(4).

¹² See 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹³ See 19 CFR 351.309(c)(2)(d)(2).

¹⁴ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁵ See *APO and Service Final Rule*.

¹⁶ See 19 CFR 351.310.

¹⁷ See 19 CFR 351.310(d).

include the merchandise subject to this circumvention inquiry within the *Orders*. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(d) of the Act and 19 CFR 351.226(g)(1).

Dated: September 17, 2026.

Steven Presing,

Executive Director for Policy and Negotiations.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Period of Circumvention Inquiry
- VI. Statutory and Regulatory Framework
- VII. Comments and Analysis
- VIII. Country-Wide Affirmative Determination of Circumvention
- IX. Recommendation

[FR Doc. 2026–19372 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–841]

Forged Steel Fluid End Blocks From Italy: Final Results of Countervailing Duty Administrative Review; 2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain producers and exporters of forged steel fluid end blocks (FEBs) from Italy received countervailable subsidies during the period of review (POR) January 1, 2024, through December 31, 2024.

DATES: Applicable September 22, 2026.

FOR FURTHER INFORMATION CONTACT: Ted Pearson or Stefan Smith AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone:

(202) 482–2631 or (202) 482–4342, respectively.

SUPPLEMENTARY INFORMATION: On April 9, 2026, Commerce published in the **Federal Register** the *Preliminary Results* of this administrative review and invited comments from interested parties.¹ For a detailed description of the events that occurred since the *Preliminary Results*, see the Issues and Decision Memorandum.² 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 <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Order³

The products covered by the scope of the *Order* are forged steel fluid end blocks. For a full description of the scope of the *Order*, see the Issues and Decision Memorandum.

Analysis of Comments Received

Commerce addressed all issues raised in interested parties' case and rebuttal briefs in the Issues and Decision Memorandum. A list of the issues raised by parties, to which Commerce responded in the Issues and Decision Memorandum, is provided in the appendix to this notice.

Methodology

Commerce conducted this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found to be countervailable, we determine that there is a subsidy, *i.e.*, a government-provided financial contribution that

¹ See *Forged Steel Fluid End Blocks from Italy: Preliminary Results of Countervailing Duty Administrative Review and Partial Rescission of Administrative Review; 2024*, 91 FR 19105 (April 14, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Forged Steel Fluid End Blocks from Italy; 2024," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See *Forged Steel Fluid End Blocks from the People's Republic of China, the Federal Republic of Germany, India, and Italy: Countervailing Duty Orders, and Amended Final Affirmative Countervailing Duty Determination for the People's Republic of China*, 86 FR 7535 (January 29, 2021); see also *Forged Steel Fluid End Blocks from the People's Republic of China, the Federal Republic of Germany, India, and Italy: Correction to Countervailing Duty Orders*, 86 FR 10244 (February 19, 2021) (*Order*).

gives rise to a benefit to the recipient, and that the subsidy is specific.⁴ For a complete description of the methodology underlying all of Commerce's conclusions, including our reliance, in part, on facts otherwise available, including adverse facts available, pursuant to sections 776(a) and (b) of the Act, see the Issues and Decision Memorandum.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding the *Preliminary Results*, and for the reasons explained in the Issues and Decision Memorandum, we made certain changes to the calculations for Lucchini Mame Forge S.p.A. (Lucchini) and non-selected companies for these final results of review. However, no changes were made to the methodology used in the *Preliminary Results* for Metalcam S.p.A. (Metalcam). Further, we are applying facts available, with adverse inferences, to Officina Meccanica Roselli S.r.l. (Roselli). For a more detailed discussion of comments, see the Issues and Decision Memorandum.

Companies Not Selected for Individual Review

The statute does not address the establishment of a rate to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce's regulation at 19 CFR 351.109(g) states that Commerce will determine the rate for non-selected companies by following the process set forth in 19 CFR 351.109(f)(1)–(2), which generally parallels the process for determining the all-others rate in an investigation under section 705(c)(5) of the Act. Section 705(c)(5)(A)(i) of the Act and 19 CFR 351.109(f)(1) instruct Commerce, as a general rule, to calculate the all-others rate equal to the weighted average of the countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero or *de minimis* countervailable subsidy rates, and any rates determined entirely on the basis of facts available.

Cogne Acciai Speciali S.p.A. (CAS) is a non-selected company under review with reviewable entries, and not found to be cross-owned with a mandatory respondent. Because the rates calculated for the mandatory respondents, Lucchini and Metalcam, were above *de*

⁴ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

minimis and not based entirely on facts available, we continue to apply to CAS the weighted average of the net subsidy rates calculated for the mandatory respondents, which are based on the publicly-ranged sales data submitted by Lucchini and Metalcam.⁵ This methodology is consistent with 19 CFR 351.109(g) and 351.109(f)(2)(ii).⁶

Final Results of the Administrative Review

We find the following net countervailable subsidy rates exist for the period January 1, 2024, through December 31, 2024:

Company	Subsidy rate (percent <i>ad valorem</i>)
Lucchini Mame Forge S.p.A. ⁷	15.94
Metalcam S.p.A. ⁸	10.89
Officine Meccaniche Roselli S.r.l.	45.53
Review-Specific Rate for Non-Selected Company	
Cogne Acciai Speciali S.p.A.	14.55

Disclosure

Commerce intends to disclose the calculations performed in connection with these final results of review to parties in this review within five days after public announcement of the final results or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Requirements

In accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(2), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review.⁹ Commerce intends to issue assessment instructions to CBP no earlier than 35 days after 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

In accordance with section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as follows: (1) the cash deposit rate for the companies listed above will be equal to the company-specific estimated individual countervailable subsidy rates determined in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) if both the producer and exporter of the subject merchandise have company-specific estimated subsidy rates assigned, and their rates differ, then the applicable cash deposit rate will be the higher of these two rates; (3) if either the producer or the exporter, but not both, of the subject merchandise has a company-specific estimated subsidy rate assigned, the applicable cash deposit rate will be that company's company-specific rate; and (4) the cash deposit rate for all other producers and exporters will continue to be 3.52 percent, the all-others subsidy rate established in the investigation.¹⁰ These cash deposit requirements, effective upon publication of these final results, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a final reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition 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.

¹⁰ See *Forged Steel Fluid End Blocks from Italy: Final Affirmative Countervailing Duty Determination*, 85 FR 80022 (December 11, 2020).

Notification to Interested Parties

The final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: September 17, 2026.

Steven Presing,

Executive Director for Policy and Negotiations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Non-Selected Rate
- V. Subsidies Valuation
- VI. Use of Facts Otherwise Available and Application of Adverse Inference
- VII. Analysis of Programs
- VIII. Discussion of the Issues
 - Comment 1: Whether To Find Certain Programs *De Facto* Specific
 - Comment 2: Whether To Countervail the Free Allowances Under European Union Emissions Trading System Allowances
 - Comment 3: Whether To Countervail the Electricity Purchases Through the Interconnector Program
 - Comment 4: Whether To Revise its Benefit Calculation for Metalcam with Respect to the Tax Credit for Energy Users and Tax Credit for Gas Users
 - Comment 5: Whether To Rescind the Administrative Review with Respect to Roselli
 - Comment 6: Whether To Countervail Tax Credits Used by Metalcam During the POR to Offset Taxes Otherwise Due Rather than the Amount Report in Metalcam's Tax Returns Filed in the POR
- IX. Recommendation

[FR Doc. 2026–19382 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–523–810]

Polyethylene Terephthalate Resin From the Sultanate of Oman: Amended Final Results of Antidumping Duty Administrative Review; 2023–2024; Correction

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

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published a notice in the **Federal Register** of September 2026, in which Commerce amended the final results of the 2023–2024 administrative review of the antidumping duty (AD) order on polyethylene terephthalate resin (PET

⁵ See *Preliminary Results*, 91 FR at 19106.

⁶ See Memorandum, “Calculation of Non-Selected Companies Rate,” dated concurrently with, and hereby adopted by, this notice; see also Preliminary Decision Memorandum.

⁷ Commerce finds the following companies to be cross-owned with Lucchini: Lucchini RS S.p.A.; Lucchini Industries Srl; and Bicomet S.p.A.

⁸ Commerce finds the following companies to be cross-owned with Metalcam: Adamello Meccanica S.r.l.; and B.S. S.r.l.

⁹ Where Roselli is identified as the exporter in the CBP entry data, we intend to instruct CBP to assess entries of subject merchandise at Roselli's rate, as identified above. For entries where Roselli was not identified as the exporter in the CBP entry data, we intend to instruct CBP to assess entries of subject merchandised produced and/or exported by the company at its individually calculated rate.

resin) from the Sultanate of Oman (Oman) to correct a ministerial error. In that notice, Commerce identified an incorrect effective date for the amended final cash deposit requirements.

FOR FURTHER INFORMATION CONTACT:

Dylan Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1197.

SUPPLEMENTARY INFORMATION:

Background

On September 2, 2026, Commerce published in the **Federal Register** the amended final results of the 2023–2024 administrative review of the AD order on PET resin from Oman.¹ In that notice, Commerce incorrectly stated that the amended final cash deposit rates would be effective on or after the date of publication of the notice of amended final results of review in the **Federal Register** rather than stating that they are effective on or after the date of publication of the notice of the final results of review in the **Federal Register**.

Correction

In the **Federal Register** of September 2, 2026, in FR Doc 2026–17981, on page 56427, in the second column, replace the portion of the first sentence of the “Cash Deposit Requirements” section up until “(1)” with “The following cash deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act:”

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.224(e).

Dated: September 18, 2026.

Steven Presing,

Executive Director for Policy and Negotiations.

[FR Doc. 2026–19375 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–918; A–552–812; C–552–813]

Steel Wire Garment Hangers From the People’s Republic of China and the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty Order on Steel Wire Garment Hangers From the People’s Republic of China and the Antidumping and Countervailing Duty Orders on Steel Wire Garment Hangers From the Socialist Republic of Vietnam

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that imports of steel wire garment hangers (hangers), completed in Cambodia using: (1) steel wire or (2) steel wire and paper accessories, produced in the People’s Republic of China (China) or the Socialist Republic of Vietnam (Vietnam), are circumventing the antidumping duty (AD) order on hangers from China, or the AD and countervailing duty (CVD) orders on hangers from Vietnam. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 22, 2026.

FOR FURTHER INFORMATION CONTACT: Braeden Lowe, 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) 482–9124.

SUPPLEMENTARY INFORMATION:

Background

On October 6, 2008 and February 5, 2013, Commerce published in the **Federal Register** the AD order on hangers from China,¹ and the AD and CVD orders on hangers from Vietnam, respectively.² On August 12, 2025, Commerce initiated country-wide circumvention inquiries pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), to determine whether imports of hangers completed

in Cambodia using: (1) steel wire or (2) steel wire and paper accessories, produced in China or Vietnam, are circumventing the *China Order* or the *Vietnam Orders* and, accordingly, should be covered by the scope of the *China Order* and the scope of the *Vietnam Orders*.³ On December 31, 2025, Commerce identified Alpha Hanger (Cambodia) Co., Ltd (Alpha Hanger) as the sole mandatory respondent in these circumvention inquiries.⁴

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.⁵ Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.⁶ On March 9, June 2, August 31, and September 11, 2026, Commerce extended the time limit for completing the preliminary determinations of these inquiries by a total of 182 days.⁷ Accordingly, the deadline for these preliminary determinations is now September 16, 2026. For a complete description of the events that followed the initiation of these circumvention inquiries, see the Preliminary Decision Memorandum applicable to the inquiry pertaining to the *China Order* and the Preliminary Decision Memorandum applicable to the inquiry pertaining to the *Vietnam Orders*.⁸

³ See *Steel Wire Garment Hangers from the People’s Republic of China and the Socialist Republic of Vietnam: Initiation of Circumvention Inquiries of the Antidumping and Countervailing Duty Orders*, 90 FR 38723 (August 12, 2025) (*Initiation Notice*), and accompanying Initiation Checklists, “Steel Wire Garment Hangers from the People’s Republic of China: Circumvention Initiation Checklist” and “Steel Wire Garment Hangers from the Socialist Republic of Vietnam: Circumvention Initiation Checklist.”

⁴ See Memorandum, “Respondent Identification,” dated December 31, 2025.

⁵ See Memorandum, “Deadlines Affected by the Shutdown of the Federal Government,” dated November 14, 2025.

⁶ See Memorandum, “Tolling of all Case Deadlines,” dated November 24, 2025.

⁷ See Memoranda, “Extension of Deadline for the Preliminary Determinations in the Circumvention Inquiries Pertaining to Cambodia,” dated March 9, June 2, August 31, and September 11, 2026.

⁸ See “Decision Memorandum for the Preliminary Affirmative Determination of Circumvention of the Antidumping Duty Order on Steel Wire Garment Hangers from the People’s Republic of China”, dated concurrently with, and hereby adopted by, this notice (China Inquiry PDM), and “Decision Memorandum for the Preliminary Affirmative

¹ See *Polyethylene Terephthalate Resin from the Sultanate of Oman: Amended Final Results of Antidumping Duty Administrative Review; 2023–2024*, 91 FR 56426 (September 2, 2026).

¹ See *Notice of Antidumping Duty Order: Steel Wire Garment Hangers from the People’s Republic of China*, 73 FR 58111 (October 6, 2008) (*China Order*).

² See *Steel Wire Garment Hangers from the Socialist Republic of Vietnam: Antidumping Duty Order*, 78 FR 8105 (February 5, 2013); and *Certain Steel Wire Garment Hangers from the Socialist Republic of Vietnam: Countervailing Duty Order*, 78 FR 8107 (February 5, 2013) (collectively, *Vietnam Orders*).

The Preliminary Decision Memoranda are public documents and are on file electronically via ACCESS, which is available to registered users at <https://access.trade.gov>. In addition, complete versions of the Preliminary Decision Memoranda can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Orders

For a complete description of the scope of the *China Order* and the scope of the *Vietnam Orders*, see the China Inquiry PDM and the Vietnam Inquiry PDM, respectively.

Merchandise Subject to the Circumvention Inquiries

These circumvention inquiries cover hangers completed in Cambodia using either: (1) steel wire; or (2) steel wire and paper accessories produced in China or Vietnam, where the hangers are subsequently exported from Cambodia to the United States.

Methodology

Commerce is conducting these inquiries in accordance with section 781(b) of the Act and 19 CFR 351.226. We relied on facts available under section 776(a) of the Act, including, in part, facts available with adverse inferences under section 776(b) of the Act. For a complete description of the methodology underlying these preliminary determinations, see the Preliminary Decision Memoranda. A list of topics discussed in the Preliminary Decision Memoranda is included as Appendix I to this notice.

Preliminary Circumvention Determination

As detailed in the Preliminary Decision Memoranda, Commerce preliminarily determines that hangers completed in Cambodia using Chinese-origin or Vietnamese origin inputs, *i.e.*, steel wire or steel wire and paper accessories, are circumventing the *China Order* and the *Vietnam Orders*, each on a country-wide basis. As a result, in accordance with section 781(b) of the Act, we preliminarily determine that this merchandise should be included within the scope of the *China Order* and the scope of the *Vietnam Orders*. See the “Suspension of Liquidation and Cash Deposit Requirements” section below for details

regarding suspension of liquidation and cash deposit requirements.

Suspension of Liquidation and Cash Deposit Requirements

Based on the preliminary affirmative country-wide determinations of circumvention with respect to hangers exported from Cambodia, in accordance with 19 CFR 351.226(l)(2), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated antidumping or countervailing duties on unliquidated entries of inquiry merchandise that were entered, or withdrawn from warehouse, for consumption, on or after August 12, 2025, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.

Accordingly, because Commerce preliminarily finds that inquiry merchandise is circumventing the *China Order* and *Vietnam Orders*, imports of such merchandise are subject to cash deposit requirements. As explained below, Commerce is preliminarily finding that no exporter of hangers from Cambodia is eligible to certify that its hangers are produced using steel wire or steel wire and paper accessories sourced from another country (*i.e.*, that the hanger inputs are not from China or Vietnam). However, we are establishing a certification program and allowing parties (excluding parties to which Commerce has applied adverse facts available) to certify that entries of hangers exported from Cambodia were produced using Chinese, rather than Vietnamese, steel wire or steel wire and paper accessories. In order to certify that shipments were not subject to the *Vietnam Orders*, the importer and exporter will be required to provide documentation to CBP at the time of entry supporting the claim that the steel wire or steel wire and paper accessories were sourced from China. Should we determine at a later date (*e.g.*, in a certification review) that a party has demonstrated that it should be allowed to certify that the origin of the steel wire or the steel wire and paper accessories are neither Chinese nor Vietnamese, Commerce intends to release certification language and establish such a certification program at that time.

Consistent with our recent determinations,⁹ where AD/CVD orders

from two countries (*i.e.*, China and Vietnam) potentially apply to an entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rates applicable to the *Vietnam Orders* (*i.e.*, the AD cash deposit rate established for the Vietnam-wide entity (220.68 percent) and the CVD cash deposit rate established for all other companies (31.58 percent)) under the following third-country case numbers: A-555-812 (Vietnam AD), and C-555-813 (Vietnam CVD).

For entries of hangers from Cambodia for which both the exporter and importer have certified in Commerce’s dual circumvention certification program that the merchandise was produced using Chinese-origin steel wire or steel wire and paper accessories, Commerce intends to direct CBP to suspend liquidation and require a cash deposit at the AD cash deposit rate established for hangers from China under the following third-country case number: A-555-918.

For unliquidated entries (and entries for which liquidation has not become final) of hangers from Cambodia that were entered, or withdrawn from warehouse on or after August 12, 2025, and made prior to the publication of this preliminary determination, the importer will need to file a post-summary correction with CBP in accordance with CBP’s regulations, regarding conversion of such entries from non-AD/CVD type entries to AD/CVD type entries (*e.g.*, from type 01 to type 03). Importers must report those AD/CVD entries using the third-country case numbers identified above and post the required cash deposits for estimated antidumping and countervailing duties.

Public Comment

Pursuant to 19 CFR 351.226(f)(4), case briefs or other written comments should be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date of the publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline for case briefs. Parties who submit case or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior preliminary determinations, we have encouraged interested parties to provide a public executive summary of their brief that should be limited to five pages total, including footnotes. In these inquiries, we instead request that

Determination of Circumvention of the Antidumping and Countervailing Duty Orders on Steel Wire Garment Hangers from the Socialist Republic of Vietnam”, dated concurrently with, and hereby adopted by, this notice (Vietnam Inquiry PDM) (collectively, Preliminary Decision Memoranda).

⁹ See, *e.g.*, *Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Final Affirmative Determination of Circumvention of the Antidumping Duty Order*, 88 FR 77266 (November 9, 2023), where Commerce suspended the entry and collected cash deposits at the highest available rate for entries that were found to be circumventing multiple orders.

interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs. Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this proceeding. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice in the **Federal Register**, filed electronically via ACCESS. Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to issues raised in the respective comments. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined and will notify the parties through ACCESS. Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

All submissions, including affirmative and rebuttal comments, as well as hearing requests, should be filed using ACCESS. An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Verification

Because the examined respondent in these circumvention inquiries did not provide information requested by Commerce, and Commerce preliminarily determines the respondent to have been uncooperative, we will not conduct verification.

U.S. International Trade Commission (ITC) Notification

Consistent with section 781(e) of the Act, Commerce will notify the ITC of this preliminary determination to include the merchandise subject to this circumvention inquiry within the *China Order* and the *Vietnam Orders*. Pursuant

to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the inquiry merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

Notification to Interested Parties

This determination is issued and published in accordance with sections 781(b) of the Act 19 CFR 351.226(g)(1).

Dated: September 17, 2026.

Christian L. Bush,

Acting Deputy Assistant Secretary for Policy and Negotiations.

Appendix I

List of Topics Discussed in the Preliminary Decision Memoranda

- I. Summary
- II. Background
- III. Scope of the *Order(s)*
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Period of Circumvention Inquiry
- VI. Application of Facts Available and Use of Adverse Inference
- VII. Statutory and Regulatory Framework for a Circumvention Inquiry
- VIII. Analysis of Statutory Criteria for the Circumvention Inquiry
- IX. Summary of the Analysis
- X. Country-Wide Affirmative Determination
- XI. Certification Program
- XII. Suspension of Liquidation and Cash Deposit Requirements
- XIII. Recommendation

Appendix II

Certification Program Requirements

The importer is required to complete and maintain the applicable importer certification, and maintain a copy of the applicable producer certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry.

If the producing company and the exporting company are the same, the importer, or the importer's agent, must submit the importer's certification, the producer/exporter certification, and documentation demonstrating that the country-of-origin of the (1) steel wire or (2) steel wire and paper accessories used in the production of the exported steel wire garment hangers was Chinese. Such certifications and documentation must be submitted to CBP at the time that the entry summary is filed by uploading these documents into the document imaging system (DIS) in the Automated Customs Environment (ACE).

If the producing company and the exporting company are different, the importer, or the importer's agent, must submit the importer's certification, the

producer's certification, and documentation demonstrating the Chinese-origin of the (1) steel wire or (2) steel wire and paper accessories used in the production of the exported steel wire garment hangers. Such certifications and documentation must be submitted to CBP at the time that the entry summary is filed by uploading these documents into DIS in ACE.

Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as a broker, however, are not permitted to certify on behalf of the importer. Consistent with CBP's procedures, an importer shall identify certified entries by using the importer's additional declaration (record 54), AD/CVD Certification Designation (type code 6) when filing an entry summary.¹⁰

Where the producer and the exporter are the same entity, the producer/exporter is required to complete and maintain the applicable producer/exporter certification and provide the importer with a copy of that certification and all supporting documentation (e.g., invoice, purchase order, production records, etc.). With the exception of the entries described below, the producer certification must be completed, signed, and dated by the time of shipment of the relevant entry. The producer/exporter certification should be completed by the party producing and exporting the steel wire garment hangers that were manufactured in Cambodia to the United States.

Where the producer and exporter are different entities, (1) the producer is required to complete and maintain the applicable producer certification and provide the importer with a copy of that certification and all supporting documentation (e.g., invoice, purchase order, production records, etc.), and (2) the exporter is required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (e.g., invoice, purchase order, production records, etc.).

Additionally, the claims made in the certifications and supporting documentation are subject to verification by Commerce or CBP. Importers and producers are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries.

For all steel wire garment hangers that were entered, or withdrawn from warehouse, for consumption during the period August 12, 2025 (the date of publication of the initiation of these circumvention inquiries), through 45 days from the date on which Commerce published its preliminary circumvention findings in the **Federal Register**, where the entry has not been

¹⁰ See Cargo System Messaging Service #59384253, dated February 12, 2024; see also *Announcing an Importer's Additional Declaration in the Automated Commercial Environment Specific to Antidumping/Countervailing Duty Certifications*, 89 FR 7372 (February 2, 2024).

liquidated (and entries for which liquidation has not become final), the importer and producer certifications should be completed and signed as soon as practicable, but not later than 45 days of the date on which Commerce published its preliminary circumvention findings in the **Federal Register**. The importer's certification, the producer's certification, the commercial invoice, and documentation supporting the country of origin of the steel wire or type of input if not steel wire used to produce the steel wire garment hangers should be uploaded to the DIS in ACE as soon as practicable, but not later than 45 days of the date on which Commerce published its preliminary circumvention findings in the **Federal Register**. For such unliquidated entries made prior to the publication of these preliminary determinations which are suspended under the antidumping and countervailing duty orders, the importer or producer each have the option to complete a blanket certification covering multiple entries, individual certifications for each entry, or a combination thereof.

As discussed in the Preliminary Decision Memoranda, this dual circumvention certification program is not available for companies to which Commerce has applied facts available with adverse inferences. Accordingly, as discussed in the Preliminary Decision Memoranda, Commerce preliminarily determines that Alpha Hanger, Everbrit and Kaining are ineligible to certify that any entries of hangers are made of Chinese-origin (1) steel wire or (2) steel wire and paper accessories.

Interested parties may comment on these certification requirements, and on the certification language contained in this notice in their case briefs.

Appendix III

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the steel wire garment hangers assembled in Cambodia that entered under entry summary number(s), identified below, and are covered by this certification. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of steel wire garment hangers, including the producer, exporter and/or foreign seller's identity and location.

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The steel wire garment hangers covered by this certification were imported by {IMPORTING COMPANY} on behalf of {U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The steel wire garment hangers covered by this certification were shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. I have personal knowledge of the facts regarding the assembly of the imported products covered by this certification. "Personal knowledge" includes facts obtained from another party, (e.g., correspondence received by the importer (or exporter) from the producer regarding the Chinese inputs used to produce the imported products).

F. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller's Address:

Foreign Seller's Invoice #:

Foreign Seller's Invoice Line Item #:

Country of Origin of steel wire:

Country of Origin of paper accessories (if applicable):

Producer:

Producer's Address:

G. The steel wire garment hangers covered by this certification contain only steel wire or steel wire and paper accessories produced in China.

H. I understand that {IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (i.e., documents maintained in the normal course of business, or documents obtained by the certifying party, for example, certificates of origin, product data sheets, productions records, invoices, etc.) until the later of (1) the date that is five years after the latest entry date of the entries covered by the certification or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries.

I. I understand that, if the producer and the exporter are not the same entity, {IMPORTING COMPANY} is required to maintain a copy of the producer certification (attesting to the assembly of the imported merchandise identified above, if the producing company and the exporting company are not the same), and any supporting documentation provided to the importer by the producer, until the later of (1) the date that is five years after the latest entry date of the entries covered by the certification or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries.

J. I understand that, if the producer and the exporter are not the same entity, {IMPORTING COMPANY} is required to maintain a copy of the exporter certification (attesting to the assembly and exportation of the imported merchandise identified above, if the producing company and the exporting company are not the same), and any supporting documentation provided to the importer by the exporter, until the later of (1) the date that is five years after the latest entry date of the entries covered by the

certification or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

K. I understand that, if the producer and the exporter are the same entity, {IMPORTING COMPANY} is required to maintain a copy of the producer/exporter certification (attesting to the assembly/exportation of the imported merchandise identified above, if the producing company and the exporting company are the same), and any supporting documentation provided to the importer by the exporter, until the later of (1) the date that is five years after the latest entry date of the entries covered by the certification or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

L. I understand that {IMPORTING COMPANY} is required to submit a copy of the importer, exporter (as applicable), producer (as applicable), and exporter/producer certifications (as applicable) as part of the entry summary by uploading them into the document imaging system (DIS) in ACE, and to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter, producer, or exporter/producer's certification, and any supporting documentation provided to the importer by such parties, upon request of either agency. Consistent with CBP's procedures, importers shall identify certified entries by using importers' additional declaration (record 54) AD/CVD Certification Designation (type code 06) when filing entry summary.

M. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

N. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty (AD) and countervailing duty (CVD) orders on steel wire garment hangers from Vietnam. I understand that such finding will result in:

(i) suspension of liquidation at the AD and CVD rates applicable to the Vietnam Order of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the AD and CVD cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

O. I understand that agents of the importer, such as brokers, are not permitted to make this certification. When a broker or other party was used to facilitate the entry process, {NAME OF IMPORTING COMPANY} obtained the entry summary number and date of entry summary from that party.

P. This certification was completed by the time of filing the entry summary or within 45 days of the date on which Commerce published its preliminary circumvention findings in the **Federal Register**.

Q. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

Exporter Certification

The party that made the sale to the United States, if different from the party that produced the merchandise, should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES}, located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES}.

B. I have direct personal knowledge of the facts regarding the assembly and exportation of the steel wire garment hangers for which sales are identified below. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the use of Chinese inputs in the assembly of hangers imported into the United States, the exportation of steel wire garment hangers, as well as the producer's identity and location.

C. The steel wire garment hangers covered by this certification were shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

D. The steel wire garment hangers covered by this certification contain only steel wire or steel wire and paper accessories produced in China.

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:
Foreign Seller's Invoice to U.S. Customer

Line item #:

Producer Name:

Producer's Address:

Producer's Invoice # to Foreign Seller:

:

F. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to maintain a copy of this certification and the producer certification (attesting to the assembly of the imported merchandise identified above, if the producing company and the exporting company are not the same), and sufficient documentation supporting these certifications (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries.

G. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to provide the U.S. importer with a copy of both this certification and the producer certification, and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification and the producer certification, and any supporting documents, upon request of either agency.

H. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

I. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty and countervailing duty orders on steel wire garment hangers from Vietnam. I understand that such a finding will result in:

(i) suspension of all unliquidated entries at the AD and CVD rates applicable to the Vietnam Order (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping duty and countervailing duty cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

J. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

K. This certification was completed at time of shipment or within 45 days of the date on which Commerce published its preliminary circumvention findings in the **Federal Register**.

L. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

Producer Certification

The party that assembled the steel wire garment hangers exported to the United States, if different from the party that exported the merchandise, should fill out the producer certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT ASSEMBLED THE STEEL WIRE GARMENT HANGERS SOLD TO THE UNITED STATES}, located at {ADDRESS OF FOREIGN COMPANY THAT ASSEMBLED THE STEEL WIRE GARMENT HANGERS SOLD TO THE UNITED STATES}.

B. I have direct personal knowledge of the facts regarding the assembly and exportation of the steel wire garment hangers for which

sales are identified below. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, a producer should have direct personal knowledge of the use of Chinese inputs in the assembly of hangers imported into the United States, and the exporter's name and address.

C. The steel wire garment hangers covered by this certification were sold to {NAME OF FOREIGN COMPANY THAT EXPORTED THE MERCHANDISE TO THE UNITED STATES}, located at {ADDRESS OF FOREIGN COMPANY THAT EXPORTED THE MERCHANDISE TO THE UNITED STATES}.

D. The steel wire garment hangers covered by this certification were shipped by the {FOREIGN COMPANY THAT EXPORTED THE MERCHANDISE TO THE UNITED STATES} to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. The steel wire garment hangers covered by this certification contain only steel wire or steel wire and paper accessories produced in China.

F. This certification applies to the following sales to {NAME OF FOREIGN EXPORTER}, located at {ADDRESS OF FOREIGN EXPORTER} (repeat this block as many times as necessary):

Producer Name:

Producer's Address:

Producer's Invoice # to Foreign Seller:

Name of Producer of Steel Wire Input:

Address of Supplier of Steel Wire Input:

Name of Producer of Paper Accessory Input:

Address of Supplier of Paper Accessory

Input:

G. I understand that {NAME OF FOREIGN COMPANY THAT ASSEMBLED THE STEEL WIRE GARMENT HANGERS SOLD TO THE UNITED STATES} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries.

H. I understand that {NAME OF FOREIGN COMPANY THAT ASSEMBLED THE STEEL WIRE GARMENT HANGERS SOLD TO THE UNITED STATES} is required to provide the {NAME OF FOREIGN EXPORTER} with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency.

I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the

claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty and countervailing duty orders on steel wire garment hangers from Vietnam. I understand that such a finding will result in:

(i) suspension of all unliquidated entries at the AD and CVD rates applicable to the Vietnam Order (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping duty and countervailing duty cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed at time of shipment or within 45 days of the date on which Commerce issued its preliminary circumvention findings in the **Federal Register**.

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

Producer/Exporter Certification

The party that produced and made the sale to the United States should fill out the producer/exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT ASSEMBLED AND MADE THE SALE TO THE UNITED STATES}, located at {ADDRESS OF FOREIGN COMPANY THAT ASSEMBLED AND MADE THE SALE TO THE UNITED STATES}.

B. I have direct personal knowledge of the facts regarding the assembly and exportation of the steel wire garment hangers for which sales are identified below. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, an exporter/producer should have direct personal knowledge of the use of Chinese inputs in the assembly of steel wire garment hangers imported into the United States.

C. The steel wire garment hangers covered by this certification were shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

D. The steel wire garment hangers covered by this certification contain only steel wire or steel wire and paper accessories produced in China.

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S.

CUSTOMER} (repeat this block as many times as necessary):

Foreign Producer/Seller's Invoice # to U.S.

Customer:

Foreign Producer/Seller's Invoice to U.S.

Customer Line item #:

Producer/Seller's Name:

Producer/Seller's Address:

Name of Producer of Steel Wire Input:

Address of Supplier of Steel Wire Input:

Name of Producer of Paper Accessory Input:

Address of Supplier of Paper Accessory Input:

F. I understand that {NAME OF FOREIGN COMPANY THAT ASSEMBLED AND MADE THE SALE TO THE UNITED STATES} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries.

G. I understand that {NAME OF FOREIGN COMPANY THAT PRODUCED AND MADE THE SALE TO THE UNITED STATES} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency.

H. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

I. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty and countervailing duty orders on steel wire garment hangers from Vietnam. I understand that such a finding will result in:

(i) suspension of all unliquidated entries at the AD and CVD rates applicable to the Vietnam Order (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the antidumping duty and countervailing duty cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

J. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

K. This certification was completed at time of shipment or within 45 days of the date on which Commerce published its preliminary circumvention findings in the **Federal Register**.

L. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes

criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

[FR Doc. 2026–19376 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–879, A–570–240, A–533–952, A–580–923, A–201–870]

Certain Linear Hydraulic Cylinders and Parts Thereof From Canada, the People's Republic of China, India, the Republic of Korea, and Mexico: Initiation of Less-Than-Fair-Value Investigations; Correction

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

ACTION: Notice; correction.

SUMMARY: The U.S. Department of Commerce (Commerce) published notice in the **Federal Register** of September 14, 2026, in which Commerce initiated the less-than-fair-value (LTFV) investigations on certain linear hydraulic cylinders and parts thereof (linear hydraulic cylinders) from Canada, the People's Republic of China (China), India, the Republic of Korea (Korea), and Mexico. This notice corrects a typographical error with respect to the timing for the preliminary determination by the U.S. International Trade Commission (ITC).

FOR FURTHER INFORMATION CONTACT:

Anjali Mehindiratta at (202) 482–9127 or Travis Hargett at (202) 482–4604 (Canada), Kate Fracke at (202) 482–3299 (People's Republic of China (China)), Lingjun Wang at (202) 482–2316 (India), Dmitry Vladimirov at (202) 482–0665 (Republic of Korea (Korea)), and Brittany Bauer at (202) 482–3860 (Mexico), 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 September 14, 2026, Commerce published in the **Federal Register** the initiation of the LTFV investigations on linear hydraulic cylinders from Canada,

China, India, Korea, and Mexico.¹ In the *Initiation Notice*, Commerce incorrectly stated that the ITC will make its preliminary determination within 25 days after the date the petitions were filed.

Correction

In the **Federal Register** of September 14, 2026, in FR Doc. 2026–18706, on page 58065, in the second column, correct the text under the section titled “Preliminary Determination by the ITC” to read as follows:

The ITC will preliminarily determine, within 25 days after the date on which the ITC receives notice from Commerce of initiation of the investigations, whether there is a reasonable indication that imports of linear hydraulic cylinders from Canada, China, India, Korea, and/or Mexico are materially injuring, or threatening material injury to, a U.S. industry.² A negative ITC determination for any country will result in the investigation being terminated with respect to that country.³ Otherwise, these LTFV investigations will proceed according to statutory and regulatory time limits.

Notice to Interested Parties

This notice is issued and published in accordance with sections 732 and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.203(c).

Dated: September 17, 2026.

Steven Presing,

Executive Director for Policy and Negotiations.

[FR Doc. 2026–19374 Filed 9–21–26; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–834]

Certain Fatty Acids From Malaysia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain fatty acids (fatty acids) from Malaysia are being, or are

likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2025, through December 31, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 22, 2026.

FOR FURTHER INFORMATION CONTACT:

Dennis McClure or Matthew Lipka, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5973 or (202) 482–7976, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on March 13, 2026.¹ On July 10, 2026, Commerce postponed the preliminary determination of this investigation and the revised deadline is now September 15, 2026.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Investigation

The products covered by this investigation are fatty acids from Malaysia. For a complete description of the scope of this investigation, *see* Appendix I.

¹ *See Certain Fatty Acids from Indonesia and Malaysia: Initiation of Less-Than-Fair-Value Investigations*, 91 FR 12353 (March 13, 2026) (*Initiation Notice*).

² *See Certain Fatty Acids from Indonesia and Malaysia: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 91 FR 42708 (July 10, 2026).

³ *See* Memorandum, “Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Certain Fatty Acids from Malaysia,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope Comments

In accordance with the *Preamble* to Commerce’s regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce is still considering parties’ comments on the scope of the investigation and intends to issue its preliminary scope decision after the publication of this preliminary AD determination. Accordingly, Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. *See* the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices and constructed export prices in accordance with sections 772(a) and (b) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated estimated weighted-average dumping margins for Evyap Sabun Malaysia Sdn. Bhd. (Evyap) and Palm-Oleo Sdn. Bhd. (Palm-Oleo) that are not zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents using each company’s publicly-ranged values for the merchandise under consideration.⁶

⁴ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ *See Initiation Notice*.

⁶ With two respondents under examination, Commerce normally calculates: (A) a weighted-

¹ *See Certain Linear Hydraulic Cylinders from Canada, the People’s Republic of China, India, the Republic of Korea, and Mexico: Initiation of Less-Than-Fair-Value Investigations*, 91 FR 58060 (September 14, 2026) (*Initiation Notice*).

² *See* section 733(a) of the Act.

³ *Id.*

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset) (percent)
Evyap Sabun Malaysia Sdn. Bhd	4.47	4.46
Palm-Oleo Sdn. Bhd./Palm-Oleo (Klang) Sdn. Bhd./KL-Kepong Oleomas Sdn. Bhd. ⁷	7.07	7.06
All Others	5.23	5.22

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export

subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted cash deposit rate may be found in the “Preliminary Determination” section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with

issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.⁸ Interested parties who submit case or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.⁹

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁰ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation.

average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. See, e.g., *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results*

of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and Decision Memorandum at Comment1. As complete publicly ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, see Memorandum, “Calculation of the All-Others Rate,” dated concurrently with this notice.

⁷ Commerce preliminarily determines that Palm-Oleo, Palm-Oleo (Klang) Sdn. Bhd., and KL-Kepong

Oleomas Sdn. Bhd., are a single entity. See Preliminary Decision Memorandum.

⁸ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

⁹ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁰ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹¹

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Between August 31 and September 1, 2026, pursuant to 19 CFR 351.210(e), Evyap and Palm-Oleo requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹² In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and

(3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: September 15, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is certain fatty acids, which are organic acids made of a hydrocarbon chain with a carboxylic acid group (*i.e.*, an organic acid that contains a carboxyl group (-C(=O)-OH) attached to an R-group, sometimes also written as R-COOH, R-C(O)OH, or R-CO₂H) at one end with a carbon chain length (*i.e.*, the number of carbon atoms in the fatty acid chain) of C₆, C₈, C₁₀, C₁₂, C₁₄, C₁₆, or C₁₈, with an iodine value below 105 g/100 g and with a ratio of free fatty acids to triglycerides (also known as the "degree of split" or DoS) of at least 97 percent, including single fatty acid (also referred to as "pure cut"), and blends containing a combination of two or more carbon chain lengths.

Certain fatty acids covered by the scope range in physical form from low viscosity liquids to solids. Certain fatty acids are covered by the scope of this investigation irrespective of whether they have gone through a distillation process and regardless of acid content, reactivity, functionality, freeze stability, heat stability, physical form, viscosity, grade, purity, molecular weight, or packaging.

Certain fatty acids may contain additives, such as catalysts, solvents, antioxidants, fire retardants, colorants, pigments, diluents, thickeners, fillers, softeners, and toughening agents.

The scope includes merchandise matching the above description that has been

processed in a third country, including by commingling, diluting, introducing or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the subject country.

The scope also includes certain fatty acids that are commingled or blended with certain fatty acids from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

Certain fatty acids covered by the scope are also commonly called pure, pure cut, fractionated, or distilled fatty acid or mixed, mixed cut, or blended fatty acid, with the terms pure, pure cut, fractionated, and distilled typically referring to specific single-chain fatty acids that have been separated from a mixed natural source such as animal fat or vegetable oil using processes like hydrolysis (the breakdown of fat molecules by water, catalyzed by acid, base, or enzymes (lipases) to yield glycerol and free fatty acids), distillation, and crystallization, and the terms mixed or mixed cut referring to combinations, blends or mixtures of different single-chain fatty acids also derived from a natural source such as animal fat or vegetable oil using processes like hydrolysis, distillation, and crystallization. Common names for pure, pure cut, fractionated, or distilled fatty acids forms include stearic acid and oleic acid. Common names for mixed or mixed cut fatty acids include coconut fatty acid, hardened coconut fatty acid, topped coconut fatty acid, topped hardened coconut fatty acid, palm kernel fatty acid, hardened palm kernel fatty acid, topped palm kernel fatty acid, topped hardened palm kernel fatty acid, palm fatty acid, palm stearin fatty acid, palm fatty acid distillate, and palm olein fatty acid.

Certain fatty acids covered by the scope are normally associated with Chemical Abstracts Service (CAS) registry numbers 57-11-4, 112-80-1, 61790-38-3, 67701-05-7, 67701-06-8, 67707-01-3, 68938-15-8, 101403-98-9, 91771-90-3, 90990-15-1, 68440-15-3, 84238-17-5, 98106-68-4, 98106-66-2, 90990-08-1, and 90990-08-2 but several others may also be used.

Specifically excluded from the scope are certain fatty acids containing 90 percent or more, by weight, of fatty acids with carbon chain lengths of C₆, C₈, or C₁₀ (or any combination thereof). The scope also does not include mixtures of certain fatty acids with other materials, when the combined certain fatty acids component comprises less than 80 percent of the total weight of the mixture.

The merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 2915.70.0110, 2915.70.0120, 2915.70.0150, 2915.90.1010, 2915.90.1050, 2916.15.1000, 2916.15.5100, 3823.11.0000, 3823.12.0000, 3823.19.2000, and 3823.19.4000 and may also enter under 3824.99.4190.

The HTSUS subheadings set forth above are provided for convenience and customs purposes only. The written description of the scope is dispositive.

¹¹ See *APO and Service Procedures*.

¹² See Palm-Oleo's Letter, "Request to Postpone the Final Determination," dated August 31, 2026; see also Evyap's Letter, "Request to Postpone Final Determination," dated September 1, 2026.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Affiliation and Single Entity Treatment
- V. Discussion of the Methodology
- VI. Particular Market Situation
- VII. Currency Conversion
- VIII. Adjustments to Cash Deposit Rates for Export Subsidies in the Companion Countervailing Duty Investigation
- IX. Recommendation

[FR Doc. 2026–19379 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–863]

Large Diameter Welded Pipe From Canada: Preliminary Results of Changed Circumstances Review

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

SUMMARY: The U.S. Department of Commerce (Commerce) is issuing the preliminary results of the changed circumstances review (CCR) of the antidumping (AD) order on large diameter welded pipe (LDWP) from Canada with respect to Interpro Pipe & Steel Inc. (Interpro). Commerce preliminarily determines that Interpro is the successor-in-interest to Evraz Inc. NA Canada (Evraz) with respect to the AD order on LDWP from Canada. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 22, 2026.

FOR FURTHER INFORMATION CONTACT: Bushra Bani-Salman, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–9170.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 2019, Commerce published in the *Federal Register* the *Order* on LDWP from Canada.¹ On January 26, 2026, Interpro requested the initiation of a CCR to determine that it is the successor-in-interest to Evraz.² We

received no comments from other interested parties concerning this request. On March 19, 2026, we initiated the CCR of the *Order* pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216(b) and 19 CFR 351.221(b)(1) to consider whether Interpro is the successor-in-interest to Evraz.³ On August 20, 2026, we issued a supplemental questionnaire to Interpro,⁴ to which we received a timely response on August 31, 2026.⁵

Scope of the Order

The product subject to the *Order* is LDWP from Canada. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.⁶

Legal Framework

In determining whether one company is the successor-in-interest to another company as part of an AD proceeding, Commerce examines several factors including, but not limited to: (1) management and ownership; (2) production facilities; (3) supplier relationships; and (4) customer base.⁷ Although no single factor, or combination of factors, will necessarily provide a dispositive indication of successorship, generally, Commerce will consider one company to be the successor-in-interest to another company if its operations are not materially dissimilar to those of the other company.⁸ Thus, if the totality of the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, Commerce will find the new company to be the successor in-interest to the prior company and assign

³ See *Large Diameter Welded Pipe from Canada: Notice of Initiation of Antidumping Duty Changed Circumstances Review*, 91 FR 13288 (March 19, 2026).

⁴ See Commerce's Letter, "Request for Information," dated August 20, 2026.

⁵ See Interpro's Letter, "Interpro Pipe & Steel Inc.'s Response," dated August 31, 2026.

⁶ See Memorandum, "Decision Memorandum for the Preliminary Results of the Changed Circumstances Review of the Antidumping Duty Order on Large Diameter Welded Pipe from Canada," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁷ See, e.g., *Ball Bearings and Parts Thereof from France: Final Results of Changed-Circumstances Review*, 75 FR 34688 (June 18, 2010), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

⁸ See, e.g., *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9979–80 (March 1, 1999).

the new company the cash deposit rate of its predecessor.⁹

Preliminary Results of Changed Circumstances Review

In accordance with 19 CFR 351.221(b)(4) and (c)(3)(i), we preliminarily find that Interpro is the successor-in-interest to Evraz because record evidence indicates that Interpro operates as essentially the same business entity as Evraz. Specifically, Interpro provided information which Evraz was acquired by Atlas Holdings on July 31, 2025, and, following the acquisition, Evraz changed its name to Interpro. After the acquisition, while there were some changes to the officers and directors of the company, the production facilities, supplier relationships, and customer base of Interpro are substantially the same as those of Evraz. Therefore, we preliminarily determine that, as the successor-in-interest to Evraz, Interpro should receive the same antidumping duty treatment with respect to the subject merchandise as Evraz. If we continue to reach the same determination in the final results, we will assign Interpro the same cash deposit rate assigned to Evraz, effective on the publication date of the final results in the *Federal Register*.

For a complete discussion of our preliminary successor-in-interest analysis, see the accompanying Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum is available at <https://access.trade.gov/frnotices>.

Public Comment

In accordance with 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 14 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁰ Interested parties

⁹ *Id.*; see also *Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992), and accompanying IDM at Comment 1.

¹⁰ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in*

Continued

¹ See *Large Diameter Welded Pipe from Canada: Antidumping Duty Order*, 84 FR 18775 (May 2, 2019) (*Order*).

² See Interpro's Letter, "Interpro Pipe & Steel Inc.'s Request for a Changed Circumstances Review in Large Diameter Welded Pipe from Canada," dated January 26, 2026.

who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹¹ All briefs must be filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5:00 p.m. Eastern Time on the established deadline.

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹² Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this CCR. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹³

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, within 14 days of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Final Results of Changed Circumstances Review

Consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree with our preliminary finding.

Notification to Interested Parties

This notice is published in accordance with sections 751(b)(1) and

Antidumping and Countervailing Duty Proceedings, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹² We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹³ See *APO and Service Final Rule*.

777(i) of the Act, 19 CFR 351.216, and 351.221(c)(3).

Dated: September 15, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Preliminary Successor-in-Interest Determination
- V. Recommendation

[FR Doc. 2026–19377 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–848]

Certain Fatty Acids From Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain fatty acids (fatty acids) from Indonesia are being, or are likely to be sold, in the United States at less than fair value (LTFV). The period of investigation (POI) is January 1, 2025, through December 31, 2025. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable September 22, 2026.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on March 13, 2026.¹ On July 10, 2026,

¹ See *Certain Fatty Acids from Indonesia and Malaysia: Initiation of Less-Than-Fair-Value Investigations*, 91 FR 12353 (March 13, 2026) (*Initiation Notice*).

Commerce postponed the preliminary determination of this investigation and the revised deadline is now September 15, 2026.² For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/frnotices>.

Scope of the Investigation

The products covered by this investigation are fatty acids from Indonesia. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce is still considering parties' comments on the scope of the investigation and intends to issue its preliminary scope decision after the publication of this preliminary AD determination. Accordingly, Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*. See the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices and constructed export prices in accordance with sections 772(a) and (b) of the Act. Normal value is calculated in

² See *Certain Fatty Acids from Indonesia and Malaysia: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 19 FR 42708 (July 10, 2026).

³ See Memorandum, "Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Fatty Acids from Indonesia," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ See *Initiation Notice*.

accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily finds that critical circumstances do not exist for P.T. Musim Mas (PTMM) and PT Inti Benua Perkasatama (IBP) (collectively, Musim Mas), and PT Wilmar Nabati Indonesia (PT Wilmar). We find that critical circumstances do exist for all other exports and producers. For a full description of the methodology and

results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated estimated weighted-average dumping margins for Musim Mas and PT Wilmar, that are not zero, *de minimis*, or based entirely on facts otherwise available. Therefore, Commerce calculated the all-others rate using a weighted average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.⁶

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offset(s)) (percent)
P.T. Musim Mas; PT Inti Benua Perkasatama ⁷	23.04	22.96
PT Wilmar Nabati Indonesia	12.32	12.31
All Others	19.55	19.49

⁷ Commerce preliminarily determines that PTMM and IBP are a single entity. *See* Preliminary Decision Memorandum.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and

exporters will be equal to the all-others estimated weighted-average dumping margin.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise produced or exported by all other exporters and producers. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from the producers or exporters identified in this paragraph that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. Any such adjusted cash deposit rate may be found in the "Preliminary Determination" section above.

Should provisional measures in the companion CVD investigation expire prior to the expiration of provisional measures in this LTFV investigation, Commerce will direct CBP to begin collecting estimated antidumping duty cash deposits unadjusted for countervailed export subsidies at the time that the provisional CVD measures expire. These suspension of liquidation instructions will remain in effect until further notice.

⁶ With two respondents under examination, Commerce normally calculates: (A) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents; (B) a simple average of the estimated weighted-average dumping margins calculated for the examined respondents; and (C) a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's publicly-ranged U.S. sales values for the

merchandise under consideration. Commerce then compares (B) and (C) to (A) and selects the rate closest to (A) as the most appropriate rate for all other producers and exporters. *See, e.g., Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53662 (September 1, 2010), and accompanying Issues and

Decision Memorandum at Comment1. As complete publicly-ranged sales data were available, Commerce based the all-others rate on the publicly ranged sales data of the mandatory respondents. For a complete analysis of the data, *see* Memorandum, "Calculation of the Dumping Margin for All Other Producers and Exporters," dated concurrently with this notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.⁸ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.⁹

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁰ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We

intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹¹

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

Between September 3 and September 4, 2026, pursuant to 19 CFR 351.210(e), Musim Mas and PT Wilmar separately requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.¹² In accordance with

section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: September 15, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is certain fatty acids, which are organic acids made of a hydrocarbon chain with a carboxylic acid group (*i.e.*, an organic acid that contains a carboxyl group (-C(=O)-OH) attached to an R-group, sometimes also written as R-COOH, R-C(O)OH, or R-CO₂H) at one end with a carbon chain length (*i.e.*, the number of carbon atoms in the fatty acid chain) of C6, C8, C10, C12, C14, C16, or C18, with an iodine value below 105g/100 g and with a ratio of free fatty acids to triglycerides (also known as the "degree of split" or DoS) of at least 97 percent, including single fatty acid (also referred to as "pure cut"), and blends containing a combination of two or more carbon chain lengths.

Certain fatty acids covered by the scope range in physical form from low viscosity liquids to solids. Certain fatty acids are covered by the scope of this investigation irrespective of whether they have gone through a distillation process and regardless of acid content, reactivity, functionality, freeze stability, heat stability, physical form, viscosity, grade, purity, molecular weight, or packaging.

⁸ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

⁹ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁰ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹¹ See *APO and Service Procedures*.

¹² See Musim Mas' Letter, "Request to Postpone the Final Determination," dated September 3, 2026; see also PT Wilmar's Letter, "Wilmar Request to Extend the Final Determination," dated September 4, 2026.

Certain fatty acids may contain additives, such as catalysts, solvents, antioxidants, fire retardants, colorants, pigments, diluents, thickeners, fillers, softeners, and toughening agents.

The scope includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, introducing or removing additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country.

The scope also includes certain fatty acids that are commingled or blended with certain fatty acids from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

Certain fatty acids covered by the scope are also commonly called pure, pure cut, fractionated, or distilled fatty acid or mixed, mixed cut, or blended fatty acid, with the terms pure, pure cut, fractionated, and distilled typically referring to specific single-chain fatty acids that have been separated from a mixed natural source such as animal fat or vegetable oil using processes like hydrolysis (the breakdown of fat molecules by water, catalyzed by acid, base, or enzymes (lipases) to yield glycerol and free fatty acids), distillation, and crystallization, and the terms mixed or mixed cut referring to combinations, blends or mixtures of different single-chain fatty acids also derived from a natural source such as animal fat or vegetable oil using processes like hydrolysis, distillation, and crystallization. Common names for pure, pure cut, fractionated, or distilled fatty acids forms include stearic acid and oleic acid. Common names for mixed or mixed cut fatty acids include coconut fatty acid, hardened coconut fatty acid, topped coconut fatty acid, topped hardened coconut fatty acid, palm kernel fatty acid, hardened palm kernel fatty acid, topped palm kernel fatty acid, topped hardened palm kernel fatty acid, palm fatty acid, palm stearin fatty acid, palm fatty acid distillate, and palm olein fatty acid.

Certain fatty acids covered by the scope are normally associated with Chemical Abstracts Service (CAS) registry numbers 57–11–4, 112–80–1, 61790–38–3, 67701–05–7, 67701–06–8, 67707–01–3, 68938–15–8, 101403–98–9, 91771–90–3, 90990–15–1, 68440–15–3, 84238–17–5, 98106–68–4, 98106–66–2, 90990–08–1, and 90990–08–2 but several others may also be used. Specifically excluded from the scope are certain fatty acids containing 90 percent or more, by weight, of fatty acids with carbon chain lengths of C6, C8, or C10 (or any combination thereof). The scope also does not include mixtures of certain fatty acids with other materials, when the combined certain fatty acids component comprises less than 80 percent of the total weight of the mixture.

The merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 2915.70.0110, 2915.70.0120, 2915.70.0150, 2915.90.1010, 2915.90.1050, 2916.15.1000, 2916.15.5100, 3823.11.0000, 3823.12.0000, 3823.19.2000, and 3823.19.4000 and may also enter under 3824.99.4190.

The HTSUS subheadings set forth above are provided for convenience and customs purposes only. The written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Affiliation and Single Entity Treatment
- V. Discussion of the Methodology
- VI. Particular Market Situation
- VII. Preliminary Affirmative Determination of Critical Circumstances, in Part
- VIII. Currency Conversion
- IX. Adjustments to Cash Deposit Rates for Export Subsidies in the Companion Countervailing Duty Investigation
- X. Recommendation

[FR Doc. 2026–19378 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Court Decision Not in Harmony With the Final Results of Antidumping Administrative Review; and Notice of Amended Final Results

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

SUMMARY: On September 4, 2026, the U.S. Court of International Trade (CIT) issued its final judgment in *Catfish Farmers of Am., et al v. United States*, Court No. 24–00082, sustaining the U.S. Department of Commerce (Commerce)’s remand results pertaining to the administrative review of the antidumping duty (AD) order on certain frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam) covering the period of review (POR) August 1, 2021, through July 31, 2022. Commerce is notifying the public that the CIT’s final judgment is not in harmony with Commerce’s final results in the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Can Tho Import Export Seafood Joint Stock Company (CASEAMEX) and four companies receiving a separate rate.

DATES: Applicable September 14, 2026.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2243.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 2024, Commerce published its *Final Results* in the 2021–2022 AD administrative review of fish fillets from Vietnam,¹ in which we calculated a margin of \$0.18/kg for CASEAMEX. We also assigned this rate to four companies receiving a separate rate: Cafatex Corporation (Cafatex); Hung Vuong Corporation² (HVG); International Development and Investment Corporation (IDI); and Loc Kim Chi Seafood Joint Stock Company (Loc Kim).

Following the *Final Results*, the petitioners³ brought a ministerial error allegation regarding our treatment of marine insurance in the margin calculation for CASEAMEX. Because the alleged error related to an aspect of the calculation that was present in the *Preliminary Results*, and because no party had commented on this aspect of our calculation in case briefs, we rejected the allegation as untimely.⁴

¹ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results and Partial Rescission of Administrative Review; 2021–2022*, 89 FR 18595 (March 14, 2024) (*Final Results*), and accompanying Issues and Decision Memorandum.

² Hung Vuong Corporation (also known as Hung Vuong Joint Stock Company, HVC or HV Corp.) is part of a single entity with the following companies: (1) An Giang Fisheries Import and Export Joint Stock Company (also known as Agifish, An Giang Fisheries Import and Export, An Giang Fisheries Import & Export Joint Stock Company); (2) Asia Pangasius Company Limited (also known as ASIA); (3) Europe Joint Stock Company (also known as Europe, Europe JSC or EJS CO.); (4) Hung Vuong Ben Tre Seafood Processing Company Limited (also known as Ben Tre, HVBT, or HVBT Seafood Processing); (5) Hung Vuong Mascato Company Limited (also known as Mascato); (6) Hung Vuong—Sa Dec Co., Ltd. (also known as Sa Dec or Hung Vuong Sa Dec Company Limited); and (7) Hung Vuong—Vinh Long Co., Ltd. (also known as Vinh Long or Hung Vuong Vinh Long Company Limited).

³ The petitioners are the Catfish Farmers of America and individual U.S. catfish processors America’s Catch, Inc., Alabama Catfish, LLC d/b/a Harvest Select Catfish, Inc., Consolidated Catfish Companies, LLC d/b/a Country Select Catfish, Delta Pride Catfish, Inc., Guidry’s Catfish, Inc., Heartland Catfish Company, Magnolia Processing, Inc. d/b/a Pride of the Pond, and Simmons Farm Raised Catfish, Inc.

⁴ See Commerce’s Letter, “Rejection of Untimely Ministerial Error Allegation,” dated April 2, 2024 (stating that “[p]ursuant to 19 CFR 351.224(c)(1), comments concerning ministerial errors in the preliminary results of a review should be included in a party’s case brief. Moreover, 19 CFR 351.309(c)(2) states that a party’s ‘case brief must present all arguments that continue in the submitter’s view to be relevant to the Secretary’s final determination or final results. . . .’ The alleged ministerial error referenced in your submission was discoverable earlier in the proceeding (*i.e.*, immediately following the preliminary results) but was not pointed out to

Continued

Therefore, we made no changes to our final calculations for CASEAMEX or the rate assigned to the separate rate companies.

The petitioners appealed the *Final Results*. On December 15, 2025, the CIT remanded Commerce’s *Final Results* and found that certain aspects of Commerce’s *Final Results* were not supported by substantial evidence.⁵ In the *Remand Opinion and Order*, the Court found that Commerce improperly rejected the ministerial error allegation as untimely, and it directed Commerce to accept the allegation and make corrections, as necessary, on remand.⁶

In its remand redetermination, issued on April 15, 2026, Commerce revised its *Final Results* pursuant to the *Remand Opinion and Order* and, under respectful protest,⁷ accepted the

ministerial error allegation as directed. In particular, we revised the dumping margin calculated for mandatory respondent CASEAMEX. We also applied this revised rate to the four companies receiving separate rates in this administrative review: Cafatex; HVG; IDI; and Loc Kim. On September 4, 2026, The CIT sustained Commerce’s final remand redetermination.⁸

Timken Notice

In its decision in *Timken*,⁹ as clarified by *Diamond Sawblades*,¹⁰ 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 September 4, 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* as follows: (1) we revised the dumping margin calculated for mandatory respondent CASEAMEX; and (2) we also applied this revised rate to the four companies receiving separate rates in this administrative review: Cafatex; HVG; IDI; and Loc Kim, as follows:

Exporter	Weighted-average dumping margin (dollars per kilogram)
Can Tho Import Export Seafood Joint Stock Company	\$0.20
Loc Kim Chi Seafood Joint Stock Company	* 0.20
International Development and Investment Corporation	* 0.20
Hung Vuong Corporation	* 0.20
Cafatex Corporation	* 0.20

* This rate is based on the rate calculated for Can Tho Import Export Seafood Joint Stock Company.

Cash Deposit Requirements

Because CASEAMEX 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) for the company. This notice will not affect the current cash deposit rate for CASEAMEX.

However, as Cafatex’s, HVG’s, IDI’s and Loc Kim’s cash deposit rates have not been superseded in a subsequent review, we will apply the revised rate of \$0.20 per kilogram to these companies. Commerce will issue revised cash deposit instructions to CBP.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: were exported by CASEAMEX, Cafatex, HVG, IDI or Loc Kim, and were entered, or withdrawn from warehouse, for consumption during the period August 1, 2021, through July 31, 2022. These entries will remain enjoined pursuant to the terms

of the injunction(s) during the pendency of any appeals process.

In the event the CIT’s ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, and at the conclusion of any additional litigation concerning the entries in question, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise exported by CASEAMEX, Cafatex, HVG, IDI or Loc Kim, in accordance with 19 CFR 351.212(b). We will instruct CBP to assess duties on all appropriate entries covered by this review at the rate of \$0.20 per kilogram.

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: September 17, 2026.

Steven Presing,
Executive Director for Policy and Negotiations.

[FR Doc. 2026–19373 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–DS–P

Commerce during the time period specified by our regulations (*i.e.*, in the petitioners’ case brief”).

⁵ See *Catfish Farmers of Am. v. United States*, 815 F.Supp.3d 1339 (CIT 2025) (*Remand Opinion and Order*).

⁶ *Id.* at 1355–56.

⁷ See *Viraj Group v. United States*, 343 F.3d 1371 (Fed. Cir. 2003).

⁸ See *Catfish Farmers of Am., et al v. United States*, Court No. 24–00082, Slip Op. 26–103 (September 4, 2026).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG067]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of web conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Charter Halibut Management Committee will meet on October 21, 2026.

DATES: The meeting will be held on Wednesday, October 21, 2026, from 8:30 a.m. to 1:30 p.m., Alaska Time.

ADDRESSES: The meeting will be a web conference. Join online through the link at <https://meetings.npfmc.org/Meeting/Details/7156>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Suite 400, Anchorage, AK 99501–2252. Instructions for attending

⁹ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹⁰ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT:

Sarah Marrinan, Council staff; phone: 907-271-2809; email: smarrinan@npfmc.org. For technical support please contact our admin Council staff, 907-271-2809; email: support@npfmc.org.

SUPPLEMENTARY INFORMATION:

Agenda

Wednesday, October 21, 2026

The Charter Halibut Management Committee will meet to make recommendations on management measures to analyze for the 2027 season. First, the Alaska Department of Fish and Game (ADF&G) will review the final charter halibut harvest and effort numbers for 2025 and preliminary harvest and effort numbers for 2026. Then the committee will discuss the development of the 2027 management measures for ADF&G analysis. The meeting will conclude with any other business. Public testimony will then be taken at the chair's discretion, and the meeting will conclude with other business and upcoming meetings. The agenda is subject to change, and the latest version will be posted prior to the meeting, along with meeting materials, <https://meetings.npfmc.org/Meeting/Details/7156>.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: <https://meetings.npfmc.org/Meeting/Details/7156>. For technical support please contact our admin Council staff, 907-271-2809; email: support@npfmc.org.

Public Comment

Public comment letters will be accepted prior to the meeting and should be submitted electronically to <https://meetings.npfmc.org/Meeting/Details/7156>.

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

Dated: September 18, 2026.

Key Israel Marquez,

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

[FR Doc. 2026-19348 Filed 9-21-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XG061]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of hybrid conference.

SUMMARY: The North Pacific Fishery Management Council (NPFMC) Joint Protocol Committee will meet October 16, 2026.

DATES: The meeting will be held on Thursday, October 16, 2026, from 8:30 a.m. to 5 p.m. Alaska Time.

ADDRESSES: The meetings will be a hybrid conference. The in-person component of the meeting will be held at the Marriott Anchorage Downtown, 820 7th Avenue, 2nd floor Kenai/Denali Rooms, or watch online through the link at <https://us06web.zoom.us/j/89752081977>.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501-2252; telephone: (907) 271-2809. Instructions for attending the meeting via video conference are given under the connection information below. For technical support, please contact our Council administrative staff, email: support@npfmc.org.

FOR FURTHER INFORMATION CONTACT:

Diana Evans, Council Executive Director; email: devans@npfmc.org telephone: (907) 271-2809.

SUPPLEMENTARY INFORMATION:

Agenda

Friday, October 16, 2026

The agenda will include staff reports on (1) Pelagic and non-pelagic trawl fisheries operating in state waters in the Bering Sea, Aleutian Islands, and Gulf of Alaska, (2) Federal fishery management measures in effect to minimize adverse impacts of trawl fisheries (e.g., closed areas, and gear modifications including salmon excluders), (3) Statutory requirements for assessing the impacts of Council-managed groundfish fisheries on habitat, and tools the Council uses, (4) Ongoing research on understanding pelagic trawl gear impacts (Gear Innovation Initiative), operationality of bottom contact sensors, and other innovations, (5) Council actions underway related to habitat (Essential Fish Habitat 5-year review) and bottom

contact (pelagic trawl gear performance standard). The agenda is subject to change, and the latest version will be posted at <https://meetings.npfmc.org/Meeting/Details/6150> prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: <https://www.npfmc.org/upcoming-council-meetings>. For technical support, please contact our administrative staff, email: support@npfmc.org or telephone: 907-271-2809.

Public Comment

Public comment letters will be accepted and should be submitted electronically through the links at <https://www.npfmc.org/upcoming-council-meetings>. The comment portal will open on September 8th, and the deadline to submit written comments is Friday, October 9th, at 5 p.m. Alaska time. The Committee will hear public testimony from in-person attendees. Remote testimony will not be taken during this meeting. Please sign up to testify on the morning of the meeting on October 16th, 2026.

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

Dated: September 18, 2026.

Key Israel Marquez,

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

[FR Doc. 2026-19347 Filed 9-21-26; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Paperwork Submissions Under the Coastal Zone Management Act Federal Consistency Requirements

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public

comments were previously requested via the **Federal Register** on April 20, 2026, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Paperwork Submissions Under the Coastal Zone Management Act Federal Consistency Requirements.

OMB Control Number: 0648–0411.

Form Number(s): None.

Type of Request: Regular submission.

Number of Respondents: 2,437.

Average Hours per Response:

Applications/certifications and state preparation of objection or concurrence letters, 8 hours each; state requests for review of unlisted activities, 4 hours; public notices, 1 hour; interstate listing notices, 30 hours; mediation, 2 hours; appeals to the Secretary of Commerce, 210 hours.

Total Annual Burden Hours: 35,799.

Needs and Uses: This notice and request for public comment is for a request to extend a currently approved information collection made by the Office for Coastal Management within the National Ocean Service of the National Oceanic and Atmospheric Administration (NOAA) pursuant to the requirements of Section 307 of the Coastal Zone Management Act (CZMA; 16 U.S.C. 1451, *et seq.*) and its implementing regulations at 15 CFR part 930. Information collected pursuant to these requirements is used by states to determine the consistency of proposed Federal actions with the enforceable policies of state coastal management programs (CMPs), and by NOAA when deciding appeals to state objections in the exercise of the review authority that the CZMA provides.

The Coastal Zone Management Act (CZMA) creates a State-Federal partnership to improve the management of the nation's coastal zone through the development of federally approved state CMPs. The CZMA provides two incentives for states to develop federally approved CMPs: (1) NOAA has appropriated monies to grant to states to develop and implement state CMPs that meet statutory and regulatory criteria; and (2) the CZMA requires Federal agencies, non-federal licensees, and State and local government recipients of Federal assistance to conduct their activities in a manner "consistent" with the enforceable policies of NOAA-approved CMPs. The latter incentive, referred to as the "federal consistency" provision, is found at 16 U.S.C. 1456. NOAA's regulations at 15 CFR part 930 implement NOAA's responsibilities to provide procedures for the consistency

provision, the procedures available for an appeal of a state's objection to a consistency certification as provided for in 16 U.S.C. 1456(c)(3)(A) and (B) and 1456(d), and changes in the appeal process created by Congressional amendments in 1990, 1996 and 2005, and found at 16 U.S.C. 1465.

Paperwork and information collection routinely occurs by state CMPs pursuant to the CZMA Federal consistency review requirements. Federal agencies proposing an action that may have reasonably foreseeable effects to coastal uses or resources must provide a consistency determination to affected states. The information requirements for consistency determinations are specified at 15 CFR 930.39. Non-federal applicants for Federal licenses, permits and other forms of authorization that are listed by state CMPs as subject to review, must submit a statement certifying the consistency of the proposed activity to state CMPs pursuant to 15 CFR 930.57 accompanied by the necessary data and information specified at 15 CFR 930.58. Necessary data and information includes a copy of the application for the Federal license or permit; all material relevant to the state CMP provided to the Federal agency in support of the license or permit request; a detailed description of the proposed activity, its associated facilities and coastal effects; information specifically identified in the state CMP; and an evaluation that includes findings relating to the coastal effects of the proposal and its associated facilities to the relevant enforceable policies of the state CMP. For state and local agency applicants for Federal financial assistance, the application shall be forwarded to the state CMP through the intergovernmental review process established pursuant to Executive Order 12372, or submitted directly to the state CMP if the Federal financial assistance is listed in the state CMP as subject to review. See 15 CFR 930.94.

Information is provided to NOAA only when there is a state objection to a proposed Federal license or permit, or Federal financial assistance; when informal mediation is sought by a Federal agency or state; or when an applicant for a Federal license or permit, or Federal financial assistance appeals to the Secretary of Commerce for an override to a state CMP objection to the issuance of the authorization, or award of assistance. Last, in 1990, Congress required state CMPs to provide for public participation in their permitting processes, consistency determinations and similar decisions. See 16 U.S.C. 1455(d)(14). How the public participation requirement is met

is determined by each state with NOAA approval of the participation process.

These submissions are intended to provide a reasonable, efficient, and predictable means of complying with CZMA requirements. The information will be used by coastal states with federally-approved Coastal Zone Management Programs to determine if Federal agency activities, Federal license or permit activities, and Federal assistance activities that affect a state's coastal zone are consistent with the state's coastal management program.

Information developed for and during state reviews will also be collected and considered by NOAA for appeals filed by non-federal applicants seeking an override of state CZMA objections to Federal license or permit activities or Federal assistance activities.

There have been no changes to the information collection requirements, their applicability or the methods of collection since the previous Paperwork Reduction Act extension.

Affected Public: Federal and State agencies, Federal license and permit applicants, lessees under the Outer Continental Shelf Lands Act, applicants for Federal financial assistance to State and local governments.

Frequency: With the state review process under the CZMA being part of the Federal decision-making process for proposed Federal actions, the reviews have the same frequency as other regulatory compliance reviews.

Respondent's Obligation: The submission of a consistency determination or certification to states for their review, and the issuance of a decision by the state on the proposed action.

Legal Authority: 16 U.S.C. 1456, 15 CFR part 930.

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

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and

entering either the title of the collection or the OMB Control Number 0648–0411.

Sheleen Dumas,

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

[FR Doc. 2026–19381 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Designation of Fishery Management Council Members and Application for Reinstatement of State Authority

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 8, 2026, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Designation of Fishery Management Council Members and Application for Reinstatement of State Authority.

OMB Control Number: 0648–0314.

Form Number(s): None.

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

Number of Respondents: 146.

Average Hours per Response: 1 hour to designate a principal state fishery official(s); 80 hours for a nomination for Council appointment (Governors' and Indian Tribal Government); 16 hours for background documentation for nominees; 2 hours for a request to reinstate authority.

Total Annual Burden Hours: 4,607 hours.

Needs and Uses: This is a request for an extension of an approved information collection. The Magnuson-

Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the establishment of eight Regional Fishery Management Councils to manage fisheries within regional jurisdictions. This collection pertains to several sections of the Magnuson-Stevens Act related to the Councils. Section 302(b) provides for appointment of Council members nominated by State Governors, Territorial Governors, or Tribal Governments and for designation of a principal state fishery official for the purposes of the Magnuson-Stevens Act. Section 306(b)(2) provides for a request by a state for reinstatement of state authority over a managed fishery. Nominees for Council membership must provide their State Governor, Territorial Governor, or Tribal Government leadership with background documentation, which is then submitted to NOAA, on behalf of the Secretary of Commerce to review qualifications for Council membership. The information collected with these actions is used to ensure that the requirements of the Magnuson-Stevens Act are being met in regard to Council membership and state authority.

Affected Public: State, Local, or Tribal Government.

Frequency: Annual.

Respondent's Obligation: Mandatory.

Legal Authority: Magnuson-Stevens Act Section 302(b), Section 306(b)(2), and 50 CFR 600.215.

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

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0314.

Sheleen Dumas,

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

[FR Doc. 2026–19330 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Permit and Reporting Requirements for Non-Commercial Fishing in the Rose Atoll, Marianas Trench, and Pacific Remote Islands Marine National Monuments

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 4, 2026, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Permit and Reporting Requirements for Non-commercial Fishing in the Rose Atoll, Marianas Trench, and Pacific Remote Islands Marine National Monuments.

OMB Control Number: 0648–0664.

Form Number(s): None.

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

Number of Respondents: 15 respondents for both the fishing permit application and daily log.

Average Hours per Response: 0.25 hours (15 minutes) per permit application; 0.33 hours (20 minutes) per daily log.

Total Annual Burden Hours: 19 hours.

Needs and Uses: This is a request for extension of an approved information collection. NOAA's National Marine Fisheries Service (NMFS) manages non-commercial fishing activities in the Rose Atoll, Marianas Trench, and Pacific Remote Islands Marine National Monuments. Regulations at 50 CFR Part 665 require the owner and operator of a vessel used to non-commercially fish for, take, retain, or possess any management unit species in these monuments to hold a valid permit

issued by NMFS. Regulations also require the owner and operator of a vessel that is chartered to fish recreationally for, take, retain, or possess, any management unit species in these monuments to hold a valid permit issued by NMFS. The fishing vessel must be registered to the permit. The charter business must be established legally in the permit area where it will operate. Charter vessel clients are not required to have a permit.

The permit application collects basic information about the permit applicant, type of operation, vessel, and permit area. NMFS uses this information to confirm the identity of the applicant and determine permit eligibility. The information is important for understanding the nature of the fishery and its participants. It also aids in the enforcement of fishing regulations within the monuments.

Regulations also require the vessel operator to report a complete record of catch, effort, and other data on a NMFS log sheet. The vessel operator must record all requested information on the log sheet within 24 hours of the completion of each fishing day. The vessel operator also must sign, date, and submit the form to NMFS within 30 days of the end of each fishing trip. NMFS uses the information provided in the log sheets to monitor fishing activities, evaluate and assess the status of fish stocks, and determine whether changes in management are needed to sustain the productivity of the fishery and conserve marine resources.

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

Frequency: As required by regulations.

Respondent's Obligation: Mandatory.

Legal Authority: 50 CFR 665.

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

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and

entering either the title of the collection or the OMB Control Number 0648–0664.

Sheleen Dumas,

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

[FR Doc. 2026–19365 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG063]

Gulf Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf Fishery Management Council will hold a half-day virtual meeting of its *Shrimp* Advisory Panel (AP).

DATES: The meeting will convene Thursday, October 15, 2026, 9 a.m.–1 p.m., EDT. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held virtually. Registration information will be available on the Council's website by visiting www.gulfcouncil.org and clicking on the Shrimp AP meeting on the calendar.

Council address: Gulf Fishery Management Council, 4107 W Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Matt Freeman, Economist, Gulf Fishery Management Council; matt.freeman@gulfcouncil.org, telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

Thursday, October 15, 2026; 9 a.m.–1 p.m. EDT

The virtual meeting will begin with the Adoption of Agenda, Approval of Summary from the March 9, 2026, Meeting, and Scope of Work. The AP will review and discuss Council Actions in Response to Motions from the March 2026 *Shrimp* AP Meeting and receive the 2024 Gulf *Shrimp* Fishery Estimation. The AP will also receive the Status of Updated Analyses on Minimum Threshold Number of Federal

Gulf *Shrimp* Permits and review Draft *Shrimp* Amendment 20.

The AP will participate in a Discussion of Draft Review Panel for Federal Gulf *Shrimp* Permit Pool, receive any public testimony and discuss other business items.

Meeting Adjourns—

This is a virtual only meeting. You may register by visiting www.gulfcouncil.org and clicking on the *Shrimp* Advisory Panel meeting on the calendar.

<https://attendee.gotowebinar.com/register/3383291116212545537>. The Agenda is subject to change, and the latest version along with other meeting materials will be posted on www.gulfcouncil.org as they become available.

Although other non-emergency issues not on the agenda may come before the Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions 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 Act, provided the public has been notified of the Council's intent to take action to address the emergency at least 5 working days prior to the meeting.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid or accommodations should be directed to Kathy Pereira, kathy.pereira@gulfcouncil.org, at least 5 days prior to the meeting date.

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

Dated: September 17, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–19288 Filed 9–21–26; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend

Collection 3038–0062: Off-Exchange Foreign Currency Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“CFTC” or “Commission”) is announcing an opportunity for public comment on the proposed renewal of a 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. This notice solicits comments on the extension of information collection requirements provided for by Part 5 of the Commission’s regulations under the Commodity Exchange Act (“CEA”).

DATES: Comments must be submitted on or before November 23, 2026.

ADDRESSES: You may submit comments, identified by “Off-Exchange Foreign Currency Transactions,” Collection Number 3038–0062, by any of the following methods:

- *Regulations.gov:* Go to <https://www.regulations.gov> and press the “Search” button, then proceed as follows:

1. Under Refine Documents Result—check the box to “Only show documents open for comment”;

2. Under Agency—select “See More” and check the box for “Commodity Futures Trading Commission,” then press the Apply button;

3. Identify this notice in the list of CFTC documents open for comment, press the “Comment” button to open the submission form and follow the instructions on the form.

Alternatively, if you are viewing this notice on www.federalregister.gov, click the “Submit A Public Comment” button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to *Regulations.gov*.

- *Mail:* Send to—Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one method. To avoid possible delays with mail or in-person deliveries, submissions through *Regulations.gov* are encouraged.

All comments must be submitted in English, or if not, accompanied by an

English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential. If you wish to submit confidential information for the Commission’s consideration, please contact the CFTC personnel listed in this Notice under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission’s procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (“FOIA”) of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this notice, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act, the Paperwork Reduction Act, and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT:

Catherine Brescia, Attorney Advisor, at (202) 418–6236 or cbrescia@cftc.gov, Market Participants Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; and refer to OMB Control No. 3038–0062.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, 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 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.¹ To comply with this requirement, the CFTC is publishing notice of the proposed extension of the existing collections of information listed below. 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.

Title: Off-Exchange Foreign Currency Transactions (OMB Control No. 3038–0062). This is a request for an extension of a currently approved information collection.

Abstract: Part 5 of the Commission’s regulations under the CEA establishes rules applicable to retail foreign exchange dealers (“RFEDs”), futures commission merchants (“FCMs”), introducing brokers (“IBs”), commodity trading advisors (“CTAs”), and commodity pool operators (“CPOs”) engaged in the offer and sale of off-exchange forex contracts to retail customers. Specifically:

- Regulation 5.5 requires RFEDs, FCMs, and IBs to distribute risk disclosure statements to new retail forex customers.

- Regulation 5.6 requires RFEDs and FCMs to report any failures to maintain the minimum capital required by Commission regulations.

- Regulation 5.8 requires RFEDs and FCMs to calculate their total retail forex obligation.

- Regulation 5.10 requires RFEDs to maintain and preserve certain risk assessment documentation.

- Regulation 5.11(a)(1) requires RFEDs to submit certain risk assessment documentation to the Commission within 60 days of the effective date of their registration.

- Regulation 5.11(a)(2) requires RFEDs to submit certain financial documentation to the Commission within 105 calendar days of the end of each fiscal year. RFEDs must also submit additional information, if requested, regarding affiliates’ financial impact on an RFED’s organizational structure.

- Regulation 5.12(a) requires RFED applicants to submit a Form 1–FR–FCM concurrently with their registration application.

¹ 44 U.S.C. 3506(c)(2)(A).

- Regulation 5.12(b) requires registered RFEDs to file a Form 1–FR–FCM on a monthly and annual basis.
- Regulation 5.12(g) states that, in the event that an RFED cannot file its Form 1–FR–FCM for any period within the time specified in Regulation 5.12(b), the RFED may file an application for an extension of time with its self-regulatory organization.
- Regulation 5.13(a) requires RFEDs and FCMs to provide monthly account statements to their customers.
- Regulation 5.13(b) requires RFEDs and FCMs to provide confirmation statements to their customers within one business day after the execution of any retail forex or forex option transaction.
- Regulation 5.14 requires RFEDs and FCMs to maintain current ledgers of each transaction affecting its asset, liability, income, expense and capital accounts.
- Regulation 5.18(g) requires each RFED, FCM, CPO, CTA, and IB subject to part 5 to maintain a record of all communications received that give rise to possible violations of the Act, rules, regulations or orders thereunder related to their retail forex business.
- Regulation 5.18(i) requires each RFED and FCM to prepare and maintain on a quarterly basis a calculation of nondiscretionary retail forex customer accounts open for any period of time during the quarter that were profitable, and the percentage of such accounts that were not profitable.
- Regulation 5.18(j) requires the chief compliance officer of each RFED and FCM to certify annually that the firm has in place processes to establish, maintain, review, modify and test policies and procedures reasonably designed to achieve compliance with the Act, rules, regulations and orders thereunder.
- Regulation 5.19 requires each RFED, FCM, CPO, CTA, and IB subject to part 5 to submit to the Commission copies of any dispositive or partially dispositive decision for which a notice of appeal has been filed in any material legal proceeding (1) to which the firm is a party to or to which its property or assets is subject with respect to retail forex transactions, or (2) instituted against any person who is a principal of the firm arising from conduct in such person's capacity as a principal of that firm.
- Regulation 5.20 requires RFEDs, FCMs and IBs to submit documentation requested pursuant to certain types of special calls by the Commission.
- Regulation 5.23 requires RFEDs, FCMs and IBs to notify the Commission

regarding bulk transfers and bulk liquidations of customer accounts.

The rules establish reporting and recordkeeping requirements that are necessary to implement the provisions of the Food, Conservation, and Energy Act of 2008² regarding off-exchange transactions in foreign currency with members of the public. The rules are intended to promote customer protection by providing safeguards against irresponsible or fraudulent business practices.³

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burdens of the proposed collections of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burdens of 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).

Burden Statement: The Commission is revising its burden estimate for 64 respondents, which include RFEDs, FCMs, IBs, CPOs, and CTAs, as follows:

Estimated Number of Respondents: 64.

Estimated Average Burden Hours Per Respondent: 2,195.⁴

Estimated Total Annual Burden Hours: 140,454.

Frequency of Collection: As applicable.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: September 18, 2026.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2026–19338 Filed 9–21–26; 8:45 am]

BILLING CODE 6351–01–P

² Public Law 110–246, 122 Stat. 1651, 2189–220 (2008).

³ See Regulation of Off-Exchange Retail Foreign Exchange Transactions and Intermediaries, 75 FR 55410, 55416 (Sept. 10, 2010).

⁴ This figure has been rounded to the nearest whole number.

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Exchange of Air Force Real Property for Non-Air Force Real Property; Correction

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The Department of the Air Force is publishing this Notice to identify Federal real property that it intends to exchange land with the Massachusetts Institute of Technology (MIT) property in furtherance of a federally funded research and development center operated by MIT at Hanscom AFB, MA.

DATES: Written objections must be filed no later than fifteen (15) calendar days after the date of publication of this Notice.

ADDRESSES: Submit objections to Daniel J. Wetz, Air Force Civil Engineer Center (AFCEC/CITE), 2261 Hughes Avenue, Suite 155, Joint Base San Antonio (JBSA) Lackland, TX 78236–9853; telephone (380) 459–8501.

FOR FURTHER INFORMATION CONTACT: Daniel J. Wetz, Air Force Civil Engineer Center (AFCEC/CITW), 2261 Hughes Avenue, Suite 155, Joint Base San Antonio (JBSA) Lackland, TX 78236–9853; telephone (380) 459–8501.; Email: daniel.wetz.2@us.af.mil.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of September 10, 2026, in FR Doc 2026–18466, page 174, in the second column, sixth paragraph, correct the **SUPPLEMENTARY INFORMATION** caption to read:

The Air Force will agree to convey 1.04 acres in fee with an estimated value of (\$1,131,875.00) to The Massachusetts Institute of Technology, a not for profit corporation created under the laws of the Commonwealth of Massachusetts, the Recipient, in exchange for 1.04 acres in fee, also with an estimated value of (\$1,131,875.00). The Government is entering into this Agreement pursuant to the authority contained in Title 10, United States Code, Section 2869(d)(2), Exchange of Property at Military Installations.

On 8 September 2026, the Department of the Air Force notified the appropriate Congressional committees of the terms and conditions of the proposed exchange pursuant to Title 10, United States Code, Section 2869(d)(2).

Authority: Title 10, United States Code, Section 2869.

Crystle C. Poge,

Air Force Federal Register Liaison Officer.

[FR Doc. 2026–19363 Filed 9–21–26; 8:45 am]

BILLING CODE 3911–44–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–0S]

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 are copies of the attached Transmittal 26–0S and Sensitivity of Technology.

Dated: September 17, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–0S

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) *Prospective Purchaser:* Government of Bahrain

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 16–36

Date: April 27, 2018

Implementing Agency: Navy

Funding Source: National Funds

(iii) *Description:* On April 27, 2018, Congress was notified by congressional certification transmittal number 16–36 of the possible sale, under 36(b)(1) of the Arms Export Control Act, of (12) AH–1Z Attack Helicopters; twenty-six (26) T–700 GE 401C engines (24 installed and 2 spares); fourteen (14) AGM–114 Hellfire missiles; and fifty-six (56) Advance Precision Kill Weapon System II (APKWS–II) WGU–59B. The following non-MDE items were also included: Honeywell Embedded Global Positioning System (GPS)/Inertial

Navigation System (INS) (EGI) with standard positioning service; joint mission planning systems; M197 20mm gun systems; tech refresh mission computers; AN/AAQ–30 target sight systems; helmet mounted display system/Optimized Top Owl; communication equipment; electronic warfare systems; APX–117 Identification Friend or Foe (IFF); AN/AAR–47 missile warning systems; AN/ALE–47 countermeasure dispenser sets; APR–39C(V)2 radar warning receivers; support equipment; spare engine containers; spare and repair parts; tools and test equipment; technical data and publications; personnel training and training equipment; U.S. government and contractor engineering, technical, and logistics support services; and other related elements of program and logistics support. The total estimated value was \$911.4 million. Major defense equipment (MDE) constituted \$490.9 million of this total.

On April 15, 2019, Congress was notified by Congressional certification transmittal number 18–0F, under Section 36(b)(5)(C) of the Arms Export Control Act, of the inclusion of one hundred forty-four (144) AGM–114 Hellfire missiles; twelve (12) M36E9 Hellfire Captive Air Training Missiles; six hundred two (602) APKWS–II WGU–59B Guidance Sections; eight hundred twenty-six (826) MK–66 rocket motors; eight hundred twenty-six (826) MK–152 rocket warheads; fifty-six hundred (5,600) rounds of PGU–27 20mm ammunition; Operational chaff, Decoy Flares, and Impulse Cartridges. The estimated MDE value increased by \$42 million to a revised \$533 million. The estimated total case value was increased to \$960 million.

On December 22, 2023, Congress was notified by Congressional certification transmittal number 0B–23, under Section 36(b)(5)(A) of the Arms Export Control Act, of the inclusion of sixty (60) APKWS–II WGU–59B Guidance Sections. The estimated total value of the additional items and services was \$2 million. The estimated MDE value increased by \$2 million to a revised \$535 million. The estimated total case value remained at \$960 million.

This transmittal reports the addition of twelve (12) AH–1Z Attack Helicopters; twenty-six (26) T–700 GE 401C engines; one thousand six hundred eighty (1,680) APKWS WGU–59A/B; and fourteen (14) Honeywell EGIs. The following non-MDE items will also be included: support and test equipment; weapons and munitions; countermeasures; integration and test support; spare and repair parts; communications equipment; mission

planning; software delivery and support; helmet mounted display system/Optimized Top Owl; target sight systems and containers; technical refresh mission computer; ANVIS–9 night vision cueing displays; AN/ARC–210 Generation 6 RT 2036 radio equipment; AN/APX–123A IFF Mode 5 mounting trays and batteries; Cartridge Actuated Devices/Propellant Actuated Devices; facilities and construction support; transportation; publications and technical documentation; personnel training and training equipment; countermeasures to include M299 launchers; LAU–68F/A rocket launchers; LAU–61C/A rocket launchers; M151 high explosive warheads for airborne 2.75 rockets; MK66 MOD 4, 2.75-inch rocket motors; WTU–1B warheads; M197 20MM armament pod gun assemblies; 20MM PGU–27A/B target practice; 20MM PGU–28A/B semi armor piercing high explosive incendiary; AN/ALE–47 training and operational flares and chaff; MJU–32A/B decoy flares; MJU–49B pyrophoric decoy flare G6B; SMB875B/ALE flare simulator; RR–129A/AL chaff cartridge; RR–144A/AL training chaff cartridge; CCU–136A/A impulse cartridge; AN/AAR–47 missile warning system; AN/APR–39C radar warning receiver and conversion kits; KIV–78A cryptographic appliques; AN/PYQ–10C simple key loader with KOV–21 crypto card; U.S. Government and contractor engineering support; field service representatives and services; technical and logistics support services; studies and surveys; and other related elements of program and logistics support. The total estimated value of the new MDE articles is \$600 million. This results in a net increase in cost of MDE of \$600 million and a revised total cost for MDE of \$1.135 billion. The total estimated value of the new non-MDE articles is \$350 million. This results in a net increase in cost of non-MDE of \$350 million and a revised total cost for non-MDE of \$777 million. The total case value increases by \$950 million, resulting in a total case value of \$1.91 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 represents an increase in capability over what was previously notified. The proposed articles and services will support Bahrain’s ability to use its AH–1Z Attack Helicopters for its own defense, its participation in coalition operations, and to enhance its interoperability with United States and

North Atlantic Treaty Organization members.

(v) *Justification*: This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a major non-NATO ally that is 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 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 27, 2026.

[FR Doc. 2026-19327 Filed 9-21-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-83]

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 dscs.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 26-83, Policy Justification, and Sensitivity of Technology.

Dated: September 17, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26-83

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 *	\$1.2 billion
Other	\$1.1 billion

TOTAL \$2.3 billion

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*:

Major Defense Equipment (MDE):

Twenty-one (21) UH-60M Black Hawk helicopters
 Forty-six (46) T700-GE-701D engines
 Twenty-five (25) AN/AAR-57 Common Missile Warning Systems
 Twenty-five (25) Common Infrared Countermeasure
 Twenty-five (25) AN/APR-39E(V)2 Radar Warning Receiver
 Fifty (50) EAGLE-M+429 Embedded Global Positioning Systems/Inertial Navigation Systems
 One hundred (100) AN/ARC-231A RT-1987 Very High Frequency (VHF)/Ultra High Frequency/line-of-sight satellite communication radios
 Eighteen (18) M240H machine guns

Non-MDE:

The following non-MDE items will also be included: AN/AVR-2B(V) Laser Warning System; APX-128 identification friend or foe (IFF) transponder; AN/PYQ-10 Simple Key Loader; KIV-79 common IFF crypto appliqué computers; AN/ARN-147(V) VHF omni-directional range/instrument landing system receiver radio; AN/ARN-149(V) low frequency/automatic direction finder radio receiver; AN/ARN-153 tactical air navigation system receiver transmitter; RACC-209 radar altimeter; AN/ARC-201D radio; AN/ARC-210 Gen 6 radio; AN/PRC-167 radio; AN/ARC-220 high-frequency radio; AN/PRC-160 with automatic link establishment capabilities; EBC 406HM emergency locator transmitter; Advanced Sight Display Computer Heads-Up Display system; RDR-7000 color weather radar; MX-10D electro-optical/infrared with laser designator/illuminator/pointer/range finder/cabin viewer; engine inlet barrier filters; ballistic armor protection systems; internal auxiliary fuel tank systems; fast rope insertion extraction systems; airframe mounted rescue hoists; rescue hoist equipment sets; dual patient litter system sets; Martin-Baker palletized crew chief/gunner seats with crashworthy floor structural modifications; external stores support system with crashworthy external fuel system tanks; country unique instrument panel; cockpit multi-function display; degraded visual environment system; LINK-16 (small tactical terminal KOR-24A);

Traffic Alert Collision Avoidance System, Type I; direction finder DF-935; environmental control system; snow skis; Bambi Bucket; helicopter terrain awareness system; very important person kit; upturned exhaust system; M-240 (MAG-58) machine gun; M-134 machine gun; M3M (GAU-21) machine gun; external gun mount system; provisions for litters; litter straps; medical trauma bag; 120V AC power; auxiliary bleed air cabin heater; encrypted aircraft wireless intercom system; 60KVA aircraft generator; winterization kit; universal software loader verifier; black hawk aircrew trainer; maintenance and aircrew training devices/software; helmets; transportation; organizational equipment; spare and repair parts; support equipment; tools and test equipment; technical data and publications; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services, and other related elements of program and logistics support.

(iv) *Military Department*: Army (NO-B-VSL)

(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*: August 21, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Norway—UH-60M Black Hawk Helicopters

The Government of Norway has requested to buy twenty-one (21) UH-60M Black Hawk helicopters; forty-six (46) T700-GE-701D engines; twenty-five (25) AN/AAR-57 Common Missile Warning Systems; twenty-five (25) Common Infrared Countermeasure; twenty-five (25) AN/APR-39E(V)2 Radar Warning Receiver; fifty (50) EAGLE-M+429 Embedded Global Positioning Systems/Inertial Navigation Systems; one hundred (100) AN/ARC-231A RT-1987 Very High Frequency (VHF)/Ultra High Frequency/line-of-sight satellite communication radios; and eighteen (18) M240H machine guns. The following non-MDE items will also be included: AN/AVR-2B(V) Laser Warning System; APX-128

identification friend or foe (IFF) transponder; AN/PYQ-10 Simple Key Loader; KIV-79 common IFF crypto appliqué computers; AN/ARN-147(V) VHF omni-directional range/instrument landing system receiver radio; AN/ARN-149(V) low frequency/automatic direction finder radio receiver; AN/ARN-153 tactical air navigation system receiver transmitter; RACC-209 radar altimeter; AN/ARC-201D radio; AN/ARC-210 Gen 6 radio; AN/PRC-167 radio; AN/ARC-220 high-frequency radio; AN/PRC-160 with automatic link establishment capabilities; EBC 406HM emergency locator transmitter; Advanced Sight Display Computer Heads-Up Display system; RDR-7000 color weather radar; MX-10D electro-optical/infrared with laser designator/illuminator/pointer/range finder/cabin viewer; engine inlet barrier filters; ballistic armor protection systems; internal auxiliary fuel tank systems; fast rope insertion extraction systems; airframe mounted rescue hoists; rescue hoist equipment sets; dual patient litter system sets; Martin-Baker palletized crew chief/gunner seats with crashworthy floor structural modifications; external stores support system with crashworthy external fuel system tanks; country unique instrument panel; cockpit multi-function display; degraded visual environment system; LINK-16 (small tactical terminal KOR-24A); Traffic Alert Collision Avoidance System, Type I; direction finder DF-935; environmental control system; snow skis; Bambi Bucket; helicopter terrain awareness system; very important person kit; upturned exhaust system; M-240 (MAG-58) machine gun; M-134 machine gun; M3M (GAU-21) machine gun; external gun mount system; provisions for litters; litter straps; medical trauma bag; 120V AC power; auxiliary bleed air cabin heater; encrypted aircraft wireless intercom system; 60KVA aircraft generator; winterization kit; universal software loader verifier; black hawk aircrew trainer; maintenance and aircrew training devices/software; helmets; transportation; organizational equipment; spare and repair parts; support equipment; tools and test equipment; technical data and publications; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services, and other related elements of program and logistics support. The total estimated cost is \$2.3 billion.

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 enhance its interoperability with U.S. and other allied forces. It will also upgrade Norway's rotary wing capability, allowing Norwegian Army and Special Operations Forces to independently conduct operations while taking advantage of a common platform across the fleet. Norway 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 Lockheed Martin, Sikorsky, located in Stratford, CT. 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 approximately fifteen (15) U.S. Government and fifteen (15) contractor representatives to travel to Norway for an extended period for equipment de-processing/fielding, system checkout, training, and technical and logistics support.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26-83

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 UH-60M aircraft is a medium-lift four-bladed helicopter with two (2) T-701D engines. The aircraft has four (4) multifunction displays (MFDs), which provide access to aircraft systems, flight, mission, and communication management systems. The instrumentation panel includes four (4) MFDs, two (2) pilot and copilot flight director panels, and two (2) data concentrator units. The navigation system will have Embedded Global Preposition System (GPS)/Inertial Navigation System (INS) (EGI), and two (2) advanced flight control computer systems, which provide four-axis aircraft control.

a. The AN/ARC-201D Very High Frequency (VHF)-Frequency Modulation Single Channel Ground and Airborne Radio System (SINCGARS)

airborne radio is a reliable, field-proven voice and data communication system used with the UH-60M.

b. The AN/ARC-231A is a software-definable radio for military aircraft that provides two-way, multi-mode voice and data communications over a 30 Hz to 512 MHz frequency range. No designated exportable/non-Communications Security (COMSEC) capable version planned. Support both line-of-sight Ultra-High Frequency (UHF) and VHF bands with AM, FM and Satellite Communications (SATCOM) capabilities including embedded frequency agile modes, Electronic Counter-Countermeasures (ECCM) anti-jam waveforms including HAVE QUICK radio and SINCGARS, Demand Assigned Multiple Access, and Integrated Waveform. It provides simultaneous, real-time participation in tactical voice and data communications networks. RT-1987 will provide National Security Agency (NSA) tactical secure voice cryptographic interoperability specification 3.1.1 crypto modernization compliance. Operator selectable Air Traffic Control channel spacing of 5, 8.33, 12.5, and 25kHz steps, and other data link and secure communications features, providing battlefield interoperability.

c. The AN/ARC-220 High Frequency (HF) Airborne Communication System provides rotary-wing aircraft, with advanced voice and data capabilities for short-and long-distance communications. The system is software programmable with a frequency range of 2.0000-29.9999 MHz, in 100-Hz steps and provides for providing embedded automatic link establishment (ALE), serial tone data modem, text messaging, GPS position reporting, and anti-jam ECCM functions.

d. The AN/ARC-210 is a family of radios for military aircraft that provides two-way, multi-mode voice and data communications in the 30 to 512+ MHz frequency range. It covers both VHF and UHF bands with AM, FM, and SATCOM capabilities. The ARC-210 radio also includes embedded anti-jam waveforms, including HQ and SINCGARS, and other data link and secure communications features providing total battlefield interoperability and high-performance capabilities in the transfer of data, voice, and imagery. The software-programmable encryption is under the NSA cryptographic modernization initiative.

e. The AN/PRC-160 radio is a tactical wideband HF/VHF transceiver providing Type 1 encryption and Selective Availability Anti-Spoofing Module (SAASM) GPS location and timing capabilities. The system provides

continuous frequency coverage from 1.5 to 60 MHz. The manpack version provides 20 Watts HF and 10 Watts VHF transmit power from a single battery. The system transmits in bandwidths from 3 kHz to 24 kHz with data rates up to 120 Kbps. The software programmable system can operate using NATO standard 2G, 3G, and 4G ALE waveforms and is compatible with AM single sideband and CW modes.

f. The AN/PRC-167 is a multi-domain multi-channel tactical narrow and wide-band dual transceiver radio system providing Type 1 encryption and SAASM GPS location and timing capabilities. The system can provide wide-band high-assurance self-healing networking capabilities and mobile user objective system over-the-horizon capabilities. Each transceiver is software programmable operating in the 30–512 MHz and 764–2600 MHz frequency ranges. The system can operate using the following waveforms: narrow-band analog/PCM AM/FM, continuously variable slope delta amplitude shift keying and frequency shift keying cipher text, wideband 2400 bps and LPC/2400 mixed excitation linear prediction—SATCOM.

g. The AN/APX-128, Identification Friend or Foe (IFF) Transponder, is a space diversity transponder and is installed on various military platforms. When installed in conjunction with platform antennas and the Remote-Control Unit (or other appropriate control unit), the transponder provides identification, altitude and surveillance reporting in response to interrogations from airborne, ground-based and/or surface interrogators.

h. The AN/PYQ-10 Simple Key Loader (SKL) is a ruggedized, portable, hand-held fill device, for securely receiving, storing, and transferring data between compatible cryptographic and communications equipment. The AN/PYQ-10 SKL will contain the KOV-21 COMSEC card. The cryptographic functions are performed by an embedded KOV-21 card developed by the NSA.

i. The KIV-79 IFF crypto appliqué provides cryptographic and time-of-day services for a combined interrogator/transponder or individual interrogator or transponder Mark XIIA (Mode 4 and Mode 5) IFF system deployed to identify cooperative, friendly systems.

j. The AN/AVR-2B Laser Warning Receiver detects laser rangefinders, target designators and beam rider laser-aided systems targeting an aircraft or vehicle. The AVR-2B is a detection component of the suite of countermeasures designed to increase survivability of current generation

combat aircraft and specialized special operations aircraft against the threat posed by laser designated or guided weapons.

k. The AAR-57 Common Missile Warning System is an integrated infrared countermeasures suite utilizing ultraviolet sensors to display accurate threat location and dispense decoys/countermeasures either automatically or under pilot/crew control to defeat incoming missile threats.

l. The EAGLE M+429 INS EGI, contains sensitive technology that provides GPS hardening when loaded with COMSEC keys.

m. The Common Infrared Countermeasure (CIRCM) is the next-generation lightweight, laser-based, infrared countermeasure system for rotary-wing, tilt rotor, and small fixed-wing aircraft across the DoW. CIRCM provides near spherical coverage of the host platform to defeat infrared-seeking threat missiles. CIRCM receives an angular bearing hand-off from the Missile Warning System, employing a pointing and tracking system that acquires and tracks the incoming missile. CIRCM jams the missile by using modulated laser energy, thus degrading the tracking capability of the missile and causing it to miss the aircraft.

n. The AN/APR-39E(V)2 Radar Warning Receiver is a radar threat detection system that passively detects, categorizes, and prioritizes radio frequency (RF) threats to aircraft, and then provides an audio/visual cue to aircrew. AN/APR-39E(V)2 provides a fully digital capability to enhance threat discrimination in the millimeter wave band and increased overall system performance against frequency-agile RF and active electronically scanned array threat radars.

o. The KOR-24A Lightweight Airborne Recovery System with Link 16 capability provides enhanced situational awareness and personnel recovery support through participation in secure tactical data link networks. The system enables the transmission and reception of tactical data via Link 16 in support of joint and coalition operations. The system incorporates COMSEC and transmission security capabilities, enabling encrypted and secure data exchange using U.S. Government-approved cryptographic methods. Secure operation requires the use of classified keying material and network configuration parameters loaded via approved key loading devices (e.g., AN/PYQ-10 SKL). The case includes associated COMSEC equipment, including fill devices, cables, and ancillary components

required to support secure operations. All COMSEC equipment, keying material, and network participation will be provided, controlled, and managed in accordance with U.S. Government security and releasability policy.

p. The Embedded GPS/INS EGI provides GPS and INS capabilities to the aircraft. The EGI will include SAASM security for GPS precision positioning service, if required.

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 which 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 Norway can provide substantially the same degree of protection of 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 Government of Norway.

[FR Doc. 2026-19324 Filed 9-21-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-0W]

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 26-0W.

Dated: September 17, 2026.

Stephanie J. Bost,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

Transmittal No. 26–0W

Report of Enhancement or Upgrade of
Sensitivity of Technology or Capability
(SEC. 36(B)(5)(C), AECA)

(i) *Prospective Purchaser:* Government
of Lebanon

(ii) *Sec. 36(b)(1), AECA Transmittal
No.:* 25–79

Date: December 16, 2025

Implementing Agency: Army

Funding Source: Foreign Military
Financing

(iii) *Description:* On December 16,
2025, Congress was notified by
congressional certification transmittal
number 25–79 of the possible sale,
under Section 36(b)(1) of the Arms
Export Control Act, of one hundred
forty (140) M1151A1 High Mobility
Multipurpose Wheeled Vehicles
(HMMWVs). Also included were RF–
7850M–HH multiband handheld radio;
Global Positioning System (GPS)
receiver; Quicklook electronic counter-
counter measures (ECCM) waveform;
spare and repair parts; publications and
technical documentation; training; U.S.
Government and contractor engineering;
technical and logistics support services;
and other related elements of logistics
and program support. The estimated
total value was \$34.5 million. Major
defense equipment (MDE) constituted
\$31 million of this total.

This transmittal notifies the addition
of the following MDE items: up to three
hundred thirty (330) M1151A1
HMMWVs. The following non-MDE
items will also be included: RF–7850M–
HH multiband handheld radio, GPS
receiver, Quicklook ECCM waveform;
spare and repair parts; publications and
technical documentation; personnel
training and training equipment;
technical and logistics support services;
and other related elements of program
and logistics support. The estimated
total value of the new items is \$34.5
million. The estimated MDE value will
increase by \$120 million to a revised
\$151 million. The estimated non-MDE
value will increase by \$20 million to a
revised \$23.5 million. The estimated
total case value will increase by \$140
million to a revised \$174.5 million.
MDE constitutes \$151 million 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 sale will provide
a highly mobile and light combat
vehicle capability enabling Lebanese
Armed Forces to rapidly engage and
defeat perimeter security threats and
readily employ counter- and anti-
terrorism measures. This acquisition
will afford additional military-to-
military tactics and operational training
among the U.S. Army's and Lebanon's
leadership and soldiers.

(v) *Justification:* This proposed sale
will support the foreign policy and
national security of the United States by
improving the security of a partner
country that continues to be an
important force for political stability
and economic progress in the Middle
East.

(vi) *Sensitivity of Technology:* None

(vii) *Date Report Delivered to
Congress:* July 21, 2026

[FR Doc. 2026–19318 Filed 9–21–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–80]

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
[dscn.ncr.rsrcmgmt.list.cns-mbx@
mail.mil](mailto:dscn.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 26–80, Policy
Justification, and Sensitivity of
Technology.

Dated: September 17, 2026.

Stephanie J. Bost,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

Transmittal No. 26–80

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 Qatar

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	\$2.18 billion
Other	\$2.32 billion

TOTAL \$4.50 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 four (4) KC–46A aircraft

Eight (8) PW4062 turbofan engines (4
installed, 4 spares)

Ten (10) AN/ALR–69A radar warning
receivers (4 installed, 6 spares)

Fifteen (15) Guardian Laser Transmitter
Assemblies for Large Aircraft Infrared
Countermeasures (LAIRCM) systems
(12 installed, 3 spares)

Eight (8) LAIRCM system processor
replacements (4 installed, 4 spares)

Non-MDE:

The following non-MDE items will
also be included: missile warning
sensors; cartridge actuated devices and
propellant actuated devices; control
interface units; user data module cards;
electronic warfare database support;
KIV–77 crypto module; KY–100M
crypto terminals; AN/PYQ–10 simple
key loaders; AN/APX–119 Identification
Friend or Foe transponder; precision
navigation; Computer Program
Identification Numbers; integration and
test support and equipment; aircraft
components, parts, and accessories;
support and support equipment; spare
parts, consumables and accessories, and
repair and return support; training aids,
devices, and spare parts; major and
minor modifications, and maintenance
support; instruments and lab
equipment; classified and unclassified
software delivery and support;
unclassified publications and technical
documentation; maps, publications, and
technical documentation; personnel
training and training equipment;
clothing, textiles, and individual
equipment; trucks and transportation
vehicles; facilities and construction
support; jet fuel; transportation and
airlift support; warranties; site surveys;
U.S. Government and contractor
engineering; technical and logistics
support services; and other related
elements of logistics and program
support.

(iv) *Implementing Agency:* Air Force
QA–D–SAD

(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:* August 18, 2026

*as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Qatar—KC-46A Aerial Refueling Aircraft

The Government of Qatar has requested to buy up to four (4) KC-46A aircraft; eight (8) PW4062 turbofan engines (4 installed, 4 spares); ten (10) AN/ALR-69A radar warning receivers (4 installed, 6 spares); fifteen (15) Guardian Laser Transmitter Assemblies (GLTA) for Large Aircraft Infrared Countermeasure (LAIRCM) systems (12 installed, 3 spares); and eight (8) LAIRCM system processor replacements. The following non-major defense equipment items will also be included: missile warning sensors; cartridge actuated devices and propellant actuated devices; control interface units; user data module cards; electronic warfare database support; KIV-77 crypto module; KY-100M crypto terminals; AN/PYQ-10 simple key loaders; AN/APX-119 Identification Friend or Foe transponder; precision navigation; Computer Program Identification Numbers; integration and test support and equipment; aircraft components, parts, and accessories; support and support equipment; spare parts, consumables and accessories, and repair and return support; training aids, devices, and spare parts; major and minor modifications and maintenance support; instruments and lab equipment; classified and unclassified software delivery and support; unclassified publications and technical documentation; maps, publications, and technical documentation; personnel training and training equipment; clothing, textiles, and individual equipment; trucks and transportation vehicles; facilities and construction support; jet fuel; transportation and airlift support; warranties; site surveys; 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 \$4.50 billion.

This proposed sale will support the foreign policy and national security objectives of the United States by helping to improve the security of a strategic regional partner that has been and continues to be an important force for political stability and economic progress in the Middle East.

The proposed sale will increase Qatar's capability to meet current and future threats by enhancing its defense capabilities and interoperability with U.S. and allied forces and reinforcing

Qatar's strategic role in regional security. Qatar 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 contractors will be The Boeing Corporation, located in Arlington, VA; Pratt & Whitney Military Engines, located in East Hartford, CT; RTX Corporation, located in Arlington, VA; and Northrop Grumman Corporation, located in Rolling Meadows, IL. 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 Qatar.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26-80

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 KC-46A is a military aerial refueling and strategic military transport aircraft. The KC-46A can refuel most fixed-wing, receiver-capable aircraft. It is equipped with a refueling boom driven by a fly-by-wire control system and is capable of fuel offload rates required for large aircraft. Its hose and drogue system adds additional mission capability that is independently operable from the refueling boom system. The KC-46A can accommodate a mixed load of passengers, aeromedical evacuation, and cargo capabilities. Two high-bypass turbofans power the KC-46A to take off at gross weights of up to 415,000 pounds. Depending on the fuel storage configuration, the aircraft can carry a palletized load of up to 65,000 pounds of cargo. The KC-46A is also equipped with self-protection, defensive, and communication features making it more survivable in a contested environment.

2. The AN/AAQ-24(V)N Large Aircraft Infrared Countermeasure (LAIRCM) system is a self-contained, directed-energy countermeasures system designed to protect aircraft from infrared-guided surface-to-air missiles. The LAIRCM system features digital technology micro-miniature solid-state electronics. The system operates in all

conditions, detecting incoming missiles and jamming infrared-seeker equipped missiles with aimed bursts of laser energy. The LAIRCM system consists of multiple infrared missile warning sensors, the Guardian Laser Transmitter Assembly (GLTA) with Selective Availability Anti-Spoofing Module capability, a LAIRCM System Processor Replacement (LSPR), a Control Interface Unit Replacement (CIUR), and a classified memory card User Data Module (UDM).

a. LAIRCM's infrared missile warning sensors detect and declare threat missiles. The sensors are mounted on the aircraft exterior to provide omnidirectional protection. The sensors detect the rocket plume of missiles and send appropriate data signals to the LSPR for processing.

b. The GLTA is a laser transmitter pointer/tracker subsystem designed to track the inbound threat missile and point the laser jam source at the missile's seeker. The GLTA automatically deploys the countermeasure.

c. The LSPR analyzes the data from each missile warning sensor and automatically deploys the appropriate countermeasure via the GLTA. The LSPR contains built-in-test circuitry.

d. The CIUR displays the incoming threat for the pilot to take appropriate action. The CIUR also provides operator interface to program the LAIRCM system to initiate built-in-test, to display system status, and to provide the crew with bearing to threat missile launch.

e. The UDM card contains the laser jam codes and is loaded into the LSPR prior to flight. When not in use, the Classified Memory Card UDM is removed from the LSPR and put in secure storage.

3. The AN/APQ-10 simple key loader is a handheld device used for securely receiving, storing, and transferring data between compatible cryptographic and communications equipment.

4. The KIV-77 is a cryptographic applique for Identification Friend or Foe (IFF) and can be loaded with Mode 5 classified elements.

5. The KY-100M is a cryptographic-modernized lightweight terminal for secure voice and data communication. The KY-100M provides wideband/narrowband half-duplex communication. Operating in tactical ground, marine, and airborne applications, the KY-100M enables secure communication with a broad range of radio and satellite equipment.

6. The AN/APX-119 is an IFF transponder that provides military aircraft with a secure combat identification capability to help reduce

fratricide and enhance battlespace awareness while providing safe access to civilian airspace.

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 Qatar can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This 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 Qatar.

[FR Doc. 2026-19323 Filed 9-21-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-53]

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 26-53 and Policy Justification.

Dated: September 17, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26-53

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	\$542 million

TOTAL \$542 million

Funding Source: National Funds.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* The Government of Kuwait has requested to buy planning, design, contracting, and construction of facilities that are required for Kuwait Ministry of Defense to execute the Caracal Alert mission at Ali Al Salem Air Base, Kuwait Naval Base, and other ancillary and affiliated locations. The U.S. Army Corps of Engineers shall provide all engineering studies, designs, construction, and construction management services necessary to provide fully functioning facilities.

Major Defense Equipment (MDE): None.

Non-MDE:

The following non-MDE items will be included: design and construction of covered helicopter parking; hangar storage facilities; maintenance hangars; ammunition warehouses; administrative buildings; air traffic control tower; helipads; forward arming and refueling points; runway; taxiway; perimeter security fencing; entry control points; roads including pavements, infrastructure connections to existing pavement, utilities, demolition, and site preparation necessary for phasing of work and furnishings; fixtures; and equipment necessary for base operations; life cycle design, construction, and project management; engineering services; technical support; facility and infrastructure assessments; surveys; planning; programming; design; acquisition; contract administration; construction management; technical services; architect-engineer services for new construction; studies; investigations; professional surveying and mapping; landscaping design and sustainment services; evaluations and assessments; consultations; program management; development of plans and specifications; value engineering; construction phase services; soils

engineering drawing reviews; geotechnical surveys; preparation of operations and maintenance manuals and other related services; facility and infrastructure sustainment (including maintenance and repair services and operations and maintenance services); training; other support services as requested by Kuwait; and other related elements of logistics and program support.

(iv) *Military Department:* Army (KU-B-HBV)

(v) *Prior Related Cases, if any:* KU-B-HBB

(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 27, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kuwait—Design and Construction of Caracal Helicopter Facilities

The Government of Kuwait has requested to buy planning, design, contracting, and construction of facilities that are required for Kuwait Ministry of Defense to execute the Caracal Alert mission at Ali Al Salem Air Base, Kuwait Naval Base, and other ancillary and affiliated locations. The U.S. Army Corps of Engineers shall provide all engineering studies, designs, construction, and construction management services necessary to provide fully functioning facilities. The following non-MDE items will be included: design and construction of covered helicopter parking; hangar storage facilities; maintenance hangars; ammunition warehouses; administrative buildings; air traffic control tower; helipads; forward arming and refueling points; runway; taxiway; perimeter security fencing; entry control points; roads including pavements, infrastructure connections to existing pavement, utilities, demolition, and site preparation necessary for phasing of work and furnishings; fixtures; and equipment necessary for base operations; life cycle design, construction, and project management; engineering services; technical support; facility and infrastructure assessments; surveys; planning; programming; design; acquisition; contract administration; construction management; technical services; architect-engineer services for new construction; studies; investigations; professional surveying and mapping;

landscaping design and sustainment services; evaluations and assessments; consultations; program management; development of plans and specifications; value engineering; construction phase services; soils engineering drawing reviews; geotechnical surveys; preparation of operations and maintenance manuals and other related services; facility and infrastructure sustainment (including maintenance and repair services and operations and maintenance services); training; other support services as requested by Kuwait; and other related elements of logistics and program support. The estimated total cost is \$542 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 supporting its efforts to operate and maintain technologically capable Caracal aircraft. 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.

No principal contractor(s) has been identified for this sale at this time. The principal contractor(s) will be determined from approved vendors, likely by competitive acquisitions. The host nation can limit competition but has not requested to do so at this time. 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 ten (10) additional U.S. Government or contractor representatives to Kuwait for a duration of up to twelve (12) years to provide construction management and oversight. It may be possible to utilize locally available labor to provide some oversight services in lieu of the assignment of U.S. personnel.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2026-19321 Filed 9-21-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 22-08]

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 dscn.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 22-08, Policy Justification and Sensitivity of Technology.

Dated: September 17, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 22-08

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 Pakistan

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	\$ 37 million
Other	\$649 million

TOTAL	\$686 million
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Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Ninety-two (92) Link-16 systems

Six (6) Mk-82 inert 500-lb general purpose bomb bodies

Non-Major Defense Equipment:

The following non-MDE items will also be included: aircraft hardware and software modifications to support Operational Flight Program and mandated avionics updates; AN/APX-126 (or equivalent) Advanced Identification Friend or Foe (AIFF); KY-58M and KIV-78 cryptographic appliques; AN/APQ-10C Simple Key Loaders; additional secure communications, precision navigation, and cryptographic devices and support; Joint Mission Planning Systems and

support; Common Munitions Built-in-test Reprogramming Equipment; ADU-981 missile adaptor units and other weapons integration, test, and support equipment; spare and repair parts; software delivery and support; publications and technical documentation; full motion simulator, personnel training, and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; studies and surveys; and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (PK-D-VAA)

(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:* December 4, 2025

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Pakistan—F-16 Cryptographic Mandate Compliance and Service Life Extension Program

The Government of Pakistan has requested to buy ninety-two (92) Link-16 systems and six (6) Mk-82 inert 500-lb general purpose bomb bodies. The following non-MDE items will also be included: aircraft hardware and software modifications to support Operational Flight Program and mandated avionics updates; AN/APX-126 (or equivalent) Advanced Identification Friend or Foe (AIFF); KY-58M and KIV-78 cryptographic appliques; AN/APQ-10C Simple Key Loaders; additional secure communications, precision navigation, and cryptographic devices and support; Joint Mission Planning Systems and support; Common Munitions Built-in-test Reprogramming Equipment; ADU-981 missile adaptor units and other weapons integration, test, and support equipment; spare and repair parts; software delivery and support; publications and technical documentation; full motion simulator, personnel training, and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; studies and surveys; and other related elements of logistical and program support. The estimated total cost is \$686 million.

This proposed sale will support the foreign policy and national security objectives of the United States by

allowing Pakistan to retain interoperability with U.S. and partner forces in ongoing counterterrorism efforts and in preparation for future contingency operations.

The proposed sale will maintain Pakistan's capability to meet current and future threats by updating and refurbishing its Block-52 and Mid Life Upgrade F-16 fleet. These updates will provide more seamless integration and interoperability between the Pakistan Air Force and the U.S. Air Force in combat operations, exercises, and training, and refurbishment will extend the aircraft life through 2040 while addressing critical flight safety concerns. Pakistan has shown a commitment to maintaining its military forces and 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 Lockheed Martin Company, located in Fort Worth, TX. 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 Pakistan.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 22-08

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 Link-16 is an advanced command, control, communications, and intelligence (C3I) system incorporating high capacity, jam-resistant, digital communication links for exchange of near real-time tactical information, including both data and voice, among air, ground, and sea elements. It provides warfighter key theater functions such as surveillance, identification, air control, weapons engagement coordination, and direction for all services and allied forces. With updated cryptography, Link-16 will ensure interoperability into the future.

2. The Mk-82 inert general-purpose bomb is a 500-lb, free-fall, unguided, low-drag inert weapon used for integration testing. There is no explosive fill.

3. The AN/APX-126 Advanced Identification Friend or Foe Combined Interrogator Transponder is a system capable of transmitting and interrogating Mode 5.

4. The KY-58 and KIV-78 is a crypto applique for Mode 5 Identification Friend or Foe equipment. It can be loaded with Mode 5 classified elements.

5. The AN/APQ-10C Simple Key Loader is a handheld fill device for securely receiving, storing, and transferring data between cryptographic and communications equipment.

6. The Joint Mission Planning System is a multi-platform PC-based mission planning system.

7. The Common Munitions Built-In-Test Reprogramming Equipment (CMBRE) testers and ADU-891 missile adaptors for CMBRE testers are used to test the electronics in air-to-ground munitions and air-to-air missiles.

8. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

9. 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 weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

10. A determination has been made that Pakistan can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

11. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Pakistan.

[FR Doc. 2026-19326 Filed 9-21-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-92]

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 26-92, Policy Justification, and Sensitivity of Technology.

Dated: September 17, 2026,

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. RSAT 26-92

Notice of Proposed Issuance Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Government of Italy

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	\$255 million
Other	\$109 million

TOTAL	\$364 million
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(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Five thousand thirty-one (5,031) Guidance Sections Single Variant Air-to-Air Advanced

Precision Kill Weapon System-II WGU-59B/B

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; other support equipment; 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.

(iv) *Military Department:* Navy (IT-P-ALC)

(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:* August 21, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**Italy—Guidance Section Single Variant Air-to-Air Advanced Precision Kill Weapon System-II**

The Government of Italy has requested to buy five thousand thirty-one (5,031) Guidance Sections Single Variant Air-to-Air Advanced Precision Kill Weapon System-II WGU 59B/B. 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; other support equipment; 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 estimated total cost is \$364 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 Italy's capability to meet current and future threats by strengthening its homeland defense and serving as a deterrent to regional threats. This enhanced capability will protect Italy and local allied land forces and will significantly improve Italy's contribution to NATO integrated air missile defense. Italy 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 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 not require the assignment of any additional U.S. Government or contractor representatives to Italy.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26-92

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) is a design conversion of an unguided hydra 2.75-inch rocket with a laser guidance kit to give it precision-kill capability. The APKWS AUR consists of an APKWS-II guidance section developed by BAE systems, a 2.75-inch MK66 Mod 4 rocket motor, and a fuzed M151 or Mk-152 high explosive warhead. 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. The APKWS-II 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.

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 Italy 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 Italy.

[FR Doc. 2026-19325 Filed 9-21-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Transmittal No. 26-1F]

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.rsrmgmt.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 26-1F.

Dated: September 17, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. RSAT 26-1F

Report of Enhancement or Upgrade of Sensitivity of Technology or Capability (SEC. 36(B)(5)(C), AECA)

(i) *Prospective Purchaser:* Government of Bahrain

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 16-36

Date: April 27, 2018

Implementing Agency: Navy

Funding Source: National Funds

(iii) *Description:* On April 27, 2018, Congress was notified by congressional certification transmittal number 16-36 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of twelve (12) AH-1Z Attack Helicopters; twenty-six (26) T-700 GE 401C Engines (twenty-four (24) installed and two (2) spares); fourteen (14) AGM-114 Hellfire Missiles; and fifty-six (56) Advance Precision Kill Weapon System II (APKWS-II) WGU-59B. Also included were fifteen (15) Honeywell Embedded Global Positioning System (GPS) Inertial Navigation System (INS) (EGI) w/Standard Positioning Service (SPS) including three (3) spares and twelve (12) Joint Mission Planning Systems; twelve (12) M197 20mm gun systems; thirty (30) Tech Refresh Mission Computers; fourteen (14) AN/AAQ-30 Target Sight Systems; twenty six (26) Helmet Mounted Display/Optimized Top Owl; communication equipment; electronic warfare systems; fifteen (15) APX-117 Identification Friend or Foe (IFF); fifteen (15) AN/AAR-47 Missile Warning Systems; fifteen (15) AN/ALE-47 Countermeasure Dispenser Sets; fifteen (15) APR-39C(V)2 Radar Warning Receivers; support equipment; spare engine containers; spare and repair parts; tools and test equipment; technical data and publications; 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 estimated total value was \$911.4 million. Major Defense Equipment (MDE) constituted \$490.9 million of this total.

On April 15, 2019, Congress was notified by congressional certification transmittal number 18–OF of the possible sale, under section 36(b)(5)(C) of the Arms Export Control Act, of the addition of the following MDE items: one hundred forty-four (144) AGM–114 Hellfire Missiles; twelve (12) M36E9 Hellfire Captive Air Training Missiles (CATM); twelve (12) M34 Hellfire dummy missiles; and six hundred two (602) Advance Precision Kill Weapon System II (APKWS–II) WGU–59B Guidance Sections. Also included were eight hundred twenty-six (826) MK–66 rocket motors; eight hundred twenty-six (826) MK–152 rocket warheads; fifty-six hundred (5,600) rounds of PGU–27 20mm ammunition; Operational chaff; Decoy Flares; and Impulse Cartridges. The total notified MDE value increased by \$42.1 million to \$533 million, and the total notified case value increased to \$960 million.

On December 22, 2023, Congress was notified by congressional certification transmittal number 0B–23 of the possible sale, under section 36(b)(5)(A) of the Arms Export Control Act, of the addition of the following MDE items: sixty (60) Advance Precision Kill Weapon System II (APKWS–II) WGU–59B Guidance Sections. The estimated total value of the added items is \$2 million. The total estimated MDE value increased by \$2 million to \$535 million. The estimated total case value did not increase, remaining \$960 million.

This transmittal notifies the inclusion of the following MDE items: one thousand five hundred (1,500) Advance Precision Kill Weapon System-II (APKWS–II) WGU–59B/B Guidance Sections, Single Variant (Air-to-Air). The following non-MDE items will also be included: MK–152 high explosive warheads; MK–66 rocket motors; proximity fuzes; WTU–1/B practice warheads; inert MK–66 rocket motors; Launcher Aircraft Units (LAU–131); Triple Ejector Racks (TER–9/A), ejector racks (MAU–12), Bomb Rack Units (BRU–26A); Precision Armament Control System software; Sniper Operational Flight Plan update; LAU–131A/A or LAU–68F/A umbilical cables; flight testing; test support equipment; other support equipment; technical data; spare and repair parts; publications and technical documentation; personnel training and training equipment; transportation; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The total cost of the new MDE article is \$128 million. This results in a net increase in cost of MDE of \$128 million, and a revised total

cost for MDE of \$663 million. The total cost of the new non-MDE article is \$125 million. This results in a net increase in cost of non-MDE of \$125 million, and a revised total cost for non-MDE of \$550 million. The total case value increases by \$253 million, resulting in a total case value of \$1.213 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 represents an increase in capability over what was previously notified. The proposed articles and services will support Bahrain's capability to meet current and future threats. Bahrain will use this capability as a deterrent to regional threats and to strengthen its homeland defense. This sale will improve interoperability with U.S. forces.

(v) *Justification*: This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a major non-NATO ally which is an important security partner in the region.

(vi) *Sensitivity of Technology*: Advanced Precision Kill Weapon System-II (APKWS–II) Guidance Section Air-to-Air Rockets. The APKWS–II is a low cost, air-to-air and air-to-ground weapon that consists of a guidance section developed by BAE Systems, legacy 2.75-inch MK–66 Mod 4 rocket motor, legacy M151 or MK–152 high explosive warheads, and MK 435/436 point detonating fuze or M728 proximity fuze. The APKWS is a tactical rocket system that can be launched from several platforms, 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.

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 31, 2026

[FR Doc. 2026–19316 Filed 9–21–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–78]

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 dscs.ncr.rsrgmgt.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 26–78, Policy Justification, and Sensitivity of Technology.

Dated: September 17, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–78

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*: Republic of Korea

(ii) *Total Estimated Value*:

Major Defense Equipment *	\$ 70 million
Other	\$ 55 million

TOTAL	\$125 million
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(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase*:

Major Defense Equipment (MDE):

One hundred three (103) AIM–9X Sidewinder Block II tactical missiles

Ten (10) AIM–9X Sidewinder Block II Tactical Guidance Units

Non-MDE:

The following non-MDE items will also be included: active optical target detector; training; weapon system support; training aids and devices; spare parts; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department*: Navy (KS–P–AOF)

(v) *Prior Related Cases, if any*: KS–P–ALE; KS–P–AMA

(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*: August 21, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Korea—AIM-9X Sidewinder Block II Missiles

The Republic of Korea has requested to buy one hundred and three (103) AIM-9X Sidewinder Block II tactical missiles; and ten (10) AIM-9X Sidewinder Block II Tactical Guidance Units. The following non-major defense equipment items will also be included: active optical target detector; training; weapon system support; training aids and devices; spare parts; 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 \$125 million.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a major ally that is an important force for political stability and economic progress in the Indo-Pacific region.

The proposed sale will help improve the Republic of Korea's capability to meet current and future threats by expanding its air defense capability, deterring aggression in the region, and ensuring interoperability with U.S. Forces. The Republic of Korea 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 RTX Corporation, 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 the contractor.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to the Republic of Korea.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26-78

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 AIM-9X Sidewinder missile is a supersonic, air-to-air, guided missile

that utilizes a passive infrared target acquisition system, proportional navigation guidance, a closed loop position servo Fin Actuator Unit (FAU), and an active optical target detector. A solid propellant rocket motor provides propulsion. The missile has an angular blast fragmented warhead controlled by an Electronic Safe Arm Device. Four control fins activated by the FAU accomplish missile maneuvering by deflecting rocket motor thrust. The missile is used for guided flight tracking of an airborne drone and transmits encrypted telemetry data to aircraft or ground station receivers.

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 the Republic of Korea can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This 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 Republic of Korea.

[FR Doc. 2026-19322 Filed 9-21-26; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26-1G]

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 26-1G.

Dated: September 17, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26-1G

Report of Enhancement or Upgrade of Sensitivity of Technology or Capability (SEC. 36(B)(5)(C), AECA)

(i) *Prospective Purchaser:* Government of France

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 21-67

Date: January 7, 2022

Implementing Agency: Air Force

(iii) *Description:* On January 7, 2022, Congress was notified by congressional certification transmittal number 21-67 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of follow-on Contractor Logistics Support to include contractor provided MQ-9 aircraft components, spares, and accessories; repair and return; software and software support services; simulator software; personnel training and training equipment; publications and technical documentation; U.S. Government and contractor provided engineering, technical, and logistical support services; and other related elements of logistical and program support. The total estimated cost was \$300 million. There was no Major Defense Equipment (MDE) associated with this sale.

This transmittal notifies the inclusion of the following non-MDE items: ground handling equipment; site surveys; transportation support; and other related elements of logistics and program support. The estimated total value of the new items is \$353 million. The estimated total case value will increase by \$353 million to a revised \$653 million. There is no MDE associated with this potential sale.

(iv) *Significance:* This notification accounts for requested additional non-MDE items not included in the original notification. The inclusion of this non-MDE represents an increase in capability over what was previously notified. The proposed articles and services will support France's capability to meet current and future threats by ensuring the operational readiness of the French Air Force.

(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 NATO Ally which is an

important force for political stability and economic progress in Europe.

(vi) *Sensitivity of Technology*: The Sensitivity of Technology Statement contained in the original notification applies to 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*: September 2, 2026

[FR Doc. 2026–19320 Filed 9–21–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–2443]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification and Application

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 22, 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 Linnea Hengst, 202–453–6737.

SUPPLEMENTARY INFORMATION: The Department is especially interested in

public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification and Application.

OMB Control Number: 1845–0110.

Type of Review: A revision of a currently approved ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 913,713.

Total Estimated Number of Annual Burden Hours: 456,857.

Abstract: The Department of Education (Department) is requesting emergency processing for a revision to an existing information collection. The Department provides this form, 1845–0110 Public Service Loan Forgiveness (PSLF) & Temporary Expanded PSLF (TEPSLF) Certification & Application form, which is used by student loan borrowers to apply for Public Service Loan Forgiveness (PSLF). Borrowers complete this form to have their qualifying employment certified and their progress toward forgiveness recorded in our system. They are encouraged to submit this form annually but are only required to submit it at the point that they have reached the requisite 120 qualifying months of repayment.

On March 7, 2025, President Trump signed an executive order titled Restoring Public Service Loan Forgiveness (E.O. 14325) making individuals employed by organizations whose activities have a substantial illegal purpose ineligible for PSLF.

The Department held public hearings on April 29 and May 1, 2025, and engaged in the negotiated rulemaking process by convening a committee of higher education stakeholders and experts in July of 2025. On August 18, 2026, the Department published a Notice of Proposed Rulemaking (FR 90 FR 40154) and collected public comments on the proposed regulations until September 17, 2025.

As explained in the Final Regulations published on October 31, 2025 (90 FR

48966), 34 CFR 685.219(i) required an update to the approved Public Service Loan Forgiveness Certification and Application, OMB #1845–0110. To comply with E.O. 14325, a revision to the form was made to include the addition of an attestation statement, under penalty of perjury, that the employer has not engaged in any activity that has a substantial illegal purpose on or after July 1, 2026.

On Tuesday, June 30, 2026, a Federal judge vacated the rule; one day prior to the rule becoming effective. The Department is now removing the attestation from the PSLF form in order to comply with the court order. No other changes have been made at this time.

Ross Santy,

Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–19368 Filed 9–21–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Southeastern Power Administration

Notice of Interim Approval of the Rate Schedule for Jim Woodruff Project

AGENCY: Southeastern Power Administration, DOE.

ACTION: Notice of interim approval.

SUMMARY: The Administrator for the Southeastern Power Administration (Southeastern or SEPA) has confirmed and approved, on an interim basis, rate schedule JW–1–M for the sale of power from the Jim Woodruff Project. The rate schedule is approved on an interim basis through September 30, 2031, and is subject to confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis.

DATES: Approval of rates on an interim basis is effective October 1, 2026.

FOR FURTHER INFORMATION CONTACT:

Carter B. Edge, Assistant Administrator for Finance and Marketing, Southeastern Power Administration, Department of Energy, 1166 Athens Tech Road, Elberton, Georgia 30635–6711, (706) 213–3800; Email: Carter.Edge@sepa.doe.gov.

SUPPLEMENTARY INFORMATION: FERC, by Order issued February 10, 2022, in Docket No. EF21–4–000, confirmed and approved on a final basis Wholesale Power Rate Schedules JW–1–L and JW–2–F applicable to the Jim Woodruff Project for a period ending September 30, 2026. On August 6, 2024, Southeastern submitted a notice of cancellation of the JW–2–F Rate Schedule for the sale of power from

Southeastern's Jim Woodruff Project to Duke Energy Florida effective October 6, 2024. There are no remaining obligations under the JW-2-F Rate Schedule. (FERC Docket No. EF24-8-000 (Sep. 13, 2024)). This order replaces the JW-1-L Rate Schedule with the JW-1-M Rate Schedule on an interim basis, subject to confirmation and final approval by FERC.

Department of Energy

Administrator, Southeastern Power Administration

In the Matter of: Southeastern Power Administration, Jim Woodruff Project Power Rates, Rate Order No. SEPA-69

Order Confirming and Approving Power Rates on an Interim Basis

Rate Order No. SEPA-69 and associated rate schedule are applicable to Southeastern Power Administration (Southeastern) power sold to existing customers in Florida. The rate schedule approved on an interim basis, effective October 1, 2026, through September 30, 2031, and is subject to confirmation and approval by the Federal Energy Regulatory Commission (FERC) on a final basis.

Background

Power from the Jim Woodruff Project is currently sold under Wholesale Power Rate Schedule JW-1-L. Rate Schedules JW-1-L and JW-2-F were approved by the Federal Energy Regulatory Commission in Docket No. EF21-4-000 on February 10, 2022. The JW-2-F Rate Schedule was cancelled effective October 6, 2024. (FERC Docket No. EF24-8-000, (Sept. 13, 2024)). The cancellation followed updates to marketing arrangements associated with the establishment of a new Power Marketing Policy for the Jim Woodruff Project, as well as a mutual agreement between Southeastern and Duke Energy Florida to terminate the Duke Energy Florida contract effective April 20, 2024. The JW-1-L Rate Schedule remains in effect and is scheduled to expire on September 30, 2026.

Public Notice and Comment

Notice of a proposed rate adjustment and opportunities for public review and comment for the Jim Woodruff Project was published in the **Federal Register** (91 FR 27938) on May 15, 2026. Southeastern proposed an increase to the existing rate schedule and charges applicable to the sale of power from the Jim Woodruff Project to become effective October 1, 2026, through September 30, 2031. The notice advised interested parties of a public information forum to be held in-person

at Florida Electric Cooperatives Association in Tallahassee, FL with an option to attend virtually via Microsoft Teams on June 4, 2026. The notice further advised of a comment forum being held in-person at Southeastern Power Administration with an option to attend virtually via Microsoft Teams on July 7, 2026.

The annual generation revenue requirement proposed at the public information forum was \$8,662,652, an increase of about 6.7 percent. The proposed rates reflected a 6.6 percent increase in the capacity charge and 10.8 percent in energy charge. The rates proposed were \$9.02 per kilowatt per month for capacity and 24.72 mills per kilowatt-hour for energy.

Following the presentation of the proposed Rate Schedule JW-1-M, Southeastern completed an administrative review and determined administrative revisions were necessary to conform with the Jim Woodruff Power Marketing Policy finalized in 2023, purchase power contracts executed in April 2024, and current operational billing practices. Southeastern provided interested parties with a fair opportunity to review the updated materials and submit written comments by extending the comment period by 15 calendar days. The comment period was scheduled to close on August 13, 2026; however, with the extension, written comments were accepted through August 27, 2026.

Public Comments

Southeastern received oral comments from a participant as part of the public information forum on June 4, 2026. The comments are summarized below. Southeastern's responses are provided.

Oral Comment 1: In reviewing the materials, we note there is a decrease in Corps revenues projected over the study period. Is there an understanding as to why those revenues are decreasing in future years?

Response 1: The projected Corps Revenue amount of \$32,348 represents the average revenue from the previous five fiscal years (2021-2025). Revenues included in the total Corps Revenue consist of revenue from timber sales, recreation leases at the project, soda machines, maps, ice, payphones, and other miscellaneous items. A review of past financial statements indicates the decline in revenue from timber sales has been the primary factor contributing to the overall decrease in actual and projected Corps Revenue.

Oral Comment 2: It appears from our review that there is an accumulated deficit that occurred in 2024. Is there a reason for that accumulated deficit?

Response 2: The deficit amount of \$341,676 shown in FY 2024 resulted from insufficient revenue to cover annual expenses and interest. Total Operating Revenue for FY 2024 was \$8,028,116, while Total Annual Expenses (including interest) totaled \$8,369,793. No investments were due in FY 2024; therefore, the deficit was not related to an inability to meet the repayment schedule. In FY 2025, the study reflected Net Revenue of \$2,484,316. This amount was sufficient to recover the FY 2024 deficit and contribute toward repayment obligations.

Written Comment 3: After reviewing the proposed rate increase for the Jim Woodruff Project, customers believe the range of the increase is considered a reasonable reflection of rising costs since the last rate modification, particularly the higher Operation and Maintenance expenses attributed to the Corps and a modest increase in SEPA's marketing costs. Deficits accumulated between 2021 and 2025 have been repaid without being carried forward, which is an important feature of the rate design, helping keep rates as low as possible.

Concerns remain regarding the Corps' classification of certain environmental stewardship expenses as hydropower-related costs, underscoring the need for careful evaluation of proper cost assignment and categorization. SEPA's Administrator maintains independent authority to determine which costs are included in hydropower rates, consistent with congressional reaffirmation in WRDA 2024, and is encouraged to exercise this discretion to ensure rates for 2026-2031 remain as low as possible while upholding sound business principles.

Response 3: Southeastern values the collaborative relationship shared with the customers, and appreciates the thorough review of the rate design, repayment structures, and cost recovery mechanisms. We welcome our customers' acknowledgement of the proposed rate range aligning with rising operational demands since the last rate adjustment and their support for addressing historical deficits. Ensuring repayment of deficits accumulated between FY 2021 and FY 2025 is successfully repaid without being carried forward into the upcoming rate cycle is a critical component of our financial obligation. This proactive amortization directly aligns with Southeastern's commitment to rate stability, preventing long-term interest burdens and helping to keep future rates as low as possible.

Southeastern shares customers' concerns regarding the classification of certain environmental stewardship expenses as hydropower-related costs by the Corps. The Administrator of SEPA has used his discretion as to setting rates for the sale of electric power and energy pursuant to Section 5 of the Flood Control Act of 1944, whether monies appropriated to the Corps are those monies Congress deems to be repaid by hydropower customers within a prescribed time period, to exclude certain Environmental Stewardship joint-to-power projected expenses from the Jim Woodruff revenue requirement.

A total of \$2,390,183.40 in projected environmental stewardship costs have been determined to be non-reimbursable from the sale of power for FY 2026–2030, and \$429,904.20 annually for FY 2031–2076. These exclusions are reflected in the Jim Woodruff Power Rate Study and supporting documents. Certain environmental stewardship joint costs relating to the curation of archeological and natural resources, remain appropriately included in the projected joint expenses.

This action ensures Southeastern's rate-setting practices remain fully aligned with federal statutes, project authorizations, and official joint-use cost allocation reports. We believe this resolution addresses the customers' primary concerns, safeguards power customers from bearing unequitable costs, and upholds sound financial and business principles.

Discussion

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in March 2026 for the Jim Woodruff Project, shows with the proposed rates, all system power costs are paid within the appropriate repayment period and meet the cost-recovery criteria set forth by existing law and in DOE Order RA 6120.2. The Administrator of Southeastern Power Administration has certified the rates are consistent with applicable law and they are the lowest possible rates to customers consistent with sound business principles.

Legal Authority

By Delegation Order No. S1–DEL–RATES–2016, effective November 19, 2016, the Secretary of Energy delegated: (1) the authority to develop power and transmission rates to Southeastern's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the

Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, or to remand or disapprove such rates, to FERC. By Delegation Order No. S1–DEL–S3–2024, effective August 30, 2024, the Secretary of Energy also delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Under Secretary for Infrastructure. By Redelegation Order No. S3–DEL–SEPA–2023, effective April 10, 2023, the Under Secretary for Infrastructure redelegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Southeastern Administrator.

Environmental Compliance

Southeastern has determined this action fits within the following categorical exclusion listed in appendix B of 10 CFR part 1021 and appendix B of DOE's National Environmental Policy Act (NEPA) implementing procedures published on June 30, 2025: B4.3, Electric power marketing rate changes. Categorically excluded projects and activities do not require preparation of either an environmental impact statement or an environmental assessment.¹

Determination Under Executive Order 12866

Southeastern has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Availability of Information

Information regarding these rates, including studies, and other supporting materials, is available for public review in the offices of Southeastern Power Administration, 1166 Athens Tech Road, Elberton, Georgia 30635–6711.

Order

In view of the foregoing and pursuant to the authority redelegated to me by the Under Secretary for Infrastructure, I hereby confirm and approve on an interim basis, effective October 1, 2026, attached Wholesale Power Rate Schedule JW–1–M. The rate schedule shall remain in effect on an interim basis through September 30, 2031, unless such period is extended or until FERC confirms and approves it or a substitute rate schedule on a final basis.

Signing Authority

This document of the Department of Energy was signed on September 17, 2026, by Virgil G. Hobbs III, Administrator for Southeastern Power Administration, pursuant to delegated

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

Signed in Washington, DC, on September 18, 2026.

Treena V. Garrett,

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

Wholesale Power Rate Schedule JW–1–M

Availability: This rate schedule shall be available to public bodies and cooperatives receiving delivery within the state of Florida from the Jim Woodruff Project (hereinafter called the Project).

Applicability: This rate schedule shall be applicable to capacity and accompanying energy made available by the Government from the Project and sold in wholesale quantities.

Character of Service: The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the Project point of interconnection.

Monthly Rate: The monthly rate for capacity and energy made available or delivered under this rate schedule shall be:

Demand Charge: \$9.02 per kilowatt of monthly contract demand.

Energy Charge: 24.72 mills per kilowatt-hour.

Contract Demand: The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy Made Available: The energy made available is the customer's ratable percent of the energy made available from the Project based on the purchaser's allocation of power to the sum of all the allocations of Government power from the Project in each billing month, less losses.

Billing Month: The billing month for power sold under this schedule shall end at 12:00 midnight Central Prevailing Time on the last day of each calendar month.

Conditions of Service: The customer shall, at its own expense, provide,

arrange for and maintain transmission service necessary to receive allocation of Government power from the Project. October 1, 2026.

[FR Doc. 2026-19342 Filed 9-21-26; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OLEM-2024-0365; FRL-13633-01-OFA]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Preauthorization of CERCLA Response Action and Claim for CERCLA Response Action (Reinstatement)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Application for Preauthorization of CERCLA Response Action and Claim for CERCLA Response Action (EPA ICR Number 7808.06, OMB Control Number 2050-0106) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which was approved through April 30, 2001. Public comments were previously requested via the **Federal Register** on February 28, 2025, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before October 22, 2026.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OLEM-2024-0365, to EPA online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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:

Ellyn Fine, Office of Land and Emergency Management, Office of Superfund Remediation and Technology Innovation, Assessment and Remediation Division, Mail Code 5204T, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202-566-1013; email address: fine.ellyn@epa.gov.

SUPPLEMENTARY INFORMATION: This is a proposed reinstatement of the ICR, which was approved through April 30, 2001. 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.

Public comments were previously requested via the **Federal Register** on February 28, 2025, during a 60-day comment period (90 FR 10903). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: Under the claims procedures in 40 CFR part 307 of the National Contingency Plan (NCP), a party must obtain EPA approval to take response actions, and subsequently, to make a claim for reimbursement from the Hazardous Substance Superfund. The forms used for these purposes are: (1) Application for Preauthorization of a CERCLA Response Action and (2) Claim for CERCLA Response Action. Both forms are in need of reinstatement and, once approved, will be publicly available on EPA's website and may be submitted to EPA via email.

Form Numbers: OMB Control Number 2050-0106; EPA Form Numbers 2075-3 and 2075-4

Respondents/affected entities: Persons seeking preauthorization and subsequent reimbursement of claims for necessary costs incurred for response actions; States or political subdivisions

subject to an agreement reached pursuant to section 122(b)(1) of CERCLA.

Respondent's obligation to respond: Required to obtain or retain a benefit per CERCLA 111(a)(2) and 112 and 40 CFR part 307.

Estimated number of respondents: 2 (annually)

Frequency of response: Only occurs when entity seeks pre-approval or claims reimbursement.

Total estimated burden: 161 hours (per year). Burden is defined at 5 CFR 1320.03(b). This includes the submission of one pre-authorization form from one respondent (estimated at 110 hours) and one claim reimbursement form submitted by one respondent (estimated at 51 hours).

Total estimated cost: \$11,828.67 (per year), which includes no annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a reduction of 1,807 hours compared to the ICR previously approved by OMB. Fewer entities have requested this authority than in the past. The internet and other computer-based tools for information management reduces the amount of time needed to compile requested information.

Courtney Kerwin,

Deputy Director, Data and Enterprise Programs Division.

[FR Doc. 2026-19337 Filed 9-21-26; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1085; FR ID 368620]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's

burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before November 23, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Numbers: 3060–1085.

Title: Section 9.11, Interconnected Voice Over internet Protocol (VoIP) E911 Compliance; Section 9.12, Implementation of the NET 911 Improvement Act of 2008: Location Information From Owners and Controllers of 911 and E911 Capabilities.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or Households; Business or other for-profit entities; Not-for-profit institutions; State, Local or Tribal government.

Number of Respondents: 29 respondents; 8,445,716 responses.

Estimated Time per Response: 0.09 hours (five minutes).

Frequency of Response: One-time, on occasion, third party disclosure requirement, and recordkeeping requirement.

Obligation to Respond: Statutory authority for this information collection is contained in 47 U.S.C. 151, 151–154, 152(a), 155(c), 157, 160, 201, 202, 208, 210, 214, 218, 219, 222, 225, 251(e), 255, 301, 302, 303, 307, 308, 309, 310, 316, 319, 332, 403, 405, 605, 610, 615, 615 note, 615a, 615b, 615c, 615a–1, 616, 620, 621, 623, 623 note, 721, and 1471.

Total Annual Burden: 778,712 hours.

Total Annual Cost: \$123,720,000.

Needs and Uses: The Commission is obligated by statute to promote “safety of life and property” and to “encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-

to-end infrastructure” for public safety. Congress has established 911 as the national emergency number to enable all citizens to reach emergency services directly and efficiently, irrespective of whether a citizen uses wireline or wireless technology when calling for help by dialing 911. Efforts by federal, state and local government, along with the significant efforts of wireline and wireless service providers, have resulted in the nearly ubiquitous deployment of this life-saving service. The Order the Commission adopted on May 19, 2005, sets forth rules requiring providers of VoIP services that interconnect with the nation’s existing public switched telephone network (interconnected VoIP services) to supply E911 capabilities to their customers.

To ensure E911 functionality for customers of VoIP service providers the Commission requires the following information collections:

A. *Location Registration.* Requires providers to interconnected VoIP services to obtain location information from their customers for use in the routing of 911 calls and the provision of location information to emergency answering points.

B. *Provision of Automatic Location Information (ALI).* Interconnected VoIP service providers will place the location information for their customers into, or make that information available through, specialized databases maintained by local exchange carriers (and, in at least one case, a state government) across the country.

C. *Customer Notification.* Requires that all providers of interconnected VoIP are aware of their interconnected VoIP service’s actual E911 capabilities. That all providers of interconnected VoIP service specifically advise every subscriber, both new and existing, prominently and in plain language, the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service.

D. *Record of Customer Notification.* Requires VoIP providers to obtain and keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood this advisory.

E. *User Notification.* In addition, in order to ensure to the extent possible that the advisory is available to all potential users of an interconnected VoIP service, interconnected VoIP service providers must distribute to all subscribers, both new and existing, warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available

and instructing the subscriber to place them on or near the customer premises equipment used in conjunction with the interconnected VoIP service.

Section 506 of RAY BAUM’S Act

Section 506 of RAY BAUM’S Act, which requires the Commission to “consider adopting rules to ensure that the dispatchable location is conveyed with a 9–1–1 call, regardless of the technological platform used and including with calls from multi-line telephone system.” RAY BAUM’S Act also states that, “[i]n conducting the proceeding . . . the Commission may consider information and conclusions from other Commission proceedings regarding the accuracy of the dispatchable location for a 9–1–1 call” RAY BAUM’S Act defines a “9–1–1 call” as a voice call that is placed, or a message that is sent by other means of communication, to a PSAP for the purpose of requesting emergency services.

As part of implementing Section 506 of RAY BAUM’S Act, on August 1, 2019, the Commission adopted a *Report and Order (2019 Order)* amending, among other things, its 911 Registered Location and customer notification requirements applicable to VoIP service providers.

The Commission’s *2019 Order* changed the wording of section 9.11’s Registered Location requirements to facilitate the provision of automated dispatchable location in fixed and non-fixed environments. For non-fixed environments, the rule requires automated dispatchable location, if technically feasible. If not technically feasible, VoIP service providers may fall back to registered location, alternative location information for 911 calls, or a national emergency call center. Regarding customer notification requirements, the Commission afforded service providers flexibility to use any conspicuous means to notify end users of limitations in 911 service. In sum, the requirements adopted in the *2019 Order* leverage technology advancements since the 2005 *Order*, build upon the existing Registered Location requirement, expand options for collecting and supplying end-user location information with 911 calls, are flexible and technologically neutral from a compliance standpoint and serve a vital public safety interest.

NET 911 Act

The NET 911 Act explicitly imposes on each interconnected voice over internet Protocol (VoIP) provider the obligation to provide 911 and E911 service in accordance with the

Commission's existing requirements. In addition, the NET 911 Act directs the Commission to issue regulations by no later than October 21, 2008 that ensure that interconnected VoIP providers have access to any and all capabilities they need to satisfy that requirement.

On October 21, 2008, the Commission released a *Report and Order* (2008 Order), FCC 08–249, WC Docket No. 08–171, that implements certain key provisions of the NET 911 Act. As relevant here under the Paperwork Reduction Act (PRA), the Commission requires an owner or controller of a capability that can be used for 911 or E911 service to make that capability available to a requesting interconnected VoIP provider under certain circumstances. In particular, an owner or controller of such capability must make it available to a requesting interconnected VoIP provider if that owner or controller either offers that capability to any commercial mobile radio service (CMRS) provider or if that capability is necessary to enable the interconnected VoIP provider to provide 911 or E911 service in compliance with the Commission's rules. The information collection requirements contained in this collection guarantee continued cooperation between interconnected VoIP service providers and Public Safety Answering Points (PSAPs) in complying with the Commission's E911 requirements.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026–19305 Filed 9–21–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FR ID 367979]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of

information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before November 23, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: Amendment of Part 90 of the Commission's Rules; Information for 4.9 GHz Band Manager Selection Process (PS Docket No. 07–100; FCC 24–114).

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for profit; not-for-profit institutions; state, local or tribal government.

Number of Respondents and Responses: 10 respondents; 10 responses.

Estimated Time per Response: 120 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits (47 CFR 90.1217). Statutory authority for this information collection is contained in 4(i), 11, 303(g), 303(r), 332(c)(7), and 337(f) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), and 337(f), unless otherwise noted.

Total Annual Burden: 1,200 hours.

Total Annual Cost: No Cost.

Needs and Uses: In the Seventh Report and Order in WP Docket No. 07–100, the Commission adopted a Band Manager framework to coordinate operations in the 4.9 GHz band (4940–4990 MHz), optimize public safety use, and facilitate the integration of the latest commercially available technologies,

including 5G, for the benefit of public safety users. In the Eighth Report and Order in WP Docket No. 07–100, the Commission established a new Section 90.1217 which enumerated the duties of the Band Manager.

The Commission directed the Public Safety and Homeland Security Bureau and the Wireless Telecommunications Bureau to establish a 4.9 GHz Selection Committee to advise the Bureaus on selecting a Band Manager for the 4.9 GHz band. The Committee will review proposals from persons or entities seeking to serve as Band Manager and to hold the Band Manager overlay license. These persons or entities will provide the 4.9 GHz Selection Committee with information demonstrating how they propose to perform the functions enumerated in the Commission's rules and Orders.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026–19313 Filed 9–21–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1194; FR ID 368266]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information

collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before November 23, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

OMB Control Number: 3060–1194.

Title: AM Station Modulation Dependent Carrier Level (MDCL) Notification Form; FCC Form 338.

Form Number: FCC Form 338.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents and Responses: 15 respondents and 15 responses.

Estimated Hours per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 15 hours.

Total Annual Costs: No cost.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 154(i), 303, 310 and 533 of the Communications Act of 1934, as amended.

Needs and Uses: FCC Form 338, AM Station Modulation Dependent Carrier Level (MDCL) Notification Form is used by AM broadcasters to implement MDCL technologies without prior authorization, by electronic notification within 10 days of commencing MDCL operations. In addition to the standard general contact information, FCC Form 338 solicits minimal technical data, as well as the date that MDCL control operations commenced.

In October 2015, the Commission adopted its proposal for wider implementation of MDCL control technologies and amended section

73.1560(a) of the rules. 47 CFR 73.1560(a)(1) is consequentially covered by this information collection. This rule specifies the limits on antenna input power for AM stations. AM stations using MDCL control technologies are not required to adhere to these operating power parameters. The rule provides that an AM station may commence MDCL control technology without prior Commission authority, provided that within ten days after commencing such operation, the AM station licensee submits an electronic notification of commencement of MDCL operation using FCC Form 338.

The Commission is now requesting a three year extension for this collection from the Office of Management and Budget (OMB).

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026–19309 Filed 9–21–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0214; FR ID 367659]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before October 22, 2026.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the

above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov. Include in the comments the OMB control number as shown in the

SUPPLEMENTARY INFORMATION below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/public/do/PRAMain>, (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C.

3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

OMB Control Number: 3060–0214.

Title: Sections 73.3526 and 73.3527, Local Public Inspection Files; Sections 73.1212, 76.1701 and 73.1943, Political Files.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for profit entities; Not for profit institutions; State, Local or Tribal government; Individuals or households.

Number of Respondents: 24,178 respondents; 67,440 responses.

Estimated Time per Response: 1–52 hours.

Frequency of Response: On occasion reporting requirement, Recordkeeping requirement, Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections is contained in Sections 151, 152, 154(i), 303, 307, 308, and 315 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,093,127 hours.

Total Annual Cost: No cost.

Needs and Uses: Commission rules require broadcast licensees and cable television operators to maintain political files and public inspection files and to include specified records. These rules, which are contained in 47 CFR 73.1212, 73.3526, 73.3527, 73.1943, and 76.1701, remain unchanged since last approved by OMB.

47 CFR 73.1943(a) and 76.1701(a) require each broadcast station licensee and each cable television system to maintain in its online political file a complete record of any request to purchase broadcast and cablecast time that is made by or on behalf of a candidate for public office, or that communicates a message relating to any political matter of national importance, including a legally qualified candidate, any election to Federal office, or a national legislative issue of public importance.

47 CFR 73.1943(b) and 76.1701(b) specify the records that each broadcast station licensee and each cable television system must maintain in its online political file:

(1) whether the request to purchase broadcast or cablecast time is accepted or rejected by the broadcast licensee or cable television system operator;

(2) the rate charged for the broadcast or cablecast time;

(3) the date and time on which the communication is aired;

(4) the class of time that is purchased;

(5) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

(6) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

(7) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

47 CFR 73.3526(a) and 73.3527(a) require that licensees and permittees of commercial and noncommercial educational broadcast stations maintain a public inspection file. The contents of the file vary according to type of service and status. A separate file shall be maintained for each station for which an application is pending or for which an authorization is outstanding. The public inspection file must be maintained so long as an authorization to operate the station is outstanding.

47 CFR 73.3526(b) and 73.3527(b) specify the location at which the public inspection file must be maintained. An applicant for a new station or change of community shall maintain its file at an accessible place in the proposed community of license or at its proposed main studio. Commercial and noncommercial television and radio stations are required to place their records in an online public file hosted by the Commission, with the exception of letters and emails from the public, which may be maintained at the station. Stations must also provide a link to the online file from the home page of their own websites, if they have one, and provide contact information for a station representative on their websites who can assist persons with disabilities with issues related to the content of the public files. Stations are also required to include in the online public file the station's main studio address and telephone number and the email address of the station's designated contact for questions about the public file. With respect to the station's political file, new material must be placed in the online file hosted by the Commission, but political material that existed prior to the effective date of the online political file requirements may

continue to be retained at the station until the end of the applicable retention period.

47 CFR 73.3526(c) and 73.3527(c) require the licensee/permittee to make the local public file available for public inspection at any time during regular business hours. All or part of this file may be maintained in a computer database as long as a computer terminal is made available to members of the public. Materials in the public file must be made available for review, printing, or reproduction upon request. Licensees that maintain their main studios and public file outside their communities of license are required to mail a copy of “The Public and Broadcasting” to anyone requesting a copy. Licensees shall be prepared to assist members of the public in identifying the documents they may want to be sent to them by mail. An applicant, permittee, or licensee must provide information regarding the location of the public file, or the applicable portion of the file, within one business day of a request for such information.

47 CFR 73.3526(d) and 73.3527(d) require an assignor to maintain the public inspection file until such time as the assignment is consummated. At that time, the assignee is required to maintain the file.

47 CFR 73.3526(e) and 73.3527(e) specify the contents of the public inspection files. Separate rule sections not subject to this information collection require the creation and submission to the Commission of many of the items that must be retained in the public inspection file. As such, the burden estimates for creation and submission of these documents are calculated in other information collections. The burden estimates included in this information collection pertain only to making these items publicly available.

The documents to be retained in the public inspection files are as follows:

A copy of the current FCC authorization to construct or operate the station, as well as any other documents necessary to reflect any modifications thereto or any conditions that the FCC has placed on the authorization;

A copy of any application tendered for filing with the FCC, together with all related material, and copies of Initial Decision and Final Decisions in hearing cases. If petitions to deny are filed against the application, a statement that such a petition has been filed shall be maintained in the file together with the name and address of the party filing the petition;

For commercial broadcast stations, a copy of every written citizen agreement;

A copy of any service contour maps, submitted with any application, together with any other information in the application showing service contours and/or main studio and transmitter location;

A copy of the most recent, complete Ownership Report (FCC Form 323) filed with the FCC for the station, together with any statements filed with the FCC certifying that the current Report is accurate;

A political file of records required by 47 CFR 73.1943 concerning broadcasts by candidates for public office;

An Equal Employment Opportunity File required by 47 CFR 73.2080;

A copy of the most recent edition of the manual entitled "The Public and Broadcasting;"

Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint to the FCC of which the applicant/permittee/licensee has been advised;

For commercial radio and TV broadcast stations and non-exempt NCE broadcast stations, a list of programs that have provided the station's most significant treatment of community issues. This list must be updated on a quarterly basis and contain a brief description of how each issue was treated;

For commercial TV broadcast stations, records sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with the commercial limits on children's television programming. The records must be placed in the public file annually. In addition, the FCC Form 398, Children's Television Programming Reports, reflecting efforts made by the licensee during the preceding year, and efforts planned for the next year, to serve the educational and informational needs of children must be placed in the public file annually;

For NCE stations, a list of donors supporting specific programs. The list is to be retained for two years from the date of the broadcast of the specific program supported, and will be reserved for sponsors/underwriters of specific programming;

Each applicant for renewal of license shall place in the public file a statement certifying compliance with the post-filing local public notice announcements within 7 days of the last day of broadcast;

Commercial radio and TV licensees that provide programming to another licensee's station pursuant to time brokerage agreements are required to keep copies of those agreements in their public inspection files, with

confidential information blocked out where appropriate;

Commercial TV stations must make an election between retransmission consent and must-carry status once every three years and must place this election statement in the station's public inspection file;

NCE television stations requesting mandatory carriage on any cable system pursuant to 47 CFR 76.56 shall place in their public inspection files the request and relevant correspondence;

Commercial radio and TV licensees who have entered into joint sales agreements must place the agreements in the public inspection file, with confidential and proprietary information blocked out where appropriate; and

Commercial TV licensees who have entered into shared service agreements must place the agreements in the public inspection file, with confidential and proprietary information blocked out where appropriate.

47 CFR 73.3526(e)(14)—Radio and television time brokerage agreements. For commercial radio and television stations, a copy of every agreement or contract involving time brokerage of the licensee's station or of another station by the licensee, whether the agreement involves stations in the same markets or in differing markets, with confidential or proprietary information redacted where appropriate. These agreements shall be placed in the public file within 30 days of execution and retained in the file as long as the contract or agreement is in force.

47 CFR 73.3526(e)(15)—Must-carry or retransmission consent election. Statements of a commercial television or Class A television station's election with respect to either must-carry or retransmission consent, as defined in §§ 76.64 and 76.1608 of this chapter. These records shall be retained for the duration of the three-year election period to which the statement applies. Commercial television stations shall, no later than July 31, 2020, provide an up-to-date email address and phone number for carriage-related questions and respond as soon as is reasonably possible to messages or calls from MVPDs. Each commercial television station is responsible for the continuing accuracy and completeness of the information furnished.

47 CFR 73.3526(e)(16)—Radio and television joint sales agreements. For commercial radio and commercial television stations, a copy of agreement for the joint sale of advertising time involving the station, whether the agreement involves stations in the same markets or in differing markets, with confidential or proprietary information

redacted where appropriate. These agreements shall be placed in the public file within 30 days of execution and retained in the file as long as the contract or agreement is in force.

47 CFR 73.3527(e)(4)—Ownership reports and related materials. A copy of the most recent, complete ownership report filed with the FCC for the station, together with any subsequent statement filed with the FCC certifying that the current report is accurate, and together with all related material. These materials shall be retained until a new, complete ownership report is filed with the FCC, at which time a copy of the new report and any related materials shall be placed in the file. The permittee or licensee must retain in the public file either a copy of the station documents listed in § 73.3613(a)–(c) or an up-to-date list of such documents. If the permittee or licensee elects to maintain an up-to-date list of such documents, the list must include all the information that the permittee or licensee is required to provide on ownership reports for each document, including, but not limited to, a description of the document, the parties to the document, the month and year of execution, the month and year of expiration, and the document type (e.g., network affiliation agreement, articles of incorporation, bylaws, management consultant agreement with independent contractor). Regardless of which of these two options the permittee or licensee chooses, it must update the inventory of § 73.3613 documents in the public file to reflect newly executed § 73.3613 documents, amendments, supplements, and cancellations within 30 days of execution thereof. Licensees and permittees that choose to maintain a list of § 73.3613 documents must provide a copy of any § 73.3613 document(s) to requesting parties within 7 days. In maintaining copies of such documents in the public file or providing copies upon request, confidential or proprietary information may be redacted where appropriate.

47 CFR 73.3526(e)(11)(ii)—commercial TV and Class A TV broadcast must maintain records sufficient to permit substantiation of the station's certification, in its license renewal application, of compliance with the commercial limits on children's programming established in 47 U.S.C. 303a and 47 CFR 73.670. These stations must place these records in their public files annually within 30 days after the end of the calendar year.

47 CFR 73.3526(e)(11)(iii)—requires that commercial television stations place in their public files their Children's Television Programming

Reports (FCC Form 2100 Schedule H) on an annual basis, within 30 days after the end of the calendar year.

47 CFR 73.3527(e)(12)—Must-carry requests. States noncommercial television stations shall, no later than July 31, 2020, provide an up-to-date email address and phone number for carriage-related questions and respond as soon as is reasonably possible to messages or calls from MVPDs. Each noncommercial television station is responsible for the continuing accuracy and completeness of the information furnished. Any such station requesting mandatory carriage pursuant to Part 76 of this chapter shall place a copy of such request in its public file and shall retain both the request and relevant correspondence for the duration of any period to which the request applies.

47 CFR 73.3526(e)(13)—Local public notice announcements. Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to § 73.3580(c)(3), place in the station's online public inspection file a statement certifying compliance with this requirement. The dates and times that the on-air announcements were broadcast shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in § 73.3580(e)(2) (for as long as the application to which it refers).

47 CFR 73.3527(e)(10)—Local public notice announcements. Each applicant for renewal of license shall, within 7 days of the last day of broadcast of the local public notice of filing announcements required pursuant to § 73.3580(c)(3), place in the station's online public inspection file a statement certifying compliance with this requirement. The dates and times that the on-air announcements were broadcast shall be made part of the certifying statement. The certifying statement shall be retained in the public file for the period specified in § 73.3580(e)(2) (for as long as the application to which it refers).

47 CFR 73.3526(e)(19)—Foreign sponsorship disclosures. Documentation sufficient to demonstrate that the station is continuing to meet the requirements set forth at § 73.1212(j)(6).

47 CFR 73.3527(e)(15)—Foreign sponsorship disclosures. Documentation sufficient to demonstrate that the station is continuing to meet the requirements set forth at § 73.1212(j)(6).

47 CFR 73.1212(k)—The requirements in § 73.1212(j) shall apply to programs permitted to be delivered to foreign broadcast stations under an

authorization pursuant to the Section 325(c) of the Communications Act of 1934 (47 U.S.C. 325(c)) if any part of the material has been sponsored, paid for, or furnished for free as an inducement to air on the foreign station by a foreign governmental entity. A Section 325(c) permit holder shall place copies of the disclosures required along with the name of the program to which the disclosures were appended in the International Bureau's public filing System (IBFS) under the relevant IBFS Section 325(c) permit file. The filing must state the date and time the program aired. In the case of repeat airings of the program, those additional dates and times should also be included. Where an aural announcement was made, its contents must be reduced to writing and placed in the IBFS in the same manner.

47 CFR 73.1943(c) and 76.1701(c) provide that when a broadcast station licensee or a cable television system provides free time for use by or on behalf of candidates, a record of the free time provided must be placed in the political file.

47 CFR 73.1943(d) and 76.1701(d) state that the records required to be maintained in a broadcast station licensee's or cable television system's political file must be placed in the political file as soon as possible and retained for a period of two years. As soon as possible means immediately absent unusual circumstances.

47 CFR 73.1212(e) and 76.1701(e) require that, when an entity sponsors broadcast or cablecast material that concerns a political matter or a discussion of a controversial issue of public importance, a list must be maintained in the public file of the system that includes the sponsoring entity's chief executive officers, or members of its executive committee or of its board of directors.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026-19314 Filed 9-21-26; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[ET Docket No. 13-84; DA 26-997; FR ID 368752]

FCC Seeks Comment on RF Exposure Issues Subject to D.C. Circuit Remand in *Environmental Health Trust v. FCC*

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: In this document, the Office of Engineering and Technology (OET) seeks comment on certain RF exposure issues that were remanded to the FCC for further consideration by the United States Court of Appeals for the District of Columbia Circuit in *Environmental Health Trust v. FCC*, 9 F.4th 893 (D.C. Cir. 2021).

DATES: Comments are due October 22, 2026.

FOR FURTHER INFORMATION CONTACT:

Questions regarding the *Public Notice* may be directed to the FCC's RF Safety Program at rfafety@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document (*Public Notice*), DA 26-997, in ET Docket No. 13-84, released on September 17, 2026. The full text of this document is available for public inspection and can be downloaded at: <https://docs.fcc.gov/public/attachments/DA-26-997A1.pdf> or by using the search function for ET Docket No. 13-84 on the Commission's ECFS web page at www.fcc.gov/ecfs.

Synopsis

Since the birth of the American wireless industry, the Federal Communications Commission has been entrusted to develop spectrum policies that bring economic prosperity, unleash innovation and investment, and promote national security as well as safety of life. Spectrum-based connectivity enabled by Commission policies has brought billions of dollars for the U.S. Treasury, created millions of jobs, served as an essential platform for U.S. tech innovation, bolstered America's geopolitical leadership, and driven down prices for consumers. Looking ahead, the U.S. government has determined that leading the world in 5G and 6G will require the Commission to auction large amounts of licensed spectrum and enable large swaths of unlicensed and satellite spectrum for next-generation services.

The Communications Act establishes the Commission's primacy over commercial spectrum policymaking, and the Working Families and Tax Cut Act, signed by President Trump in July 2025, directed the Commission to repurpose and auction 800 megahertz of spectrum, including 500 megahertz of federal spectrum for "full-power commercial licensed use cases[.]" Along the way, courts have repeatedly affirmed that when the Commission "foster[s] innovative methods of exploiting the spectrum" in its role "as a policymaker," it is "accorded the

greatest deference by a reviewing court.”

As an essential component of this policymaking function, Congress entrusted the Commission in 1996 to adopt rules regarding human exposure to RF energy emitted by Commission-regulated transmitters and facilities. The Commission’s RF exposure rules are continuously evaluated and based on gold-standard research from entities with specialized expertise in health and safety issues, including the National Council on Radiation Protection and Measurements (NCRP), a congressionally chartered organization, as well as guidelines promulgated by the American National Standards Institute and the Institute of Electrical and Electronics Engineers (IEEE), internationally recognized standard-setting organizations. Courts have consistently upheld the reasonableness of the Commission’s RF human-safety requirements when challenged in 2000, 2004, and 2021.

Most recently, the Commission terminated a nearly six-year inquiry in December 2019, which had sought comment on whether the agency’s RF safety rules should be reevaluated. Upon consideration of nearly 1,000 submissions, the Commission “conclude[d] that the best available evidence . . . supports maintaining [its] current RF exposure standards.” The D.C. Circuit’s 2021 decision in *Environmental Health Trust v. FCC* upheld the majority of the Commission’s findings, including its determination that RF exposure at levels below the current limits does not cause cancer. The panel also rejected arguments that the Commission had violated the Administrative Procedure Act by “fail[ing] to respond to various ‘additional legal considerations’” and that it had violated NEPA by failing to conduct an environmental review regarding its decision to terminate the *Notice of Inquiry*.

The panel maintained the legal force of the Commission’s RF safety rules, which remain effective today and have allowed Americans to benefit from world-leading networks. At the same time, the panel remanded for the Commission “to provide a reasoned explanation for its determination that its guidelines adequately protect against harmful effects of exposure to radiofrequency radiation unrelated to cancer.” The panel specifically directed the Commission to address three targeted issues: (1) “its decision to retain its testing procedures for determining whether cell phones and other portable electronic devices comply with its guidelines”; (2) “the

impacts of RF radiation on children, the health implications of long-term exposure to RF radiation, the ubiquity of wireless devices, and other technological developments that have occurred since the Commission last updated its guidelines”; and (3) “the impacts of RF radiation on the environment.” Importantly, the panel did not vacate the 2019 decision—it merely directed the Commission to provide further explanation to justify its findings as to these specific issues.

By this *Public Notice*, the Commission seeks to refresh the record on these targeted issues to discharge its obligations in response to the Court’s remand in *Environmental Health Trust*. In all cases, the Commission found in 2019 that the nearly six-year record failed to justify a change to the Commission’s rules. The Commission seeks comment on that finding. The Commission emphasizes that, in light of the limited scope of the court’s remand, the Commission does not seek comment here on any other aspects of the 2019 decision that were upheld in *Environmental Health Trust* or portions of the record that were not properly before the court.

The panel’s opinion in *Environmental Health Trust* took “no position in the scientific debate regarding the health and environmental effects of RF radiation.” Rather, it pointed to submissions and studies in the record that the Commission did not address in consideration of the specific issues identified above. The panel did not endorse those submissions, whereas the dissent specifically determined that many of them were insufficient to warrant the Commission’s explicit analysis. The panel did, however, acknowledge “that there may be good reasons” why those submissions “do not warrant changes to the Commission’s guidelines.” The panel further noted that “if those six sources fairly represented the credible record evidence seeking a change in Commission policy,” then the criticisms of those sources in the dissenting opinion “would have sufficed” as reasoned decision-making. The Commission seeks comment on the submissions specifically cited and discussed in the *Environmental Health Trust* opinion. Are they representative of record evidence seeking a change in the Commission’s rules? Do they demonstrate sufficient indicia of quality, reliability, or rigor to justify a change in the Commission’s rules?

The panel’s remand—both as to the Commission’s decision to maintain its existing testing procedures, and the Commission’s determination that its RF

exposure limits did not pose adverse health effects to children—flowed from the Commission’s purported failure to provide sufficient justification for its finding that “exposure to RF radiation at levels below its current limits does not cause negative health effects unrelated to cancer.” In so finding, the panel pointed largely to five articles that the Commission did not discuss regarding the putative non-cancerous effects of RF exposure below the prescribed levels.

The Commission seeks comment on whether “the five articles on which the majority opinion relie[d] . . . do not challenge a fundamental premise of the Commission’s order” and asks the same question as to any record information that the panel identified in arriving at its holding.

- One such article, the dissenting opinion noted, purported to present evidence of non-cancerous “oxidative effects” but conceded that it “[did] not provide conclusive evidence of causal effects and should be interpreted with caution until confirmed in other population.”

- Another meta-analysis, the dissent observed, summarized the results of human studies on the behavioral effects of RF radiation and identified “31 studies that showed no significant behavioral effects compared to 20 studies that showed behavioral effects,” including “four [that] found behavioral improvements, not negative health effects.”

- Yet another, according to the dissent, failed to “address the critical issue—whether RF radiation below the Commission’s current limits can cause negative health effects” because it examined the International Commission on Non-Ionizing Radiation Protection’s (ICNIRP) recommended RF exposure limit, which “is significantly higher than the Commission’s current limit—0.08 W/kg averaged over the whole body and a peak spatial-average of 1.6 W/kg over any 1 gram of tissue.”

- And yet another, the dissent noted, acknowledged that “the health effects of [exposure to radiofrequency electromagnetic fields (RF-EMFs)] are still unknown . . . [and] to date studies addressing this topic have produced inconsistent results.”

- Still another, according to the dissent, “found decreases in figural memory” but acknowledged that “some experimental and epidemiological studies on RF-EMF found improvements in working memory performance.”

- And a final study, the dissenting opinion remarked, was “hardly worth discussing because the self-published

report has been widely discredited as a biased review of the science.”

The Commission seeks comment on the foregoing discussion regarding the credibility and probative value of these studies.

With respect to environmental considerations, the panel faulted the Commission for not discussing a 2014 letter from the Department of Interior on the impact of communications towers to migratory birds. As the dissent noted, the Department of Interior’s letter found that “no independent, third-party field studies have been conducted in North America on impacts of tower electromagnetic radiation on migratory birds.” The Commission seeks comment on the probative value of the Department of Interior’s letter.

Beyond the submissions discussed in *Environmental Health Trust*, the Commission seeks comment on whether other record evidence properly before the court—namely, submissions filed after our 2013 *Notice of Inquiry* and before our 2019 decision to terminate the *Notice of Inquiry*—warrants the Commission revisiting its RF exposure rules on the specific issues subject to remand identified above. The Commission also seeks comment on whether record evidence affirmatively supports our rules or casts doubt on the reliability of submissions to the contrary.

As with our prior efforts, the Commission intends to give particular weight to submissions that reflect specialized experience in health and safety issues on RF exposure. In prioritizing the quality of submissions over their quantity, the Commission does not anticipate affording such scientific weight to meta-analyses that simply compile studies marked by wide ranges in scientific rigor and differing and sometimes contradictory conclusions. Nor does the Commission anticipate affording such weight to unverifiable or repetitive testimonial submissions that purport to assert the existence or absence of adverse health effects. Probative value will be accorded to parties who have demonstrated a capacity to interpret the biological research necessary to assess the health impact of RF emissions and determine what exposure levels are considered safe for humans, and who can do so with sufficient detail and persuasiveness to overcome the failings that the court identified when the Commission last attempted to rely on the expertise of expert agencies.

For instance, on potential environmental impact from RF, the Commission encourages input from science-based standard-setting

organizations and other interested parties and request that commenters describe their relevant qualifications and subject-matter expertise, and provide sufficient supporting information so that the Commission may evaluate the methodological rigor underpinning their views and claims. The Commission notes the work of the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA), who “finds good quality studies show no effect from radio waves on plants and animals,” and the ongoing work of the ICNIRP Project Group on Environmental EMF Protection tasked to “draft a statement on environmental effects of EMFs on the basis of qualitatively reliable scientific papers.” The Commission also invites comment on our testing procedures for determining whether cell phones and other portable electronic devices comply with our guidelines. As stated in Commission rules, guidance regarding applicable measurement techniques for the evaluation of compliance for portable devices can be found in the Office of Engineering and Technology (OET) Laboratory Division Knowledge Database (KDB).

In particular, the Commission asks that parties addressing the its past findings that “[t]he weight of scientific evidence has not linked cell phones with any health problems,” that “the current safety limits for cell phones are acceptable for protecting the public health,” that the “totality of the available scientific evidence continues to not support adverse health effects in humans caused by exposures at or under the current radiofrequency energy exposure limits,” and that “no changes to the current standards are warranted at this time,” clearly articulate the factual bases for their positions. Commenters who choose to address the body of scientific studies regarding the issues on remand, including the alleged existence of adverse effects to humans from low-level RF exposure, potential impacts on children, and potential health implications of long-term exposure to RF radiation, the ubiquity of wireless devices, and other technological developments that have occurred since the Commission last updated its guidelines, should clearly describe their specialized experience and subject-matter expertise that makes them well qualified to address such matters.

As the Commission considers how much weight to give to submissions or studies that purport to cast doubt on our RF exposure rules on the issues encompassed by the court’s remand, the Commission seeks comment on their methodological rigor. What is the scope

of such studies, do they properly bear on the remanded issues, and do they come with any acknowledged caveats? Does the record provide evidence that such studies have been replicated? Do such studies provide longitudinal evidence of non-cancerous adverse health effects or environmental harms? Does the record contain epidemiologic evidence that considers the ubiquitous saturation of cell phones in the American population over time? Do any such studies establish a demonstrated biological mechanism or marker through which such adverse effects are known to occur? If they purport to establish proxies such as oxidative effects, to what extent do those proxies establish adverse health effects? If they purport to show adverse health effects on humans, do they properly distinguish correlation from causation? If they purport to be based on literature review, are the reviews based on weight of scientific evidence? Are they based on self-reported data? Do they measure RF exposure through properly calibrated instruments and accepted scientific methods? Is dosimetry properly controlled, evaluated and documented? Are multiple exposure levels studied to establish a dose-response relationship, and do they substantiate an adverse health effect in humans at exposure levels below Commission limits? Do they control for confounding factors? Are proper controls and blinding procedures implemented in the study design? Are they based on representative sample sets? Are statistical analyses properly performed and sample sets of sufficient size to support conclusions? If they are based on experiments or testing in controlled environments, do those environments credibly resemble realistic deployment scenarios in the United States? If such studies are based on animal-based experiments, to what extent do they properly establish adverse health effects on humans?

While the scope of issues the Commission invites comment on is narrowly confined to record evidence that was properly before the court in *Environmental Health Trust*, the Commission invites the broadest range of commenters to participate, including local, state, federal, and international health and safety agencies, science-based standard-setting organizations that are active in this area, and other interested parties. These include, but are not limited to, NCRP, IEEE, the International Commission on Non-Ionizing Radiation Protection (ICNIRP), and parties directly engaged with other competent bodies that are involved in

this area. These entities have published standards, articles, or information related to RF exposure that may assist in responding to the court's remand.

Procedural Matters

Interested parties may file comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).

Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: <https://www.fcc.gov/ecfs>.

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. *All filings must be addressed to the Secretary, Federal Communications Commission.* Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530.

Ex Parte Rules. The proceeding this Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation

consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .docx, .xml, .pptx, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Federal Communications Commission.

Ira Keltz,

Deputy Bureau Chief, Office of Engineering and Technology.

[FR Doc. 2026-19364 Filed 9-21-26; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1180; FR ID 368532]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's

burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

DATES: Written PRA comments should be submitted on or before November 23, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to PRA@fcc.gov and to Cathy.Williams@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

SUPPLEMENTARY INFORMATION: The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

OMB Control Number: 3060-1180.

Title: Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, state, local, or tribal government and not for profit institutions.

Number of Respondents: 407 respondents; 2,599 responses.

Estimated Time per Response: 0.5 to 2 hours.

Frequency of Response: One-time and on occasion reporting requirements, twice within 12 years reporting requirement, 6, 10 and 12-years reporting requirements and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 310, 316, 319, 325(b), 332, 336(f), 338, 339, 340, 399b, 403, 534, 535, 1404, 1452, and 1454 of the Communications Act of 1934.

Total Annual Burden: 5,198 hours.

Total Annual Cost: No cost.

Needs and Uses: The FCC adopted the Expanding the Economic and

Innovation Opportunities of Spectrum Through Incentive Auctions Report and Order, FCC 14–50, on May 15, 2014, published at 79 FR 48442, August 15, 2014. The Commission seeks to extend for a period of three years from the Office of Management and Budget (OMB) some of the information collection requirements contained in FCC 14–50. The Commission will use the information to ensure compliance with required filings of notifications, certifications, license renewals, license cancellations, and license modifications. Also, such information will be used to minimize interference and to determine compliance with Commission's rules.

The following is a description of the information collection requirements approved under this collection:

Section 27.14(k) requires 600 MHz licensees to demonstrate compliance with performance requirements by filing a construction notification with the Commission, within 15 days of the applicable benchmark.

Section 27.14(t)(6) requires 600 MHz licensees to make a renewal showing as a condition of each renewal. The showing must include a detailed description of the applicant's provision of service during the entire license period and address: (i) The level and quality of service provided by the applicant (including the population served, the area served, the number of subscribers, the services offered); (ii) the date service commenced, whether service was ever interrupted, and the duration of any interruption or outage; (iii) the extent to which service is provided to rural areas; (iv) the extent to which service is provided to qualifying tribal land as defined in 47 CFR 1.2110(f)(3)(i); and (v) any other factors associated with the level of service to the public.

Section 27.17(c) requires 600 MHz licensees to notify the Commission within 10 days of discontinuance if they permanently discontinue service by filing FCC Form 601 or 605 and requesting license cancellation.

Section 27.1321(b) previously designated as 27.19(b) requires 600 MHz licensees with base and fixed stations in the 600 MHz downlink band within 25 kilometers of Very Long Baseline Array (VLBA) observatories to coordinate with the National Science Foundation (NSF) prior to commencing operations.

Section 27.1321(c) previously designated as 27.19(c) requires 600 MHz licensees that intend to operate base and fixed stations in the 600 MHz downlink band in locations near the Radio Astronomy Observatory site located in Green Bank, Pocahontas County, West Virginia, or near the Arecibo

Observatory in Puerto Rico, to comply with the provisions in 47 CFR 1.924.

Section 74.602(h)(5)(ii) requires 600 MHz licensees to notify the licensee of a studio-transmitter link (TV STL), TV relay station, or TV translator relay station of their intent to commence wireless operations and the likelihood of harmful interference from the TV STL, TV relay station, or TV translator relay station to those operations within the wireless licensee's licensed geographic service area. The notification is to be in the form of a letter, via certified mail, return receipt requested and must be sent not less than 30 days in advance of approximate date of commencement of operations.

Section 74.602(h)(5)(iii) requires all TV STL, TV relay station and TV translator relay station licensees to modify or cancel their authorizations and vacate the 600 MHz band no later than the end of the post-auction transition period as defined in 47 CFR 27.4.

These rules which contain information collection requirements are designed to provide for flexible use of this spectrum by allowing licensees to choose their type of service offerings, to encourage innovation and investment in mobile broadband use in this spectrum, and to provide a stable regulatory environment in which broadband deployment would be able to develop through the application of standard terrestrial wireless rules. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary

[FR Doc. 2026–19307 Filed 9–21–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meetings

TIME AND DATE: 10:21 a.m. on Thursday, September 17, 2026.

PLACE: The meeting was held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street NW, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The Board of Directors of the Federal Deposit Insurance Corporation met to consider matters related to the Corporation's resolution, supervision, and corporate activities. In calling the meeting, the Board determined, on motion of

Director Jonathan V. Gould (Comptroller of the Currency), seconded by Mark Paoletta (Acting Director, Consumer Financial Protection Bureau), by the unanimous vote of Chairman Travis Hill, Director Gould, and Director Paoletta, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting under 5 U.S.C. 552b(c)(2), (4), (6), (8), (9)(A) and (B), and (10).

CONTACT PERSON FOR MORE INFORMATION:

For further information, please contact Hanoi Veras, Executive Secretary, FDIC, at FDICBoardMatters@fdic.gov.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 17, 2026.

Hanoi Veras,

Executive Secretary.

[FR Doc. 2026–19306 Filed 9–18–26; 11:15 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meetings: Notice of Meeting Held with Less Than Seven Days' Advance Notice

TIME AND DATE: 10:00 a.m. on September 17, 2026. **PLACE:** The meeting was held in the FDIC Board Room, 550 17th Street NW, Washington, DC, with less than seven days' advance notice and was webcast to the public.

STATUS: Open to public observation via webcast.

MATTERS TO BE CONSIDERED: Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is given that the Federal Deposit Insurance Corporation's Board of Directors met in open session to consider the following matters:

Discussion Agenda

Notice of Proposed Rulemaking: Merger Transactions.

Notice of Proposed Rulemaking: State Bank Parity.

Summary Agenda

No substantive discussion of the following item occurred. The Board of Directors resolved this matter with a vote.

Rescission of Board Statement on the Development and Communication of Supervisory Recommendations.

CONTACT PERSON FOR MORE INFORMATION: For further information, please contact Hanoi Veras, Executive Secretary, FDIC, at FDICBoardMatters@fdic.gov.

(Authority: 5 U.S.C. 552b.)

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on September 17, 2026.

Federal Deposit Insurance Corporation

Hanoi Veras,

Executive Secretary.

[FR Doc. 2026–19304 Filed 9–18–26; 11:15 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreement to the Secretary by email at Secretary@fmc.gov, or by mail, Federal Maritime Commission, 800 North Capitol Street, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**, and the Commission requests that comments be submitted within 7 days on agreements that request expedited review. Copies of agreements are available through the Commission's website (www.fmc.gov) or by contacting the Office of General Counsel at (202) 523–5740 or GeneralCounsel@fmc.gov.

Agreement No.: 201344–002.

Agreement Name: The Global Shipping Business Network Agreement.

Parties: COSCO Shipping Lines Co. Ltd; and Orient Overseas Container Line Ltd.

Filing Party: Rebecca Fenneman, Jeffrey/Fenneman Law and Strategy PLLC.

Synopsis: The Amendment deletes Hapag-Lloyd AG as a party to the Agreement, reflecting its resignation from the Agreement. The Amendment also updates the notice contact for Orient Overseas Container Line Ltd and the identification of Agreement counsel, and makes conforming changes to the Agreement.

Proposed Effective Date: 9/14/2026.

Location: <https://www2.fmc.gov/eAgreementsSP/Public/AgreementHistory/29502>.

Dated: September 18, 2026.

Jennifer Everling,

Assistant Secretary.

[FR Doc. 2026–19358 Filed 9–21–26; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL TRADE COMMISSION

[Docket No. 9403]

FleetCor Technologies; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 22, 2026.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write “FleetCor; Docket No. 9403” on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Ave. NW, Mail Stop H–144 (Annex F), Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 22, 2026. Write

“FleetCor; Docket No. 9403” on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

We encourage you to submit comments through the <https://www.regulations.gov> website. Postal mail addressed to the Commission will be subject to delay because of heightened security screening. If you prefer to file your comment on paper, write “FleetCor; Docket No. 9403” on your comment and on the envelope, and send it via overnight service to: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex F), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other State identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment

has been posted on the <https://www.regulations.gov> website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website at <https://www.ftc.gov> to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before October 22, 2026. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from Corpay, Inc. (formerly known as FleetCor Technologies, Inc.) and its CEO, Ronald Clarke (“Respondents”). The proposed consent order (“Proposed Order”) has been placed on the public record for 30 days for receipt of comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the agreement and the comments received, then decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's Proposed Order.

The Commission's five-count complaint in this matter alleges that Respondents, who market and sell “fuel cards” that can be used to make purchases at gas stations and similar fueling locations, violated section 5 of the FTC Act in two principal ways. First, Respondents unfairly charged their customers, who overwhelmingly are small businesses, a variety of unauthorized fees (Counts IV & V). Specifically, Defendants charged late fees to customers who had paid on time and also charged a number of other unauthorized fees that they hid from their customers. Second, Respondents' marketing variously misrepresented the gas savings (Count I), fraud-control features (Count II), and fees (Count III) associated with Defendants' fuel cards.

The FTC alleged identical claims against these Respondents in a

complaint filed in the United States District Court for the Northern District of Georgia. After more than two-and-a-half years of litigation, the district court determined that both Respondents had violated the FTC Act and entered a permanent injunction that requires consent before charging customers, prohibits misrepresentations, and bars other unlawful conduct. *FTC v. Fleetcor Techs., Inc.*, 620 F. Supp. 3d 1268 (N.D. Ga. 2022); *FTC v. FleetCor Techs., Inc.*, No. 19–5727, 2023 WL 5030099 (N.D. Ga. June 8, 2023).

The Court of Appeals for the Eleventh Circuit affirmed that Respondent Corpay, Inc. is liable on all five counts of the complaint and affirmed the permanent injunction against it. *FTC v. Corpay, Inc.*, 164 F.4th 807 (11th Cir. 2026). The court of appeals determined that Respondent Clarke is liable on Counts I, III, IV, and V, but not on Count II, and vacated the injunction against Clarke in light of this determination. Pursuant to the proposed Agreement Containing Consent Order, Respondents would not oppose the entry against Respondent Clarke of the same permanent injunction that the district court previously entered against him, except omitting as to Clarke two subparts that relate to Count II.

The Proposed Order contains monetary relief and related provisions to redress customers injured by Respondents' unfair and deceptive practices. Provision I requires Respondents to pay the Commission \$100,000,000 in monetary relief. Provision II describes the procedures and legal rights related to that payment. Provision III requires Respondents to provide customer information to enable the Commission to efficiently administer consumer redress. Provision IV requires Respondents to submit acknowledgements of receipt of the Order. Provision V provides the effective dates of the order, including that, as long as Respondents have met all their obligations under the order, it will terminate in 20 years.

The purpose of this analysis is to aid public comment on the Proposed Order. It is not intended to constitute an official interpretation of the complaint or Proposed Order, or to modify in any way the Proposed Order's terms.

By direction of the Commission.

April J. Tabor,
Secretary.

[FR Doc. 2026–19289 Filed 9–21–26; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10142]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by November 23, 2026.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier: _____, OMB Control Number: _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP); *Use:* Medicare Advantage organizations (MAO) and Prescription Drug Plans (PDP) are required to submit an actuarial pricing “bid” for each plan offered to Medicare beneficiaries for approval by CMS. The MAOs and PDPs use the Bid Pricing Tool (BPT) software to develop their actuarial pricing bid. The competitive bidding process defined by the “The Medicare Prescription Drug, Improvement, and Modernization Act” (MMA) applies to both the MA and Part D programs. It is an annual process that encompasses the release of the MA rate book in April, the bid's that plans submit to CMS in June,

and the release of the Part D and RPPO benchmarks, which typically occurs in August. *Form Number:* CMS–10142 (OMB control number: 0938–0944); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for profits, and Not for profits institutions; *Number of Respondents:* 460; *Total Annual Responses:* 11,700; *Total Annual Hours:* 406,000. (For questions regarding this collection contact Rachel Shevland at 410–786–3026 or Rachel.shevland@cms.hhs.gov.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2026–19366 Filed 9–21–26; 8:45 am]

BILLING CODE 4169–69–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Generic Information Collection Request for Health Resources and Services Administration Hotlines, Chatlines, and Online Portals

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than October 22, 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 Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the HRSA Information Collection Clearance Officer, at paperwork@hrsa.gov or call (301) 443–9094.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Generic Information Collection Request for Collections Related to HRSA Hotlines, Chatlines, and Online Portals, OMB No. 0906–New.

HRSA administers approximately 20 hotlines, chatlines, and online portals for use by customers, members of the public, and HRSA funding recipients. These hotlines, chatlines, and online portals are administered by HRSA or a contractor on behalf of HRSA. The purpose of information collections under this umbrella ICR package is to allow HRSA to collect information on the operation of HRSA hotlines, chatlines, and online portals to assist HRSA in improving their operation and determining if these services are helpful. In addition to collecting basic demographic information, the information collections would include questions such as reasons for inquiry, topics covered by inquiry, and feedback on provided guidance or the hotline/chatline/online portal user experience. Individual collections approved under this umbrella ICR are referred to as generic or fast-track collections.

An illustrative, but not exhaustive, list of examples of information collection activities that would fall under this collection include standardized questions that are asked during the inquiry; surveys about the inquiry; and information collected about the customer's experience in the use of hotlines, chatlines, and online portals. This umbrella collection covers responses to standardized and survey questions relating to the public's use of HRSA's hotlines, chatlines, and online portals. Responses to any generic information collections under this umbrella collection will be voluntary and low burden. Any collections that raise substantive or policy issues would be approved by a standard ICR package, with the standard clearance periods, as opposed to a generic information collection.

A 60-day notice published in the **Federal Register** on November 18, 2024, vol. 89, No. 22; pp. 90708–09. There were no public comments.

Need and Proposed Use of the Information: The purpose of collections under

this umbrella ICR is for accountability, program management,

and oversight purposes. Collecting information from the public about these services will help ensure that HRSA hotlines, chatlines, and online portals are operating to the best of their abilities. While HRSA can evaluate the general need for and the overall practical utility of such information collection in advance, HRSA is unable to determine the details of the specific individual collection methodologies until a later time. Using an umbrella collection will allow HRSA to quickly respond to public needs and efficiently provide vital services to grantees and the general public. The standard 6-to-9-month timeline to comply with a full ICR under the Paperwork Reduction Act could inhibit HRSA’s ability to collect information that will inform these services, since they may require rapid updates to be responsive to their users.

Although HRSA has approved collections about hotlines, chatlines, and online portals via the umbrella collection covering Voluntary Partner Surveys on HRSA Customer Service

(OMB No. 0906–0084), there is a need for generic collections that cover a broader scope of information about the operation of HRSA hotlines, chatlines, and online portals. For example, HRSA intends to continue the information collection for the National Maternal Mental Health Hotline under this umbrella collection. Although this generic collection collects customer feedback, it also covers more general information about the use of the hotline, making a broader umbrella ICR necessary.

Likely Respondents: The most likely respondents include users of a HRSA-funded hotline, chatline, or portal. These users may include members of the public and public or private entities who receive HRSA funding.

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. HRSA updated the burden estimate that was provided in the 60-day FRN based on a review of recent burden estimates for forms from previous HRSA customer service surveys as well as an estimate of the number of collections we expect to have covering HRSA’s hotlines, chatlines, and online portals. As a result, the estimated total responses declined by approximately 100,000 responses and the estimated total burden hours declined by 2,850 hours, compared to the 60-day FRN.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Instrument name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total Burden hours
Standardized Hotline Interaction	100,000	1	100,000	0.25	25,000
Standardized Chatline Interaction	5,500	1	5,500	0.50	2,750
Online Portal Submission	17,500	1	17,500	0.40	7,000
Follow-Up Surveys	27,000	1	51,750	0.05	1,350
Total	150,000	.....	150,000	.....	36,100

Maria G. Button,
Director, Executive Secretariat.
[FR Doc. 2026–19339 Filed 9–21–26; 8:45 am]
BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Questionnaire and Data Collection Testing, Evaluation, and Research for the Health Resources and Services Administration, OMB No. 0915–0379—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995,

HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA’s ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than October 22, 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 Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email

Samantha Miller, the HRSA Information Collection Clearance Officer, at paperwork@hrsa.gov or call (301) 443–9094.

SUPPLEMENTARY INFORMATION:
Information Collection Request Title: Questionnaire and Data Collection Testing, Evaluation, and Research for HRSA—OMB No. 0915–0379—Revision.

Abstract: The purpose of this Umbrella ICR is to inform the development of new questions, questionnaires, and tools; pilot/pre-test instruments under development; and identify problems in instruments currently in use by soliciting feedback from members of the public. Using this ICR, individual information collections related to the development or revision of HRSA data collection instruments go through an abbreviated approval process called a “generic” or “fast-track” information collection. This allows program offices to efficiently gather a suitable pool of candidates within the varied time periods available for participant recruitment.

Information collected under this generic clearance will not be used for data collection, reports, or policy documents to be released to the public. It is anticipated that data collection approved under this generic clearance will rely heavily on qualitative techniques and not the collection of numerical data. In general, these activities are not designed to yield results that meet generally accepted standards of statistical rigor but designed to obtain information to develop clearer and more effective and efficient data collection tools that will yield more accurate results and decrease public non-response. The forms submitted under this generic clearance will be voluntary, low-burden, and uncontroversial.

A 60-day notice published in the **Federal Register** on June 18, 2026, vol. 91, No. 17; pp. 36869–71. There were no public comments.

Need and Proposed Use of the Information: HRSA conducts interviews, focus groups, cognitive testing, usability tests, field tests/pilot interviews, and surveys for data collection instrument development and evaluation (including assessment of response errors in data collection instruments). HRSA staff use various techniques to evaluate data collection instruments such as interviewer-administered, self-administered, telephone, Computer Assisted Personal Interviewing, Computer Assisted Self-Interviewing, Audio Computer-Assisted Self-Interviewing, and web-based questionnaires.

Professionally recognized procedures are followed in each information collection activity to ensure collection of high-quality information. Examples of these procedures could include the following:

- Monitoring by supervisory staff of some telephone interviews;
- Conducting interviews using methods including “think-aloud” techniques and debriefings;
- Computerizing data-entry from mail or paper-and-pencil surveys using scannable forms or double-key entry (*i.e.*, two people input the data from mail or paper-and-pencil surveys into an electronic format, and then comparing the two sets of entries for anomalies);

- Monitoring by observers of focus groups and recording (*e.g.*, video recording, audio recording) of focus group proceedings (subject to participant consent); and

- Employing commonly used statistical validation techniques to ensure accuracy (such as disallowing out-of-range values) of data submitted through on-line surveys.

Each information collection under this ICR will specify the testing and evaluation procedures to be used. Participation will be fully voluntary, and non-participation will not affect eligibility for, or receipt of, future HRSA health services research activities or grant awards, recruitment, or participation. Appropriate consent procedures will be customized and used for each information collection activity and any collection of personal, privacy-protected information will be handled in accordance with all applicable federal requirements. If HRSA wishes to record the encounter, the respondent’s permission to record will be obtained before beginning the interview. If consent is not provided, the interview will either not be recorded or not be conducted. When screening is used (*e.g.*, quota sampling), the screening will be as brief as possible, and the screening questionnaire will be provided to OMB for review.

The particular information collection methods used will vary, but may include the following:

- Individual in-depth interviews—In-depth interviews will commonly be used to ensure that the respondent understands the meaning of a questionnaire or strategy. When in-depth interviewing is used, the interview guide will be provided to OMB for review.

- Focus groups—Focus groups will be used to obtain insights into beliefs and understandings of the target audience early in the development of a questionnaire or tool. When focus groups are used, the focus group discussion guide will be provided to OMB for review.

- Expert/Gatekeeper review of tools—In some instances, medical providers or other gatekeepers may review tools to provide feedback on the acceptability and usability of a particular tool. This

will usually be in addition to an individual user pretesting the tool.

- Record abstractions—On occasion, the development of a tool or other information collection requires review and interaction with records, rather than individuals.

- “Dress rehearsal” of a specific protocol—In some instances, the proposed pre-testing will constitute a walkthrough of the intended data collection procedure. In these cases, the request will mirror what is expected to occur for the larger scale data collection.

Likely Respondents: HRSA partners are typically state or local governments, health care facilities, health care consortia, health care providers, and researchers. HRSA partners may also include individuals served by HRSA programs and/or funding recipients. Participation in any collections under this clearance will be entirely voluntary, and the privacy of respondents will be preserved to the extent requested by participants and as permitted by law.

Respondents will be recruited by means of advertisements in public venues or through techniques that replicate prospective data collection activities that are the focus of the project. For instance, a survey on physician communication, designed to be administered following an office visit, might be pretested using the same procedure. Each ICR will specify the recruitment procedure to be used.

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

Type of information collection	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Cognitive Interviews/Usability Testing	300	1	300	1.0	300
Focus Groups	1,200	1	1,200	1.5	1,800

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of information collection	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Surveys	1,700	1	1,700	0.6	1,020
Total	3,200	.....	3,200	.....	3,120

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026–19362 Filed 9–21–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB review; 30-Day Comment Request; the Impact and Costs of Promoting Objectivity in Research 42 CFR Part 50 Subpart F and Responsible Prospective Contractors 45 CFR Part 94 (Office of the Director)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received by October 22, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Mr. Romeo K. Tengey, Director, Division of Compliance of Foreign Interference Research Misconduct, Harassment, and Intellectual, Office of Policy for Extramural Research Administration, Office of Extramural Research, National Institutes of Health, 6705 Rockledge Drive, Suite 800, Bethesda, MD 20892, or call non-toll-free number (301) 402–0892 or email your request, including your address to: Tengeyr@mail.nih.gov. **SUPPLEMENTARY INFORMATION:** This proposed information collection was previously published in the **Federal Register** on July 10, 2025 (FR 90-page 30649) and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Promoting Objectivity in Research 42 CFR part 50 Subpart F and Responsible Prospective

Contractors 45 CFR part 94, 0925–0417, expiration date 6/30/2025, Reinstatement With Change, Office of Policy for Extramural Research Administration (OPERA), Office of Extramural Research (OER), National Institutes of Health (NIH).

Need and Use of Information Collection: This request is for Office of Management and Budget (OMB) approval of a Reinstatement With Change of a currently approved collection resulting from the development of revised regulations regarding the Promoting Objectivity in Research (42 CFR part 50, subpart F) and Responsible Prospective Contractors (45 CFR part 94). The purpose of these regulations is to promote objectivity in research by requiring institutions to establish standards to ensure that there is no reasonable expectation that the design, conduct, or reporting of Public Health Service (PHS)-funded research will be biased by any Investigator Financial Conflict of Interest (FCOI). NIH is implementing a change or enhancement in the FCOI reporting requirement within the eRA Commons FCOI Module to require the grant and cooperative agreement respondent to identify foreign FCOIs and provide the type of foreign entity and the name of the foreign country. This enhanced requirement is insignificant on the part of respondents.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 680,473.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents based on applicable section of regulation	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total annual burden hours
Reporting: Initial Reports under 42 CFR 50.605(b)(1) and (b)(3) or 45 CFR 94.5(b)(1) and (b)(3) from awardee Institutions.	1,128	1	2	2,256

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents based on applicable section of regulation	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)	Total annual burden hours
Subsequent Reports under 42 CFR 50.605(a)(3)(iii) and (b)(2) or 45 CFR 94.5(a)(3)(iii) and (b)(2) from awardee Institutions.	50 FCOI reports as in 42 CFR 50.605(a)(3)(ii) and 45 CFR 94.5(a)(3)(ii).	1	2	100
Annual Report under 42 CFR 50.605(b)(4) or 45 CFR 94.5(b)(4) from awardee Institutions.	5 mitigation reports	1	2	10
Subsequent Reports under 42 CFR 50.606(a) or 45 CFR 94.6(a) from awardee Institutions.	2,712	1	1	2,712
Record Keeping:	20	1	10	200
Under 42 CFR 50.604(i) or 45 CFR 94.4(i) from awardee institutions.	2,000	1	4	8,000
Disclosure:				
Under 42 CFR 50.604(a) or 45 CFR 94.4(a) for Investigators.	3,000	1	81	243,000
Under 42 CFR 50.604(b) or 45 CFR 94.4(b) for Investigators.	38,000	1	30/60	19,000
Under 42 CFR 50.604(b) or 45 CFR 94.4(b) for Institutions.	2,000	1	6	12,000
Under 42 CFR 50.604(c)(1) or 45 CFR 94.4(c)(1) from subrecipients.	500	1	1	500
Under 42 CFR 50.604(d) or 45 CFR 94.4(d) for Institutions.	3,000 ¹	1	1	3,000
Under 42 CFR 50.604(e)(1) or 45 CFR 94.4(e)(1) for Investigators.	38,000	1	4	152,000
Under 42 CFR 50.604(e)(2) or 45 CFR 94.4(e)(2) for Investigators.	38,000	1	1	38,000
Under 42 CFR 50.604(e)(3) or 45 CFR 94.4(e)(3) for Investigators.	1,128	1	30/60	564
Under 42 CFR 50.604(f) or 45 CFR 94.4(f) for institutions.	2,000	1	1	2,000
Under 42 CFR 50.605(a)(1) or 45 CFR 94.5(a)(1) for Institutions.	2,000 ²	1	82	164,000
Under 42 CFR 50.605(a)(3) or 45 CFR 94.5(a)(3) for Institutions.	500 ³	1	3	1,500
Under 42 CFR 50.605(a)(3)(i) or 45 CFR 94.5(a)(3)(i).	50 ⁴	1	80	4,000
Under 42 CFR 50.605(a)(3)(ii) or 45 CFR 94.5(a)(3)(ii).	50 ⁵	1	80	4,000
Under 42 CFR 50.605(a)(3)(iii) or 45 CFR 94.5(a)(3)(iii).	50	1	1	50
Under 42 CFR 50.605(a)(4) or 45 CFR 94.5(a)(4).	1,128	1	12	13,536
Public Website Posting under 42 CFR 50.605(a)(5) or 45 CFR 94.5(a)(5) from awardee Institutions.	2,000	1	5	10,000
Under 42 CFR 50.606(c) or 45 CFR 94.6(c) ..	50 ⁶	3 ⁷	18/60	45
Total	137,371	137,471	.....	680,473

¹ Assuming that 3,000 Institutions solicit disclosures on an annual basis by sending a notification to all Investigators.

² Although an estimated 1,128 reports of Financial Conflict of Interest are expected annually, the 2,000 responding Institutions must review all financial disclosures associated with PHS-funded awards to determine whether any financial conflicts of interest exist. Thus, the review burden of 76,000 hours is based upon estimates that it will take on the average 2 hours for an institutional official(s) to review each of 38,000 financial disclosures associated with PHS funded awards. The burden for developing a management plan for identified FCOI is estimated at 80 hours × 1,128 cases = 90,240 hours.

³ Assuming that this is a rare occurrence based on prior experience.

⁴ Assuming only a fraction of the newly identified SFIs will constitute FCOI.

⁵ Assuming only a fraction of the newly identified SFIs will constitute FCOI.

⁶ Number based on 50.605/94.5(a)(3)(i)—of those only a fraction will relate to a project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment, but we are calculating the maximum estimated burden.

⁷ Assuming an average of 3 publications annually.

The Deputy Director for Extramural Research, Jon Lorsch, having reviewed and approved this document, authorizes Alycia Booth, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Dated: September 17, 2026.

Alycia Booth,

Federal Register Liaison, National Institutes of Health.

[FR Doc. 2026–19303 Filed 9–21–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Social and Community Influences on Health Integrated Review Group; Community and Place-Based Determinations of Health Study Section, October 21, 2026, 10:00 a.m. to October 22, 2026, 06:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on September 15, 2026, FR Doc. No. 2026–18875, 91 FR 58461.

This notice is being amended to change the meeting from a 2-day meeting to a 1-day meeting on October 21, 2026. The start and end time remains at 10 a.m. to 6 p.m. The meeting is closed to the public.

Dated: September 17, 2026.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–19302 Filed 9–21–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

This will be a virtual meeting and will be open to the public as indicated below. Individuals who plan to attend the virtual meeting and need special assistance or other reasonable

accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: <https://videocast.nih.gov/>.

Name of Committee: National Cancer Institute Clinical Trials and Translational Research Advisory Committee.

Date: November 18, 2026.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: Discussion of NCI's Clinical and Translational Research Programs.

Address: National Cancer Institute, 9609 Medical Center Drive, Rockville, MD 20850.

Meeting Format: Virtual Meeting.

Contact Person: Sheila A. Prindiville, M.D., M.P.H., Director, Coordinating Center for Clinical Trials, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 6W136, Rockville, MD 20850, 240–276–6173, prindivs@mail.nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: <http://deainfo.nci.nih.gov/advisory/ctac/ctac.htm>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 18, 2026.

Margaret N. Vardanian,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–19383 Filed 9–21–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cell Biology Integrated Review Group, Cellular Signaling and Regulatory Systems Study Section, October 26, 2026, 10:00 a.m. to October 27, 2026, 06:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal**

Register on August 21, 2026, FR Doc. 2026–17156, 91 FR 54337.

This notice is being amended to change the meeting from a 2-day meeting to a 1-day meeting on October 26, 2026. The start and end time remains at 10 a.m. to 6 p.m. The meeting is closed to the public.

Dated: September 17, 2026.

Margaret N. Vardanian,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–19295 Filed 9–21–26; 8:45 am]

BILLING CODE 4167–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting; Request for Public Input

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM).

SACATM is a federally chartered external advisory group of scientists from the public and private sectors, including representatives of regulated industry and national animal protection organizations. SACATM advises the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), the National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM), and the Director of the National Institute of Environmental Health Sciences (NIEHS) and NTP regarding statutorily mandated duties of ICCVAM and activities of NICEATM.

This meeting will be held as a virtual meeting and open to the public. Individuals who plan to view the virtual meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below. TTY users should contact the Federal TTY Relay Service at 800–877–8339. All requests should be made at least five business days in advance of the meeting.

The preliminary agenda includes several public comment periods, each allowing up to three commenters a maximum of five minutes per speaker. Registration for those wishing to provide oral public comments is required and is open through October 23, 2026, 5:00 p.m. ET, at <https://ntp.niehs.nih.gov/go/32822>. Registration

is on a first-come, first-served basis. Only one representative of an organization will be allowed to present oral comments per comment period. If the maximum number of speakers per comment period is exceeded, individuals registering to submit an oral comment for the topic will be placed on a wait list and notified should an opening become available. NICEATM will contact commenters after they register to provide logistical information for their presentations. Submitters will be identified on the meeting web page by their name and affiliation and/or sponsoring organization, if applicable.

Written statements on topics relevant to ICCVAM's mission may be submitted to support an oral public comment or as standalone documents. These should be emailed to Catherine Sprankle at catherine.sprankle@nih.gov by October 23, 2026, 5:00 p.m. EDT. Materials submitted to accompany oral public statements or standalone written statements should include the submitter's name, affiliation (if any), mailing address, telephone, email, and sponsoring organization (if any) with the document. Guidelines for public statements are at http://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf.

Name of Committee: Scientific Advisory Committee on Alternative Toxicological Methods (SACATM).

Date: November 4–5, 2026.

Open: November 4, 2026, 10:00 a.m. to 3:15 p.m.

Agenda: The preliminary agenda, registration, and other meeting materials will be available at <https://ntp.niehs.nih.gov/go/32822>.

Address: NIEHS/National Institutes of Health Building, 4401 East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting Format: Virtual Meeting.

Contact Person: Kelly Chandler, Ph.D., Designated Federal Officer, 6707 Democracy Boulevard, Suite 400, Bethesda, MD 20817, (240) 428–9300, kelly.chandler@nih.gov.

Open: November 5, 2026, 10:00 a.m. to 3:15 p.m.

Agenda: The preliminary agenda, registration, and other meeting materials will be available at <https://ntp.niehs.nih.gov/go/32822>.

Address: NIEHS/National Institutes of Health Building, 4401 East Campus, 79 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting Format: Virtual Meeting.

Contact Person: Kelly Chandler, Ph.D., Designated Federal Officer, 6707 Democracy Boulevard, Suite 400, Bethesda, MD 20817, (240) 428–9300, kelly.chandler@nih.gov.

Any member of the public interested in presenting oral comments may register at <https://ntp.niehs.nih.gov/go/32822>. Each public comment period

allows for five oral commenters. Only one representative of an organization may be allowed to present oral comments per comment period and if accepted by the committee, presentations are limited to five minutes. Registration is on a first-come, first-served basis. If the maximum number of commenters per comment period is exceeded, individuals registering to submit oral comment will be placed on a wait list and notified should an opening become available.

Registration for Oral Statements: Deadline is October 23, 2026, 5:00 p.m. ET. <https://ntp.niehs.nih.gov/go/32822>.

Registration for Webcast Viewing: Deadline is November 5, 2026, 3:00 p.m. ET. <https://ntp.niehs.nih.gov/go/32822>.

Registration to view the webcast and present oral public statements is required. <https://ntp.niehs.nih.gov/go/32822>. A link to access the meeting webcast will be emailed to registrants with their registration confirmation.

In addition, any interested person may file written comments with the committee. Information on submitting written comment is available at <https://ntp.niehs.nih.gov/go/32822>.

Responses to this notice are voluntary. No proprietary, classified, confidential, or sensitive information should be included in statements submitted in response to this notice or presented during the meeting. This request for input is for planning purposes only and is not a solicitation for applications or an obligation on the part of the U.S. Government to provide support for any ideas identified in response to the request. Please note that the U.S. Government will not pay for the preparation of any information submitted or for its use of that information.

Additional information about SACATM, including link to the charter, roster, and records of past meetings, can be found at <https://ntp.niehs.nih.gov/go/advisory>.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: September 17, 2026.

Rosalind M. Niamke,
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–19297 Filed 9–21–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds of Customs Duties

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

ACTION: General notice.

SUMMARY: This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will remain the same from the previous quarter. For the calendar quarter beginning October 1, 2026, the interest rates for underpayments will be 7 percent for both corporations and non-corporations. The interest rate for overpayments will be 7 percent for non-corporations and 6 percent for corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: The rates announced in this notice are applicable as of October 1, 2026.

FOR FURTHER INFORMATION CONTACT: Kara N. Welty, Revenue Division, Collection Refunds & Analysis Branch, 8899 E 56th Street, Mail Stop 203J, Indianapolis, IN 46249; telephone (317) 298–1107.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 provides different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on

behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2026–15, the IRS determined the rates of interest for the calendar quarter beginning October 1, 2026, and ending on December 31, 2026. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (4%) plus three percentage points (3%) for a total of seven percent (7%) for both

corporations and non-corporations. For overpayments made by non-corporations, the rate is the Federal short-term rate (4%) plus three percentage points (3%) for a total of seven percent (7%). For corporate overpayments, the rate is the Federal short-term rate (4%) plus two percentage points (2%) for a total of six percent (6%). These interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will

increase from the previous quarter. These interest rates are subject to change for the calendar quarter beginning January 1, 2027, and ending on March 31, 2027.

For the convenience of the importing public and U.S. Customs and Border Protection personnel, the following list of IRS interest rates used, covering the period from July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070174	063075	6	6	.....
070175	013176	9	9	.....
020176	013178	7	7	.....
020178	013180	6	6	.....
020180	013182	12	12	.....
020182	123182	20	20	.....
010183	063083	16	16	.....
070183	123184	11	11	.....
010185	063085	13	13	.....
070185	123185	11	11	.....
010186	063086	10	10	.....
070186	123186	9	9	.....
010187	093087	9	8	.....
100187	123187	10	9	.....
010188	033188	11	10	.....
040188	093088	10	9	.....
100188	033189	11	10	.....
040189	093089	12	11	.....
100189	033191	11	10	.....
040191	123191	10	9	.....
010192	033192	9	8	.....
040192	093092	8	7	.....
100192	063094	7	6	.....
070194	093094	8	7	.....
100194	033195	9	8	.....
040195	063095	10	9	.....
070195	033196	9	8	.....
040196	063096	8	7	.....
070196	033198	9	8	.....
040198	123198	8	7	.....
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	033116	3	3	2
040116	033118	4	4	3
040118	123118	5	5	4
010119	063019	6	6	5

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070119	063020	5	5	4
070120	033122	3	3	2
040122	063022	4	4	3
070122	093022	5	5	4
100122	123122	6	6	5
010123	093023	7	7	6
100123	123124	8	8	7
010125	033126	7	7	6
040126	063026	6	6	5
070126	123126	7	7	6

Jeffrey Caine,

Chief Financial Officer, U.S. Customs and Border Protection.

[FR Doc. 2026–19292 Filed 9–21–26; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7110–N–06; OMB Control No.: 2502–0117]

60-Day Notice of Proposed Information Collection: Request for Acceptance of Changes in Approved Drawings and Specifications

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, 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 comment 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 November 23, 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: Darian Ziegler, PRA Liaison, Department of Housing and Urban Development, 451 7th Street SW, Room 9139–37, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT:

Darian Ziegler, PRA Liaison, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 9139–37, Washington, DC 20410; email darian.ziegler@hud.gov, or telephone (202) 402–4144. 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 supporting documents for the proposed collection may be obtained from Ms. Ziegler.

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: Request for Acceptance of Changes in Approved Drawings and Specifications.

OMB Approval Number: 2502–0117.

Type of Request: Reinstatement with change of currently approved collection.

Form Number: Form HUD–92577.

Description of the need for the information and proposed use: Renovation Contractors and 203(k) Consultants request approval for changes to the Work Write-Up prepared by the Consultant and previously approved by the Mortgagee previously approved accepted drawings, specifications, and rehabilitation work write-up for properties as required by homebuyers or determined by the contractor to address previously unknown health and safety issues. Contractors submit the forms to Mortgagees for review and submission to HUD for approval.

Respondents: Business.

Estimated Number of Respondents: 15,871.

Estimated Number of Responses: 15,871.

Frequency of Response: On occasion.

Average Hours per Response: 0.50

Total Estimated Burdens: 7,936

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
HUD–92577	15,871	1	15,871	.50	7,936	\$38.40	\$304,742

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of

the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507.

Paul Olin,

Acting General Deputy Assistant Secretary for Housing.

[FR Doc. 2026–19317 Filed 9–21–26; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7110–N–15; OMB Control No.: 2502–0589]

60-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing Involving the Loss Mitigation Programs

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, 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 comment 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:* November 23, 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: Darian Ziegler, PRA Liaison, Department of Housing and Urban Development, 451 7th Street SW, Room 9110, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT:

Darian Ziegler, PRA Liaison, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 9110, Washington, DC 20410; email Darian.Ziegler@hud.gov, 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 supporting documents for the proposed collection may be obtained from Ms. Ziegler.

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: FHA-Insured Mortgage Loan Servicing Involving the Loss Mitigation Programs.

OMB Approval Number: 2502–0589.

Type of Request: Revision of currently approved collection.

Form Numbers: HUD–90035, HUD–90045, HUD–90051, HUD–90052.

Description of the need for the information and proposed use: FHA's Loss Mitigation program/options (24 CFR 203.501) provide mortgagees with tools to bring a delinquent FHA-insured mortgage current as quickly as possible, provide an alternative to foreclosure where feasible, and minimize losses to FHA's Mutual Mortgage Insurance Fund. FHA Early Default Intervention Tools in addition to the FHA Loss Mitigation Home Retention Options promote reinstatement of the mortgage, allowing the borrower to retain home ownership. Disposition options provide an alternative to foreclosure for borrowers who cannot recover from a default. The HUD forms used are part of the collection effort for non-performing insured mortgage loans.

With forms HUD–90035 and HUD–90045, the public reporting burden language was revised, and the forms were also updated to reflect the Pre-Foreclosure Sales Program changes that have occurred in recent years. With forms HUD–90051 and HUD–90052, the public reporting burden language was revised. More importantly, one supplemental document has been added to this collection, the Reinstatement Advance Payment (RAP) Repayment Agreement. The existing partial claim supplemental document has been updated: the Partial Claim Promissory Note and Partial Claim Subordinate Mortgage.

Respondents: Mortgagees or Borrowers.

Estimated Number of Respondents: 990,284.

Estimated Number of Responses: 3,431,820.

Frequency of Response: Monthly.

Average Hours per Response: 0.69.

Total Estimated Burdens: 1,458,337.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
FHA-Insured Mortgage Loan Servicing Involving the Loss Mitigation Programs.	990,284	Monthly	3,431,820	0.69	1,458,337	\$25.25	\$36,823,021
Totals	990,284	.....	3,431,820	.....	1,458,337	25.25	36,823,021

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of

information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

44 U.S.C. 3507.

Paul M. Olin,*Acting General Deputy Assistant Secretary
for Housing.*

[FR Doc. 2026–19387 Filed 9–21–26; 8:45 am]

BILLING CODE 4210–67–P**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****[Docket No. FWS–HQ–ES–2026–3334;
FXES1113090FEDR–267–FF09E21000]****Endangered and Threatened Wildlife
and Plants; Initiation of 5-Year Status
Review for Black Caiman****AGENCY:** Fish and Wildlife Service,
Interior.**ACTION:** Notice of initiation of status
review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are initiating a 5-year status review for the black caiman (*Melanosuchus niger*), a large caiman species in South America, under the Endangered Species Act of 1973, as amended (Act). A 5-year status review is based on an assessment of the best scientific and commercial data available at the time of the review. We ask the public to submit to us at any time any new information relevant to the status of the black caiman.

DATES: To ensure consideration, we are requesting submission of new information no later than November 23, 2026. However, we will continue to accept new information about this listed species at any time.

ADDRESSES: For instructions on how and where to submit information for the black caiman, see the **SUPPLEMENTARY INFORMATION** section. Additional information on status reviews is available at <https://www.fws.gov/project/five-year-status-reviews>.

FOR FURTHER INFORMATION CONTACT: Rachel London, Manager, Branch of Delisting and Foreign Species, Ecological Services Program, U.S. Fish and Wildlife Service; 703–358–2171; rachel_london@fws.gov. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:**Why do we conduct 5-year status reviews?**

Under the Act, we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in title 50 of the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for wildlife) and 50 CFR 17.12 (for plants). Section 4(c)(2)(A) of the Act requires us to review each listed species' status at least once every 5 years. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing species under active review. For additional information about 5-year status reviews, refer to our fact sheet at <https://www.fws.gov/project/five-year-status-reviews>. A list of all completed and currently active 5-year status reviews can be found at <https://ecos.fws.gov/ecp/report/species-five-year-review>.

What information do we consider in our reviews?

A 5-year status review considers the best scientific and commercial data available regarding the species at the time of the review. In conducting these reviews, we consider the best scientific and commercial data that have become available since the listing determination or most recent status review, such as:

1. Species' biology, including but not limited to population trends, distribution, abundance, demographics, and genetics;
 2. Habitat conditions, including but not limited to amount, distribution, and suitability;
 3. Conservation measures that have been implemented that benefit the species;
 4. Threat status and trends in relation to the five listing factors (as defined in section 4(a)(1) of the Act); and
 5. Other new information, data, or corrections, including, but not limited to, changes in taxonomy or nomenclature, identification of erroneous information contained in the List, and improved analytical methods.
- Any new information will be considered during the 5-year status review for the species.

Which species are under review?

This notice announces a 5-year status review for the black caiman, a large caiman species occurring in Bolivia, Brazil, Colombia, Ecuador, French Guiana, Guyana, and Peru. We published a final rule to list the black caiman as an endangered species under the Act on June 14, 1976. (41 FR 24062) For additional information on the species, see our website at <https://ecos.fws.gov/ecp/> and enter the species name in the search box.

Request for new information

To ensure that a 5-year status review is based on the best scientific and commercial data available, we request new information from all sources. If you submit information, please support it with documentation such as maps; bibliographic references; methods used to gather and analyze the data; and/or copies of any pertinent publications (e.g., scientific journal articles), reports, or letters by knowledgeable sources. Before including your address, phone number, email address, or other personal identifying information in your submission, you should be aware that your entire submission—including your personal identifying information—may be made publicly available at any time.

Authority

We publish this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Elizabeth Maclin,*Acting Assistant Director—Ecological
Services, U.S. Fish and Wildlife Service.*

[FR Doc. 2026–19344 Filed 9–21–26; 8:45 am]

BILLING CODE 4333–15–P**DEPARTMENT OF THE INTERIOR****Bureau of Land Management****[BLM NM FRN; A2407–014–004–065516;
#O2509–014–004–125222; LLNM004000;
NMOK–106719538]****Application for Withdrawal and
Opportunity for a Public Meeting;
Comanche County, Oklahoma****AGENCY:** Bureau of Land Management,
Interior.**ACTION:** Notice of application.

SUMMARY: The United States Department of the Army (Army) has filed an application with the Bureau of Land Management (BLM) requesting that the Secretary of the Interior (Secretary) withdraw 10.32 acres of public land in Comanche County, Oklahoma, subject to valid existing rights, and reserve the land for use of the Army for military purposes for 20 years. The purpose of the withdrawal is for military training at the Fort Sill military reservation. Publication of this notice initiates a 90-day public comment period and announces to the public an opportunity to request a public meeting on the Army's withdrawal application.

DATES: Comments must be received by December 21, 2026.

ADDRESSES: All comments or requests for a public meeting should be sent to

the BLM Oklahoma Field Office, ATTN: Christopher Langstaff, 201 Stephenson Parkway, Norman, OK 73072. Information regarding the proposed withdrawal application will be available at the BLM Oklahoma Field Office.

FOR FURTHER INFORMATION CONTACT:

Michael Rodriguez, Realty Specialist, BLM Oklahoma Field Office, telephone (405) 579-7196, email at michaelr@blm.gov; or you may contact the BLM office at the address noted above. 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 will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Army has filed an application requesting that the Secretary withdraw and reserve approximately 10.32 acres of public land for a 20-year term for military training at Fort Sill in Comanche County, Oklahoma, subject to valid existing rights. Public land in Oklahoma is not subject to location or entry under the U.S. mining laws but the land would remain open to leasing under the mineral leasing laws. The approximately 10.32 acres of public land was previously withdrawn by Executive Order 8793 (6 FR 2943, June 18, 1941), as amended, and Public Land Order (PLO) No. 6183 (47 FR 9842, March 8, 1982), as extended by PLO No. 7518 (67 FR 11707, March 15, 2002), that expired March 7, 2022. This notice initiates a 90-day comment period on the proposed withdrawal application and announces to the public the opportunity to request a public meeting on the Army's withdrawal application. The application affects the following public land:

Golden Pass Townsite, Oklahoma

Requests for Repatriation

All of Blocks 15, 34, 35, and 36.

The area described is 10.32 acres in Comanche County, Oklahoma.

The use of a right-of-way, interagency agreement, or cooperative agreement would not provide adequate constraint for non-discretionary uses which could impede the Army's use of the specified lands. No additional water rights are needed to fulfill the purpose of this requested withdrawal. There are no suitable alternative sites as the withdrawal application area is

landlocked within the U.S. Army Fort Sill military base.

For a period of 90 days from the date of publication of this notice, all who wish to submit comments, suggestions, or objections in connection with the Army's withdrawal application may present their views in writing to the BLM Oklahoma Field Manager at the address listed above (see **ADDRESSES**).

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. All submissions from organizations or businesses, and from individuals identifying themselves as representatives of officials of organizations or businesses, will be made available for public inspection in their entirety.

This application will be processed in accordance with the regulations at 43 CFR 2300.

(Authority: 43 U.S.C. 1714)

Gera Ashton,

Acting State Director.

[FR Doc. 2026-19340 Filed 9-21-26; 8:45 am]

BILLING CODE 4331-23-P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE-2025-0233; EEEE500000-256E1700D2-ET1SF0000.EAQ000; OMB Control Number 1014-0010]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Decommissioning Activities

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 22, 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. Please provide a copy of your comments to Kelly Odom, Acting BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to Kelly.Odom@bsee.gov. Please reference OMB Control Number 1014-0010 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kelly Odom by email at Kelly.Odom@bsee.gov, or by telephone at (703) 787-1775.

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 ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on September 25, 2025 (90 FR 46251). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public 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; and

(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. 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: BSEE uses the information collected under Subpart Q primarily for the following reasons:

- To determine the necessity for allowing a well to be temporarily abandoned, the lessee/operator must demonstrate that there is a reason for not permanently plugging the well, and the temporary abandonment will not interfere with fishing, navigation, or other uses of the OCS. We use the information and documentation to verify that the lessee/operator is

diligently pursuing the final disposition of the well and has performed the temporary plugging of the wellbore.

- To ensure the information submitted in initial decommissioning plans in the Alaska and Pacific OCS Regions will permit BSEE to become involved on the ground floor planning of platform removals anticipated to occur in these OCS regions.

- To ensure that all objects (wellheads, platforms, etc.) installed on the OCS are properly removed using procedures that will protect marine life and the environment during removal operations, and the site cleared so as not to conflict with or harm other uses of the OCS in coordination with other Federal, State, and local government agencies.

- To ensure that information regarding decommissioning a pipeline in place will not constitute a hazard to navigation and commercial fishing operations, unduly interfere with other uses of the OCS, such as sand resource areas for coastal restoration projects, or have adverse environmental effects.

- To verify that decommissioning activities comply with approved applications and procedures and are satisfactorily completed.

- To evaluate and approve the adequacy of the equipment, materials, and/or procedures that the lessee or operator plans to use during well modifications and changes in equipment, etc.

- To help BSEE better estimate future decommissioning costs for OCS leases, rights-of-way, and rights of use and easements. BSEE's future

decommissioning cost estimates may then be used by BOEM to set necessary financial assurance levels to minimize or eliminate the possibility that the government will incur abandonment liability. The information will assist BSEE and BOEM in meeting their stewardship responsibilities and in their roles as regulators.

Title of Collection: 30 CFR 250, Subpart Q, Decommissioning Activities.

OMB Control Number: 1014-0010.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 555 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 984.

Estimated Completion Time per Response: Varies from 1 hour to 47 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 19,965.

Respondent's Obligation: Mandatory.

Frequency of Collection: Submissions are generally on occasion, varies by section, and annual.

Total Estimated Annual Nonhour Burden Cost: \$745,142.

Citation 30 CFR 250 subpart Q	Reporting requirement *	Hour burden	Average number of annual responses	Annual burden hours (rounded)
Non-hour cost burdens				
General				
1704(g); 1706(a), (f); 1712; 1715; 1716; 1721(a), (d), (f)–(g); 1722(a), (b), (d); 1723(b); 1743(a); Sub G.	These sections contain references to information, approvals, requests, payments, etc., which are submitted with an APM, the burdens for which are covered under its own information collection.	APM burden covered under 1014-0026.		0
1700 thru 1754	General departure and alternative compliance requests not specifically covered elsewhere in Subpart Q regulations.	Burden covered under Subpart A 1014-0022.		0
1704(b); 1708	Submit work plan and schedule under §250.1704(b) that addresses all wells, platforms and other facilities, pipelines, and site clearance within 150 days upon receiving an order to perform decommissioning; additional information as requested by BSEE.	16	34	544
1704(j), (k)	Submit to BSEE, within 120 days after completion of each decommissioning activity (including pipelines), a summary of expenditures incurred; any additional information that will support and/or verify the summary.	26.7	275	7,343
1704(j); NTL	Request and obtain approval for extension of 120-day reporting period; including justification.	3.3	38 requests	125
1713	Notify BSEE 48 hours before beginning operations to permanently plug a well.	0	0 notices	0
1721(f)	Install a protector structure designed according to 30 CFR 250, Subpart I, and equipped with aids to navigation. (These requests are processed via the appropriate Platform Application, 30 CFR 250 Subpart I by the OSTs.).	Burden covered under Subpart I 1014-0011.		0

Citation 30 CFR 250 subpart Q	Reporting requirement *	Hour burden	Average number of annual responses	Annual burden hours (rounded)
Non-hour cost burdens				
1721(e); 1722(e), (h)(1); 1741(c)	Identify and report subsea wellheads, casing stubs, or other obstructions; mark wells protected by a dome; mark location to be cleared as navigation hazard.	U.S. Coast Guard requirements.		0
1722(c), (g)(2)	Notify BSEE within 5 days if trawl does not pass over protective device or causes damages to it; or if inspection reveals casing stub or mud line suspension is no longer protected.	1.3	3 notices	4
1722(f), (g)(3)	Submit annual report on plans for re-entry to complete or permanently abandon the well and inspection report.	0	0 reports	0
1722(h)	Request waiver of trawling test	2.8	1 requests	3
1725(a)	Requests to maintain the structure to conduct other activities are processed, evaluated and permitted by the OSTs via the appropriate Platform Application process, 30 CFR 250 Subpart I. (Other activities include but are not limited to activities conducted under the grants of right-of-ways (ROWS), rights-of-use and easement (RUEs), and alternate rights-of-use and easement authority issued under 30 CFR 250 Subpart J, 30 CFR 550.160, and/or 30 CFR 585, etc.).	Burden covered under Subpart I 1014–0011.		0
1725(e)	Notify BSEE 48 hours before beginning removal of platform and other facilities.	1	74 Notices	74
1726; 1704(a)	Submit initial decommissioning application in the Pacific and Alaska OCS Regions.	0	0	0
1727; 1728; 1730; 1703; 1704(c); 1725.	Submit final application and appropriate data to remove platform or other subsea facility structures (This included alternate depth departures and/or approvals of partial removal or toppling for conversion to an artificial reef.).	46.7	114 applications	5,324
\$4,684 fee × 114 = \$533,976.				
1729; 1704(d)	Submit post platform or other facility removal report; supporting documentation; signed statements, etc.	34.3	57 reports	1,955
1740(a) and (c); 1741(g)	Request approval to use alternative methods of well site, platform, or other facility clearance; contact pipeline owner/operator before trawling to determine its condition.	0	0 requests/contacts	0
1743; 1704(g), (i)	Verify permanently plugged well, platform, or other facility removal site cleared of obstructions; supporting documentation; and submit certification letter.	13.3	81 certifications	1,077
1750; 1751; 1752; 1754; 1704(e)	Submit application to decommission pipeline in place or remove pipeline (L/T or ROW).	18.7	88 L/T applications ..	1,646
\$1,142 L/T decommission fee × 88 = \$100,496.				
8 51 ROW applications 408				
\$2,170 ROW decommissioning fees × 51 = \$110,670.				
1753; 1704(f)	Submit post pipeline decommissioning report	8.7	168 reports	1,462
Total Burden			984 responses	19,965
			\$745,142 Non-Hour Cost Burdens.	

The current OMB approved annual hour burden is 15,997 burden hours for this collection of information. This submission requests 19,965 burden hours. The adjustment increase of 3,968 hours is, in part, due to differing interpretations of the time required for regulatory submission versus the total time needed to collect and complete the associated paperwork. The figures reflect the information provided by the oil and gas industry.

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.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2026–19293 Filed 9–21–26; 8:45 am]

BILLING CODE 4310–VH–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2025–0266; EEEE500000–256E1700D2–ET1SF0000.EAQ000; OMB Control Number 1014–0026]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Application for Permit To Modify (APM) and Supporting Documentation

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before October 21, 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. Please provide a copy of your comments to Kelly Odom, Acting BSEE ICCO, 45600 Woodland Road, Sterling, VA 20166; or by email to Kelly.Odom@bsee.gov. Please reference OMB Control Number 1014–0026 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Kelly Odom by email at Kelly.Odom@bsee.gov, or by telephone at (703) 787–1775. 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 ICR at <http://www.reginfo.gov/public/do/PRAMain>.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A Federal Register notice with a 60-day public comment period soliciting

comments on this collection of information was published on December 22, 2025 (90 FR 59865).

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public 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; and

(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. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The regulations at 30 CFR 250 stipulate the various requirements that must be submitted with an APM. The form and the numerous submittals that are included and/or attached to the form are the subject of this collection. This request also covers related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

The BSEE uses the information to ensure safe well control, completion, workover, and decommissioning

operations and to protect the human, marine, and coastal environment. Among other things, BSEE specifically uses the information to ensure: the well control, completion, workover, and decommissioning unit (drilling/well operations) is fit for the intended purpose; equipment is maintained in a state of readiness and meets safety standards; each drilling/well operation crew is properly trained and able to promptly perform well-control activities at any time during well operations; compliance with safety standards; and the current regulations will provide for safe and proper field or reservoir development, resource evaluation, conservation, protection of correlative rights, safety, and environmental protection. We also review well records to ascertain whether the operations have encountered hydrocarbons or H₂S and to ensure that H₂S detection equipment, personnel protective equipment, and training of the crew are adequate for safe operations in zones known to contain H₂S and zones where the presence of H₂S is unknown.

Title of Collection: 30 CFR part 250, Application for Permit to Modify (APM) and supporting documentation.

OMB Control Number: 1014–0026.

Form Number: BSEE–0124.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents include Federal OCS oil, gas, and sulfur lessees and/or operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Currently there are approximately 555 Federal OCS oil, gas, and sulfur lessees and holders of pipeline rights-of-way. Not all the potential respondents will submit information in any given year, and some may submit multiple times.

Total Estimated Number of Annual Responses: 12,388.

Estimated Completion Time per Response: Varies from 0 minutes to 6,252 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 31,472.

Respondent’s Obligation: Mandatory.

Frequency of Collection: Generally, on occasion and varies by section.

Total Estimated Annual Nonhour Burden Cost: \$5,483,295.

Citation 30 CFR 250 APM's	Reporting or recordkeeping requirement *	Hour burden	Average number of annual responses	Average number of annual responses
		Non-hour cost burdens		
Subparts D, E, F, G, H, Q.	Submit APM plans (BSEE–0124). (This burden represents only the filling out of the form, the requirements are listed separately below).	1 hour	1,471 applications ...	1,471
		1,471 applications × \$145 application fee = \$213,295.		
Subparts D, E, F, G, H, Q.	Submit Revised APM plans (BSEE–0124). (This burden represents only the filling out of the form, the requirements are listed separately below) [no fee charged].	1 hour	2,235 applications ...	2,235
Subtotal			3,706 responses	3,706
			\$213,295 non-hour cost burdens.	
Subpart A				
125	Submit evidence of your fee for services receipt	Exempt under 5 CFR 1320.3(h).		0
197	Written confidentiality agreement	Exempt under 5 CFR 1320.5(h).		0
199	PRA List of Information Collections (IC)	Exempt under 5 CFR 1320.5(h).		0
Subpart B				
201	Approved before well completion	Exempt under 5 CFR 1320.3(h).		0
220(b)	The DWOP process does not replace the requirements of BSEE's APMs	Exempt under 5 CFR 1320.3(h).		0
226	New or Unusual Conception Plan must be approved prior to APM	Exempt under 5 CFR 1320.3(h).		0
Subpart D				
460(a); 465	There are some regulatory requirements that give respondents the option of submitting information with either their APD or APM; industry advised us that when it comes to this particular subpart, they submit a Revised APD.	Burden covered under 30 CFR 250, 1014–0025.		0
Subtotal of Subpart D			0 responses	0
Subpart E				
513	Obtain written approval for well-completion operations. Submit information, including but not limited to, request for completion (including changes); description of well-completion procedures; statement of expected surface pressure, type and weight of completion fluids; schematic drawing; a partial electric log; H2S presence or if unknown, service fee receipt.	1 hour	150 submittals	150
518(f)	Submit descriptions and calculations of production packer setting depth(s)	2.25 hours ..	43 submittals	97
526(a)	Submit a notification of corrective action of the diagnostic test	0 mins	58 notifications	0
Subtotal of Subpart E			251 responses	247
Subpart F				
613(a), (b)	Request approval to begin other than normal workover, which includes description of procedures, changes in equipment, schematic, info about H2S, etc.	5.25 hour	687 requests	3,607
613(c)	If completing a new zone, submit reason for abandonment and statement of pressure data	2.5 hours	167 submittals	418
613(d)	Submit work as performed 30 days after completing the well-workover operation	2 hours	646 submittals	1,292
619(f)	Submit descriptions and calculations of production packer setting depth(s)	1.38 hours ..	43 submittals	59
Subtotal of Subpart F			1,543 responses	5,376
Subpart G				
701	Identify and discuss your proposed alternate procedures or equipment [the request to use alternative procedures/equipment is covered under 1014–0022].	3.25 hours ..	67 submittals	218
702	Identify and discuss the departure from requirements [the request to depart from requirements is covered under 1014–0022].	1.75 hours ..	47 submittals	82
713	Submit required information to use a MODU for well operations, including fitness & foundation requirements, contingency plan for moving off location, current monitoring (description of specific current speeds & specific measures to curtail rig operations and move off location).	1.5 hours	180 Submittals	270
720(b)	Obtain approval to displace kill weight fluid with detailed step-by-step written procedures that include, but are not limited to, number of barriers, tests, BOP procedures, fluid volumes entering and leaving wellbore procedures.	1.5 hours	129 submittals	194
721(g)	Request approval for test procedures and criteria for a successful negative pressure test, including any changes.	1 hour	325 requests	325
731	Submit complete description of BOP system and components; schematic drawings; certification by ITP (additional ITP if BOP is subsea, in HTHP, or surface on floating facility); autoshear, deadman, EDS systems.	5 hours	170 submittals	850
		\$31,000 × 170 submittals = \$5,270,000.		
732(b) and (c) ..	Submit independent third party qualifications to BSEE with the associated permit application ...	4.25	1,471	6,252
733	Description of annulus monitoring plan and how you will secure the well in the event a leak is detected.	0.5 hour	212 submittals	106
737(d)(2)	Submit test procedures for District Manager approval for initial test when using water on surface BOP.	0.5 hour	41 submittals	21

Citation 30 CFR 250 APM's	Reporting or recordkeeping requirement *	Hour burden	Average number of annual responses	Average number of annual responses
			Non-hour cost burdens	
737(d)(3)	Submit test procedures for District Manager approval to stump test a subsea BOP; including how you will test each ROV function for approval.	0.5 hour	39 submittals	20
737(d)(4)	Submit test procedures for District Manager approval to perform an initial subsea BOP test; including how you will test each ROV function for approval.	0.5 hour	41 submittals	21
737(d)(12)	Submit test procedures for District Manager approval, including schematics of the actual controls and circuitry of the system used during an actual autoshear or deadman event.	1 hour	223 submittals	223
738(m)	Request approval from District Manager to utilize other well-control equipment; include report from BAVO on equipment design & suitability; other information required by District Manager.	2 hours	266 requests	532
738(n)	Indicate which pipe/variable bore rams have no current utility or well-control purposes	0.75 hour	223 submittals	167
750(a)	Request approval to conduct operations without downhole check valves, describe alternate procedures and equipment.	1.5 hours	640 requests	960
Subtotal of Subpart G			4,074 responses	10,241
			\$5,270,000 non-hour costs burden.	
Subpart H				
813	May submit an APM for approval to equip a dry tree well with a subsurface-controlled SSSV ...	.....	0	0
817(a)	You may remove a wireline subsurface safety device for a routine operation not requiring approval of a AMP.	.....	0	0
828(b)	Well must not be open to flow while an SSSV is inoperable, unless specifially approved by an APM.	.....	0	0
Subtotal of Subpart H			0 responses	0
Subpart Q				
1704	Request approval of well abandonment operations	4.25 hours ..	604 requests	2,567
1704(h)	Submit with a final well schematic, description, nature and quantities of material used; relating to casing string—description of methods used, size and amount of casing and depth.	3.13 hours ..	368 submittals	1,152
1712; 1704(h) ..	Obtain and receive approval before permanently plugging a well or zone. Include in request, but not limited to, reason plugging well, with relevant information; well test and pressure data; type and weight of well control fluid; a schematic listing mud and cement properties; plus testing plans. Submit Certification by a Registered Professional Engineer of the well abandonment design and procedures; certify the design.	5.25 hours ..	215 certifications	1,129
1721; 1704(h) ..	Obtain and receive approval before permanently plugging a well or zone. Include in request, but not limited to max surface pressure and determination; description of work; well depth, perforated intervals; casing and tubing depths/details, plus locations, types, lengths, etc.	2.75 hours ..	375 submittals	1,031
	Submit the applicable information required to temporarily abandon a well for approval; after temporarily plugging a well, submit well schematic, description of remaining subsea wellheads, casing stubs, mudline suspension equipment and required information of this section; submit certification by a Registered Professional Engineer of the well abandonment design and procedures; certify design.	5.25 hours ..	1,094 submittals	5,744
1722(a)	Request approval to install a subsea protective device	1.25 hours ..	15 requests	19
1723(b)	Submit a request to perform work to remove casing stub, mudline equipment, and/or subsea protective covering.	1.75 hours ..	138 requests	242
1743(a)	Submit signed certification; date of verification work and vessel; area surveyed; method used; results of survey including debris or statement that no objects were recover; a post-trawling plot or map showing area.	3.63 hours ..	5 certifications	18
Subtotal of Subpart Q			2,814 responses	11,902
Total Burden			12,388 responses	31,472
			\$5,483,295 non-hour cost burdens.	

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.*).

Kirk Malstrom,

Chief, Regulations and Standards Branch.

[FR Doc. 2026-19291 Filed 9-21-26; 8:45 am]

BILLING CODE 4310-VH-P

DEPARTMENT OF JUSTICE

[OMB Number 1140-0076]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Title—Request for Relief From Explosives Disability—ATF Form 5400.31

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives; Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), will be submitting the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: ATF encourages comments on this information collection. You may submit written comments for 30 days, until midnight on October 22, 2026.

ADDRESSES: Submit written comments and recommendations for this

information collection to the following website: www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the information collection or the OMB control number: 1140–0076. Please send a copy of submitted public comments to Laurie O’Lena at erod@atf.gov.

FOR FURTHER INFORMATION CONTACT: If you have questions or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Laurie O’Lena, either by mail at Redstone Arsenal; 3750 Corporal Road; Huntsville, AL 35898, by email at erod@atf.gov, or by telephone at 256–261–7640.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register**, 91 FR 44875, on July 17, 2026, allowing a 60-day comment period. We encourage written comments and suggestions from the public and affected agencies concerning the proposed information collection. Your comments should address one or more of the following four points:

- Evaluate whether the proposed information collection is necessary to properly perform ATF’s functions, including whether the information will have practical utility;
- Evaluate the agency’s estimate of the proposed information collection’s burden for accuracy, including validity of the methodology and assumptions used;
- Evaluate whether the agency can enhance the quality, utility, and clarity of the information being collected, and if so, how; and
- Minimize the information collection’s burden on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting people to submit electronic responses.

You may view this information collection request at www.reginfo.gov. Follow the instructions to view Department of Justice information collections currently under review by OMB and look for 1140–0076.

DOJ seeks PRA authorization for this information collection for three years. OMB authorization for an ICR cannot be for more than three years without renewal. DOJ notes that information

collection requirements submitted to OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

Abstract: Persons who wish to ship, transport, receive, or possess explosive materials, but are prohibited from doing so, complete this form to request relief from such prohibition, along with supporting documents. ATF uses the information to determine whether the person who provided the information is likely to act in a manner dangerous to public safety and whether granting relief is contrary to the public interest.

Type of information collection: revising a previously approved collection.

Title of the form/collection: Request for Relief from Explosives Disability.

Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form number: ATF Form 5400.31. **Component:** Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Department of Justice.

Affected public who will be asked or required to respond, and obligation to respond: **Affected public:** individuals or households, private sector for- or not-for-profit institutions. **Obligation to respond:** voluntary or required to obtain or retain benefits.

Total estimated number of respondents: 250 total respondents.

Estimated time per respondent: 30 minutes (0.5 hours).

Frequency: once annually.

Total estimated annual time burden: 125 total hours.

Total estimated annual other costs burden: There are no capital costs for this ICR as these responses are emailed to ATF.

Revisions to This Information Collection

The total time burden has increased since the last renewal in 2023, from 150 hours to 250. This is a net increase resulting from a combined decrease in the number of annual respondents (from 300 in 2023 to 250 now, causing a corresponding decrease in direct respondent hours from 150 to 125 hours) and an increase in the time burden from including the time indirect respondents expend (an additional 125 hours). Although the indirect respondents were previously included in the monetized value calculations, they were inadvertently not included in the hourly burden calculations. This renewal corrects that error. The monetized value of the hourly burden

has also increased due to increased wages over time and the correction above, from \$9,600 to \$11,375.

As part of this renewal, ATF is also changing the form number from ATF Form 5400.29 to ATF Form 5400.31 to align with changes to ATF’s numbering structure, and is revising the title of the ICR and the form for plain writing purposes, from “Relief of Disabilities and Application for Restoration of Explosives Privileges” to “Request for Relief from Explosives Disability.” In addition, ATF is making minor technical edits to the form: plain writing edits to text on the form; updating the race and ethnicity options to conform with Census Bureau changes since the last renewal; and adding Space Force to the Armed Forces section.

Public Comments

ATF did not receive comments on this information collection during the 60-day notice and comment period.

If you require additional information on DOJ’s ICR process for this renewal request, contact Darwin Arceo, Department Clearance Officer; United States Department of Justice; Justice Management Division, Enterprise Portfolio Management; Two Constitution Square, 145 N Street NE; 4W–218; Washington, DC.

Dated: September 18, 2026.

Darwin Arceo,
Department Clearance Officer for PRA, U.S.
Department of Justice.

[FR Doc. 2026–19356 Filed 9–21–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0330]

Agency Information Collection Activities; Proposed eCollection; eComments Requested; Reinstatement of a Previously Approved Collection; Title: Law Enforcement Officers Congressional Badge of Bravery

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Office of Justice Programs, Bureau of Justice Assistance (BJA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until November 23, 2026.

FOR FURTHER INFORMATION CONTACT: If you have additional comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Leanetta Jessie, 999 N Capitol St. NE, leanetta.jessie@usdoj.gov; or (202) 532-0152.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the (component), including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Abstract: BJA will use the CBOB nomination information to confirm the eligibility nominees to be considered for the CBOB, and forward all eligible nominations as appropriate, to the Federal or the State and Local CBOB for their further consideration. In General, the agency heads of Federal/State and Local law enforcement agencies may nominate for a Federal/State and Local Law Enforcement CBOB, an individual—(1) who is a Federal/State and Local law enforcement officer working within the agency of the Federal/State and Local agency head making the nomination; and (2) who—(A) (i) sustained a physical injury while—(I) engaged in the lawful duties of the individual; and (II) performing an act characterized as bravery by the Federal/State and Local agency head making the nomination; and (ii) put the individual at personal risk when the injury described in clause (i) occurred; or (B) while not injured, performed and act characterized as bravery by the

Federal/State and Local agency head making the nomination that placed the individual at risk of serious physical injury or death. BJA has been authorized to administer the CBOB program.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement of a previously approved collection.

2. *The Title of the Form/Collection:* Law Enforcement Officers Congressional Badge OF Bravery.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no form number associated with this information collection.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Affected Public: State, local and Tribal Governments. The obligation to respond is voluntary.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Over the last three years of this program, an average of 164 state and local nominations were submitted annually. Each nomination must be submitted via the online nomination system and should take 15 minutes to complete.

6. *Total Estimated Annual Time Burden:* 41 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* There are no direct costs to the nominators other than the time taken to complete and submit the voluntary online nomination. Nominators are not requested to create and maintain an independent data collection, reporting systems, nor travel. Consequently, the nominator incur no additional costs.

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Enterprise Portfolio Management, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC.

Dated: September 18, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026-19359 Filed 9-21-26; 8:45 am]

BILLING CODE 4410-18-P

DEPARTMENT OF JUSTICE

[OMB Number 1140-0040]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Application To Amend Federal Firearms License—ATF Form 5300.38

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives; Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), will be submitting the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: ATF encourages comments on this information collection. You may submit written comments for 30 days, until midnight on October 22, 2026.

ADDRESSES: Submit written comments and recommendations for this information collection to the following website: www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the information collection or the OMB control number: 1140-0040. Please submit a copy of your comments to Tracey Robertson at fflc@atf.gov.

FOR FURTHER INFORMATION CONTACT: If you have questions or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Tracey Robertson, either by mail at 244 Needy Rd; Martinsburg, WV 25405, by email at fflc@atf.gov, or by telephone at 866-662-2750.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register**, 91 FR 44874, on July 17, 2026, allowing a 60-day comment period. We encourage written comments and suggestions from the public and affected agencies concerning the proposed information collection. Your comments should address one or more of the following four points:

- Evaluate whether the proposed information collection is necessary to properly perform ATF's functions, including whether the information will have practical utility;
- Evaluate the agency's estimate of the proposed information collection's burden for accuracy, including

- validity of the methodology and assumptions used;
- Evaluate whether the agency can enhance the quality, utility, and clarity of the information being collected, and if so, how; and
- Minimize the information collection's burden on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting people to submit electronic responses.

You may view this information collection request at www.reginfo.gov. Follow the instructions to view Department of Justice information collections currently under review by OMB and look for 1140–0040.

DOJ seeks PRA authorization for this information collection for three years. OMB authorization for an ICR cannot be for more than three years without renewal. DOJ notes that information collection requirements submitted to OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

Abstract: The Gun Control Act at 18 U.S.C. 922 and 923 and implementing regulations at 27 CFR 478.50 and 52, require licensees changing location of their business premises during an existing license period to submit Form 5300.38, notifying ATF of the proposed location change, certifying compliance with state and local requirements, and providing other information necessary to determine that operations can commence at the new location, and then receive an amended license covering the new business location.

Type of information collection: revising a previously approved collection.

Title of the form/collection: Application to Amend Federal Firearms License.

Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form number: ATF Form 5300.38. **Component:** Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Department of Justice. **Affected public who will be asked or required to respond, and obligation to respond:** Affected public: individuals or households, private sector for-profit institutions. **Obligation to respond:** voluntary, required to obtain/retain a benefit.

Total estimated number of respondents: 6,703 of respondents.

Estimated time per respondent: 15 minutes (0.25 hours).

Frequency: Once annually.

Total estimated annual time burden: 1,676 total hours.

Total estimated annual other costs burden: There is no annualized capital/startup cost associated with this collection.

Revisions to This Information Collection

ATF is revising this information collection, OMB 1140–0040, to reflect a decrease in the total annual public burden. The number of respondents has decreased since the last renewal, from 10,000 to 6,703, due to fewer respondents changing business premises. This resulted in a corresponding decrease in the number of burden hours, from 5,000 hours to 3,352 hours (rounded). In addition, because the form has become fully electronic—completing, signing, and submitting—the amount of time it takes to complete the information collection has decreased from .5 hours to 0.25 hours, resulting in a further decrease in hourly burden to 1,676 hours.

As part of this renewal, ATF is also revising the title of the form and the ICR for plain writing purposes, from “Application for an Amended Federal Firearms License” to “Application to Amend Federal Firearms License” to make it easier to read. In addition, ATF is making minor plain writing edits to text on the form.

Public Comments

ATF did not receive comments on this information collection during the 60-day notice and comment period.

If you require additional information on DOJ's ICR process for this renewal request, contact Darwin Arceo, Department Clearance Officer; United States Department of Justice; Justice Management Division, Enterprise Portfolio Management; Two Constitution Square, 145 N Street, NE; 4W–218; Washington, DC.

Dated: September 18, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–19354 Filed 9–21–26; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0097]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Title—Supplemental Information on Water Quality Considerations—ATF Form 5400.30

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives; Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), will be submitting the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: ATF encourages comments on this information collection. You may submit written comments for 30 days, until midnight on October 22, 2026.

ADDRESSES: Submit written comments and recommendations for this information collection to the following website: www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the information collection or the OMB control number: 1140–0097. Please submit a copy of your comments to Shawn Stevens at FELC@atf.gov.

FOR FURTHER INFORMATION CONTACT: If you have questions or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Shawn Stevens, either by mail at 244 Needy Road; Martinsburg, WV 25405, by email at FELC@atf.gov, or by telephone at 304–616–440.

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register**, 91 FR 46174, on July 22, 2026, allowing a 60-day comment period. We encourage written comments and suggestions from the public and affected agencies concerning the proposed information collection. Your comments should address one or more of the following four points:

- Evaluate whether the proposed information collection is necessary to properly perform ATF's functions, including whether the information will have practical utility;

- Evaluate the agency's estimate of the proposed information collection's burden for accuracy, including validity

of the methodology and assumptions used;

—Evaluate whether the agency can enhance the quality, utility, and clarity of the information being collected, and if so, how; and

—Minimize the information collection's burden on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting people to submit electronic responses.

You may view this information collection request at www.reginfo.gov. Follow the instructions to view Department of Justice information collections currently under review by OMB and look for 1140–0097.

DOJ seeks PRA authorization for this information collection for three years. OMB authorization for an ICR cannot be for more than three years without renewal. DOJ notes that information collection requirements submitted to OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

Abstract: A person engaged in the business of manufacturing explosives is required to have a license under the provisions of 18 U.S.C. 843. The Federal Water Pollution Control Act, 33 U.S.C. 1341, requires manufacturers to certify that waste disposal practices are lawful with regard to impact on water sources. ATF Form 5400.30, Supplemental Information on Water Quality Considerations, serves this purpose and persons manufacturing explosives must submit it with their explosives license applications to ensure compliance with the water pollution control act

Type of information collection: revising a previously approved collection.

Title of the form/collection: Supplemental Information on Water Quality Considerations.

Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form number: ATF Form 5400.30. Component: Bureau of Alcohol, Tobacco, Firearms, and Explosives; U.S. Department of Justice.

Affected public who will be asked or required to respond, and obligation to respond: Affected public: private sector for-profit institutions. Obligation to respond: voluntary, required to obtain/retain a benefit.

Total estimated number of respondents: 670 total respondents.

Estimated time per respondent: 20 minutes (0.3 hours).

Frequency: once annually.

Total estimated annual time burden: 201 total hours.

Total estimated annual other costs burden: There are no additional costs associated with this ICR because respondents can complete and submit the form entirely electronically.

Revisions to This Information Collection

ATF is revising information collection OMB 1140–0097, to reflect a decrease in the overall annual public burden. The number of respondents to this ICR have decreased from the last renewal in 2023, from 680 respondents to 670, because fewer persons applied for explosives licenses. This decrease also resulted in a corresponding decrease in the hourly burden, from 340 hours to 335. In addition, because the forms have become entirely electronic, the amount of time required to complete this information collection has decreased from 0.5 to 0.3 hours, further decreasing the hourly burden for this ICR to 201 hours.

As part of this renewal, ATF is also revising the form number from 5000.30 to 5400.30 to align with changes to ATF's numbering structure and is revising the title of the form and the ICR for plain writing purposes, from "Supplemental Information on Water Quality Considerations—Under 33 U.S.C. 1341(a)" to "Supplemental Information on Water Quality Considerations." In addition, ATF is making minor plain writing edits to text on the form.

Public Comments

ATF did not receive comments on this information collection during the 60-day notice and comment period.

If you need additional information, contact: Darwin Arceo, Department Clearance Officer, Enterprise Portfolio Management, Justice Management Division; United States Department of Justice; Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC 20530.

Dated: September 18, 2026.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2026–19357 Filed 9–21–26; 8:45 am]

BILLING CODE 4410–FY–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–2014]

Information Collection: Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, "Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material."

DATES: Submit comments by November 23, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit your comments, identified by NRC–2026–2014, electronically through the Federal rulemaking website:

- *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–2014. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–2014 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–2026–2014.

- *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 supporting statement is available in ADAMS under Accession No. ML26177A237.

- *NRC's PDR*: The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

- *NRC's Clearance Officer*: A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC–2026–2014, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized as follows.

1. *The title of the information collection*: Part 11 of title 10 of the *Code of Federal Regulations*, "Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material."

2. *OMB approval number*: 3150–0062.

3. *Type of submission*: Extension.

4. *The form number, if applicable*: Not applicable.

5. *How often the collection is required or requested*: On occasion.

6. *Who will be required or asked to respond*: Employees (including applicants for employment), contractors, and consultants for NRC licensees, and contractors whose activities involve access to, or control over, special nuclear material at either fixed sites or for transportation activities.

7. *The estimated number of annual responses*: 778 (775 reporting responses and 3 recordkeepers).

8. *The estimated number of annual respondents*: 3.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request*: 210.6 (210 reporting and 0.6 recordkeeping).

10. *Abstract*: The NRC's regulations in 10 CFR part 11 establish requirements for access to special nuclear material, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization. The specific part 11 requirements covered under this OMB clearance include requests for exemptions to part 11 requirements, amendments to security plans that require incumbents to have material access authorizations, and access authorization cancellations. In addition, licensees must keep records of the names and access authorization numbers of certain individuals assigned to shipments of special nuclear material. The information required by 10 CFR part 11 is needed to establish control over and maintain records of who is properly authorized to safeguard and have access to special nuclear material. Not knowing this information could cause harm to the public and national security.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.

2. Is the estimate of the burden of the information collection accurate? Please explain your answer.

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Authority: 42 U.S.C. 2011 *et seq.*

Dated: September 17, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026–19319 Filed 9–21–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of September 21, 28, and October 5, 12, 19, 26, 2026. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please contact the Reasonable Accommodations Resource by email at Reasonable_Accommodations.Resource@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public and closed.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at Betty.Thweatt@nrc.gov or Samantha.Miklaszewski@nrc.gov.

MATTERS TO BE CONSIDERED:

Week of September 21, 2026

There are no meetings scheduled for the week of September 21, 2026.

Week of September 28, 2026—Tentative

Tuesday, September 29, 2026

9:30 a.m. All Employees Meeting
(Public Meeting), (Contact: Wesley
Held: 301-287-3591)

Additional Information: The meeting will be held in the TWFN Auditorium, 11545 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Week of October 5, 2026—Tentative

There are no meetings scheduled for the week of October 5, 2026.

Week of October 12, 2026—Tentative

Thursday, October 15, 2026

9:00 a.m. CDT Nuclear Regulatory
Commission Reorganization First
100 Days: Enhancing Reactor and
Materials Oversight Integration and
Performance (Public Meeting),
(Contact: Wesley Held: 301-287-
3591)

Additional Information: The meeting will be held in the NRC Region IV offices at 1600 East Lamar Boulevard, Arlington, Texas 76011-4511. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—<https://video.nrc.gov/>.

Week of October 19, 2026—Tentative

There are no meetings scheduled for the week of October 19, 2026.

Week of October 26, 2026—Tentative

There are no meetings scheduled for the week of October 26, 2026.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at Wesley.Held@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: September 18, 2026.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.
[FR Doc. 2026-19369 Filed 9-18-26; 4:15 pm]

BILLING CODE 7590-01-P

**NUCLEAR REGULATORY
COMMISSION**

[NRC-2024-0110]

**Regulatory Guides: Design-Basis
Floods for Nuclear Power Plants and
Guidance for Assessment of Flooding
Hazards Due to Water Control
Structure Failures and Incidents**

AGENCY: Nuclear Regulatory
Commission.

ACTION: Final guide, issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing two related Regulatory Guides (RGs), namely RG 1.59, Revision 3, "Design-Basis Floods for Nuclear Power Plants," and RG 1.256, Revision 0, "Guidance for Assessment of Flooding Hazards due to Water Control Structure Failures and Incidents." RG 1.59 provides guidance for applicants for new nuclear power plants on acceptable methods for evaluating design-basis floods and RG 1.256 provides guidance for applicants on methods for evaluating flooding hazards due to failure or other incidents at man-made water control structures including, but not limited to, dams and levees.

DATES: RG 1.59, Revision 3 and RG 1.256, Revision 0 are available on September 22, 2026.

ADDRESSES: Please refer to Docket ID NRC-2024-0110 when contacting the NRC about the availability of information regarding these documents. You may obtain publicly available information related to these documents using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2024-0110. 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.

RG 1.59, Revision 3 and its regulatory analysis may be found in ADAMS under Accession No. ML19289E563. RG 1.256, Revision 0 and its regulatory analysis may be found at ML22278A111.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT:

James Steckel, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-1026; email: James.Steckel@nrc.gov and Joseph Kanney, Office of Nuclear Regulatory Research, telephone: 301-415-1920; email: Joseph.Kanney@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:**I. Discussion**

The NRC is issuing two related RGs in the NRC's "Regulatory Guide" series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff uses in its review of applications for permits and licenses.

RG 1.59, Revision 3, reflects lessons learned from the review of large light water nuclear power plant applications under part 52 of title 10 of the *Code of Federal Regulations* (10 CFR) since the issuance of RG 1.59, Revision 2, in August 1977, as well as additional lessons learned from staff reviews of licensees' responses to the NRC's "Request for Information Pursuant to Title 10 of the *Code of Federal Regulations* 50.54(f) Regarding Recommendations 2.1, 2.3, and 9.3, of the Near Term Task Force Review of Insights from the Fukushima Dai-ichi Accident." The body of this RG applies to large light water reactors. In view of the emerging innovations taking place in nuclear engineering science, Appendix K is presented as an alternative approach for advanced reactors, which may be used in conjunction with the guidance in RG 1.247, "Acceptability of Probabilistic Risk Assessment Results for Non-Light

Water Reactor Risk-Informed Activities.”

RG 1.256, Revision 0 provides guidance to applicants for new nuclear power plants on acceptable methods for evaluating design-basis flooding hazards due to failure or other incidents at man-made water control structures including, but not limited to, dams and levees. The RG was developed primarily for use by new nuclear power plant applicants, but current licensees may also find it useful. It incorporates NRC interim staff guidance JLD-ISC-2013-01 “Guidance for Assessment of Flooding Hazards Due to Dam Failure,” into the NRC’s regulatory framework. Upon issuance of Revision 0 of RG 1.256, JLD-2013-01 will be withdrawn.

II. Additional Information

The two RGs were released for public comment via a notice in the **Federal Register** on July 15, 2024 (89 FR 57372) as Draft Guide (DG)-1290, Revision 1 for RG 1.59, Revision 3, and DG-1417 for RG 1.256, Revision 0. The comment period was originally for 30 days and was subsequently extended to September 13, 2024. Comments were received from the Nuclear Energy Institute. The comments on DG-1290, Revision 1 and the staff response to them are available in ADAMS under Accession No. ML26246A471. The comments on DG-1417 and the staff response to them are available in ADAMS under Accession No. ML26258A151.

III. Congressional Review Act

These RGs are both considered to be a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found them to be a major rule as defined in the Congressional Review Act.

IV. Backfitting, Forward Fitting, and Issue Finality

The NRC staff may use RG 1.59, Revision 3, and RG 1.256, Revision 0, as references in its regulatory processes, such as licensing, inspection, or enforcement. However, the NRC staff does not intend to use the guidance in RG 1.59 and RG 1.256 to support NRC staff actions in a manner that would constitute backfitting as that term is defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests,” (ADAMS Accession No. ML18093B087); nor does the NRC staff intend to use the guidance to affect the issue finality of an approval under 10 CFR part 52,

“Licenses, Certifications, and Approvals for Nuclear Power Plants.” The staff also does not intend to use the guidance to support NRC staff actions in a manner that constitutes forward fitting as that term is defined and described in MD 8.4. If a licensee believes that the NRC is using these RGs in a manner inconsistent with the discussion in this Implementation section, then the licensee may file a backfitting or forward fitting appeal with the NRC in accordance with the process in MD 8.4.

V. Submitting Suggestions for Improvement of Regulatory Guides

A member of the public may, at any time, submit suggestions to the NRC for the improvement of existing RGs or for the development of new RGs. Suggestions can be submitted on the NRC’s public website at <https://www.nrc.gov/reading-rm/doc-collections/reg-guides/contactus.html>. Suggestions will be considered in future updates and enhancements to the “Regulatory Guide” series.

VI. Executive Order (E.O.) 12866

The Office of Management and Budget, Office of Information and Regulatory Affairs determined that RG 1.59, Revision 3 and RG 1.256, Revision 0 are not a significant regulatory action under E.O. 12866.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: September 17, 2026.

For the Nuclear Regulatory Commission.

Nicholee Valentine,

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

[FR Doc. 2026–19300 Filed 9–21–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–1552]

Information Collection: Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement, Maintenance of Existing Agreement State Programs, Requests for Information Through the Integrated Materials Performance Evaluation Program (IMPEP) Questionnaire, and Agreement State Participation in IMPEP

AGENCY: Nuclear Regulatory Commission.

ACTION: Renewal of existing information collection; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment on the renewal of Office of Management and Budget (OMB) approval for an existing collection of information. The information collection is entitled, “Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement,” Maintenance of Existing Agreement State Programs, Requests for Information Through the Integrated Materials Performance Evaluation Program (IMPEP) Questionnaire, and Agreement State Participation in IMPEP.

DATES: Submit comments by November 23, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Submit your comments, identified by NRC–2026–1552, electronically through the Federal rulemaking website.

• *Federal rulemaking website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2026–1552. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: Bridget.Curran@nrc.gov. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–1552 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–2026–1552. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2026–1552 on this website.

- *NRC's Agencywide Documents Access and Management System (ADAMS)*: You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML26211A410. The supporting statement is available in ADAMS under Accession No. ML26209A211.

- *NRC's PDR*: The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

- *NRC's Clearance Officer*: A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6355; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (<https://www.regulations.gov>). Please include Docket ID NRC-2026-1552, in your comment submission.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

the public or entering the comment into ADAMS.

II. Background

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC is requesting public comment on its intention to request the OMB's approval for the information collection summarized as follows.

1. *The title of the information collection*: "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement," Maintenance of Existing Agreement State Programs, Requests for Information Through the Integrated Materials Performance Evaluation Program (IMPEP) Questionnaire, and Agreement State Participation in IMPEP.
2. *OMB approval number*: 3150-0183.
3. *Type of submission*: Revision.
4. *The form number, if applicable*: Not applicable.

5. *How often the collection is required or requested*: Every 5 years for completion of the IMPEP questionnaire in preparation for an IMPEP review. One time for new Agreement State applications. Annual for participation by Agreement States in the IMPEP reviews and fulfilling requirements for Agreement States to maintain their program.

6. *Who will be required or asked to respond*: All Agreement States who have signed Agreements with NRC under Section 274b. of the Atomic Energy Act (the Act) and any non-Agreement State seeking to sign an Agreement with the Commission.

7. *The estimated number of annual responses*: 60.

8. *The estimated number of annual respondents*: 41.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request*: 292,083.

10. *Abstract*: The States wishing to become Agreement States are requested to provide certain information to the NRC as specified by the Commission's Policy Statement, "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement." The Agreement States need to ensure that the radiation control program under the Agreement remains adequate and compatible with the requirements of Section 274 of the Act and must maintain certain information. The NRC conducts periodic evaluations through IMPEP to ensure that these programs are compatible with the NRC's program, meet the applicable parts of

the Act, and adequate to protect public health and safety.

III. Specific Requests for Comments

The NRC is seeking comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility? Please explain your answer.

2. Is the estimate of the burden of the information collection accurate? Please explain your answer.

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection on respondents be minimized, including the use of automated collection techniques or other forms of information technology?

Authority: 42 U.S.C. 2011 *et seq.*

Dated: September 18, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026-19386 Filed 9-21-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2026-0067]

Information Collection: NRC Form 974, Privacy Act Complaints, Concerns or Questions Form

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 974, "Privacy Act Complaints, Concerns or Questions Form."

DATES: Submit comments by October 22, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by

selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6355; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2026-0067 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-2026-0067.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin ADAMS Public Search.” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML26100A209. The supporting statement is available in ADAMS under Accession No. ML26180A323.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6355; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Form 974, “Privacy Act Complaints, Concerns or Questions Form.” The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on May 14, 2026, 91 FR 27378.

1. *The title of the information collection:* NRC Form 974, “Privacy Act Complaints, Concerns or Questions Form.”

2. *OMB approval number:* 3150-0262.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* NRC Form 974.

5. *How often the collection is required or requested:* On occasion.

6. *Who will be required or asked to respond:* The public.

7. *The estimated number of annual responses:* 12.

8. *The estimated number of annual respondents:* 12.

9. *The estimated number of hours needed annually to comply with the*

information collection requirement or request: 3.

10. *Abstract:* The NRC provides an electronic process that allows members of the public to voluntarily submit complaints regarding the NRC's privacy data collection practices. Complainants may provide the following information: name, telephone number, email address, a summary of the privacy complaint, a summary of any steps already taken by the complainant or the NRC to resolve the issue, and the preferred method of contact.

(Authority: 42 U.S.C. 2011 *et seq.*)

Dated: September 18, 2026

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026-19384 Filed 9-21-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2026-0430]

Information Collection: Notice of Enforcement Discretion (NOED) for Operating Power Reactors and Gaseous Diffusion Plants (GDP), NRC Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, “Notice of Enforcement Discretion (NOED) for Operating Power Reactors and Gaseous Diffusion Plants (GDP), NRC Enforcement Policy.”

DATES: Submit comments by October 22, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0856; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Obtaining Information and Submitting Comments****A. Obtaining Information**

Please refer to Docket ID NRC-2026-0430 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-2026-0430.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML23362A014. The supporting statement is available in ADAMS under Accession No. ML26156A086.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the Acting NRC's Clearance Officer, Heather Dempsey, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-0856; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this

particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the recently submitted NRC a request for renewal of an existing collection of information to OMB for review entitled, "Notice of Enforcement Discretion (NOED) for Operating Power Reactors and Gaseous Diffusion Plants (GDP), NRC Enforcement Policy." The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on May 14, 2026, 91 FR 27375.

1. *The title of the information collection:* Notice of Enforcement Discretion (NOED) for Operating Power Reactors and Gaseous Diffusion Plants (GDP), NRC Enforcement Policy.

2. *OMB approval number:* 3150-0136.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* On occasion.

6. *Who will be required or asked to respond:* Those licensees that voluntarily request enforcement discretion through the NOED process.

7. *The estimated number of annual responses:* 8 (4 reporting responses + 4 recordkeepers).

8. *The estimated number of annual respondents:* 4.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 680 (600 reporting + 80 recordkeeping).

10. *Abstract:* The NRC's Enforcement Policy includes the circumstances in which the NRC may grant a NOED. On occasion, circumstances arise when a power plant licensee's compliance with a Technical Specification (TS) Limiting Condition for Operation or any other license condition would involve an unnecessary plant shutdown or transient. Similarly, for a gaseous diffusion plant, circumstances may arise where compliance with a Technical Safety Requirement (TSR) or other condition would unnecessarily call for a total plant shutdown, or compliance would unnecessarily place the plant in a condition where safety, safeguards, or security features were degraded or inoperable. In these circumstances, a licensee or certificate holder may request that the NRC exercise enforcement discretion, and the NRC staff may choose to not enforce the applicable TS, TSR, or other license or certificate condition. This enforcement discretion is designated as a NOED. A licensee or certificate holder seeking the issuance of a NOED must justify, in accordance with NRC Enforcement Manual (ADAMS Accession No. ML25224A097), the safety basis for the request, including an evaluation of the safety significance and potential consequences of the proposed request, a description of proposed compensatory measures, a justification for the duration of the request, the basis for the licensee's or certificate holder's conclusion that the request does not have a potential adverse impact on the public health and safety, and does not involve adverse consequences to the environment, and any other information the NRC staff deems necessary before making a decision to exercise discretion.

(Authority: 42 U.S.C. 2011 *et seq.*)

Dated: September 18, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2026-19385 Filed 9-21-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION**Eden Radioisotopes, LLC**

[Docket No. 50-619-CP ASLBP No. 26-996-01-CP-BD01]

Establishment of Atomic Safety and Licensing Board

Pursuant to the Commission's regulations, *see, e.g.*, 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

EDEN RADIOISOTOPES, LLC

(Eden Isotope Production Complex)

Eden Radioisotopes, LLC seeks a permit to construct a medical isotope production complex near Eunice, Lea County, New Mexico. The complex would consist of a non-power, open-pool reactor facility, a separation processing hot cell facility, a target fabrication facility, and a waste packaging, handling, and storage facility. In response to a notice published in the **Federal Register** on July 16, 2026 (91 FR 43673), Nicolas R. Maxwell filed a hearing request on September 14, 2026.

The Board is comprised of the following administrative judges:

Emily I. Krause, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dr. David A. Smith, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission Washington, DC 20555-0001

Dr. Arielle J. Miller, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission Washington, DC 20555-0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Rockville, Maryland.

September 17, 2026.

Edward R. Hawks,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2026-19294 Filed 9-21-26; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2025-1567]

Information Collection: NUREG/BR-0254, Payment Methods, and Authorization for Payment by Credit Card on Pay.gov

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NUREG/BR-0254, "Payment Methods," and "Authorization for Payment by Credit Card on Pay.gov."

DATES: Submit comments by October 22, 2026. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6355; email: Infocollects.Resource@nrc.gov.

SUPPLEMENTARY INFORMATION:**I. Obtaining Information and Submitting Comments****A. Obtaining Information**

Please refer to Docket ID NRC-2025-1567 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-2025-1567.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at

<https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin ADAMS Public Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession Nos. ML25072A290 and ML26090A437. The supporting statement is available in ADAMS under Accession No. ML26203A149.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

- **NRC's Clearance Officer:** A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, Kristen Benney, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6355; email: Infocollects.Resource@nrc.gov.

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at <https://www.regulations.gov> and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

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

submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NUREG/BR-0254, “Payment Methods,” and NRC Form 629, “Authorization for Payment by Credit Card.” The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on May 14, 2026, 91 FR 27376.

1. *The title of the information collection:* NUREG/BR-0254, “Payment Methods,” and “Authorization for Payment by Credit Card on Pay.gov.”

2. *OMB approval number:* 3150-0190.

3. *Type of submission:* Revision.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* As needed.

6. *Who will be required or asked to respond:* NRC Licensees.

7. *The estimated number of annual responses:* 700.

8. *The estimated number of annual respondents:* 700.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 116.

10. *Abstract:* The NRC bills licensees, applicants, and individuals for civil penalties, licensing fees, inspection fees, and other fees. The four methods used to pay bills owed to the NRC are: (1) Payment by Automated Clearinghouse Network (ACH); (2) Payment by Credit Card; (3) Payment by Electronic Funds Transfer/FedWire; and (4) Payment by Digital Wallet (PayPal and Venmo). NUREG/BR-0254, “Payment Methods” provides instructions on how to transfer monies owed to the NRC; no information is collected by the NRC in using this brochure. The NRC is discontinuing use of the pdf NRC Form 629, “Authorization for Payment by Credit Card” and will be exclusively collecting the same information using *Pay.gov* for future transactions.

Authority: 42 U.S.C. 2011 *et seq.*

Dated: September 17, 2026.

For the Nuclear Regulatory Commission.

Heather Dempsey,

Acting NRC Clearance Officer, of the Chief Information Officer.

[FR Doc. 2026-19315 Filed 9-21-26; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket No. MC2026-387; Order No. 9732]

Competitive Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recent filing by the Postal Service to remove a section and to make accompanying classification changes to the Mail Classification Schedule. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 16, 2026.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Contents of Filing
- III. Commission Action
- IV. Ordering Paragraphs

I. Introduction

On September 16, 2026, pursuant to 39 CFR 3040.180-.181, the Postal Service filed a request to remove *Mail Classification Schedule* (MCS) section 2615.2 Competitive International Registered Mail from the Competitive product list and make accompanying classification changes in MCS sections 2340.5 and 2600.2.¹ In addition, pursuant to 39 U.S.C. 3642 and 3622(c)(10) and 39 CFR 3040.130-.132 and 3040.220-.222, the Postal Service also requests to transfer the Inbound

¹ Request of the United States Postal Service to Remove Competitive International Registered Mail from the Competitive Product List and Make Accompanying Classification Changes, and Transfer the Inbound PRIME Registered Service Agreement 1 as Well as the PRIME-USPS Registered Agreement to the Market Dominant Product List, and Application for Non-Public Treatment, September 16, 2026, at 1, 3 n.4 (Request).

PRIME Registered Service Agreement 1 and the PRIME-USPS Registered Agreement from the Competitive product list to the Market Dominant product list, and add these two agreements to MCS section 1602.3.5 Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1. Request at 1-2.

II. Contents of Filing

The Postal Service states that at the Universal Postal Union (UPU) 2023 Riyadh Extraordinary Congress, the UPU amended the Universal Postal Convention (Convention) to require member countries to provide registered mail service for outbound and inbound airmail and priority letter-post items containing documents only, effective January 1, 2026.² The Postal Service states that at the UPU 2025 Dubai Congress, the UPU further amended the Convention to eliminate the bulky letters (E) format, effective January 1, 2027.³ The Postal Service states that therefore, effective January 1, 2027, international registered service will no longer be available for Inbound Letter Post Small Packets bulky letter items that contain documents. Request at 3. The Postal Service states that instead, international registered service will be available only for MCS sections 1125 Outbound Single-Piece First Class Mail International and 1130 Inbound Letter Post Letters and Flats, which are both on the Market Dominant product list. *Id.*

To align the Postal Service’s offerings with these amendments to the Convention, the Postal Service requests to remove MCS section 2615.2 Competitive International Registered Mail from the Competitive product list and make accompanying classification changes in MCS sections 2340.5 and 2600.2 that mention Competitive International Registered Mail, effective January 1, 2027. *Id.* at 3; 3 n.4. The Postal Service also requests to transfer the Inbound PRIME Registered Service Agreement 1 (the subject of Docket No. MC2020-73) and the PRIME-USPS Registered Agreement (the subject of Docket No. CP2022-65) from MCS

² *Id.* at 3; Decisions of the 2023 Riyadh Extraordinary Congress, First Additional Protocol to the Universal Postal Convention, Article II (Article 18 amended), paragraph 1.1 (page 28 of the PDF), available at [https://www.upu.int/UPU/media/upu/files/aboutUpu/acts/08-actsAndOtherDecisionsPreviousCongresses/CNG-ACTS%e2%94%80Doc-0-\(5\).pdf](https://www.upu.int/UPU/media/upu/files/aboutUpu/acts/08-actsAndOtherDecisionsPreviousCongresses/CNG-ACTS%e2%94%80Doc-0-(5).pdf).

³ Request at 3; Decisions of the 2025 Dubai Congress, Second Additional Protocol to the Universal Postal Convention, Article VII (Article 17 amended), paragraph 5 (page 40 of the PDF), available at <https://www.upu.int/UPU/media/upu/files/aboutUpu/acts/07-actsAndOtherDecisions2025DubaiCongress/2025DubaiCongressDecisionsEn.pdf>.

section 2515.10.5 Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 on the Competitive product list to MCS section 1602.3.5 Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 on the Market Dominant product list, effective January 1, 2027. *Id.* at 4.

With the Request, the Postal Service submits the following supporting documents: (1) Attachment 1, Governors' Decision No. 26–5; (2) Attachment 2, a copy of the MCS with the proposed changes in legislative format; (3) Attachment 3, a statement of supporting justification required by 39 CFR 3040.132; (4) Attachment 4, a redacted copy of the Inbound PRIME Registered Service Agreement 1; (5) Attachment 5, a redacted copy of the PRIME–USPS Registered Agreement; (6) Attachment 6, a redacted copy of the accession of an additional foreign postal operator to the PRIME–USPS Registered Agreement; and (7) Attachment 7, an application for non-public treatment of materials filed under seal. *Id.* at 4–5; *Id.* Attachments 1–7. In addition, the Postal Service submits a redacted copy of Annex 3 to the Inbound PRIME Registered Service Agreement 1. *Id.* at 6. Unredacted versions of Attachments 4 through 6, as well as Annex 3 to the Inbound PRIME Registered Service Agreement 1, are filed under seal. *Id.* The Postal Service also incorporates by reference the cost coverage information for the Inbound PRIME Registered Service Agreement 1 and the PRIME–USPS Registered Agreement filed in Docket No. ACR2025, Library Reference PRC–LR–ACR2025–NP2. *Id.*

The Postal Service provides a discussion of its compliance with 39 CFR 3040.180–.181 for the proposed removal of MCS section 2615.2 Competitive International Registered Mail from the Competitive product list and accompanying classification changes in MCS sections 2340.5 and 2600.2. *Id.* at 8–12. The Postal Service also provides a discussion of its compliance with 39 U.S.C. 3642 and 3622(c)(10) and 39 CFR 3040.130–.132 and 3040.220–.222 for the proposed transfer of the Inbound PRIME Registered Service Agreement 1 and the PRIME–USPS Registered Agreement from the Competitive product list to the Market Dominant product list. *Id.* at 12–24. The Postal Service further provides a discussion of the functional equivalence of the Inbound PRIME Registered Service Agreement 1 and the PRIME–USPS Registered Agreement to the baseline agreement for the umbrella product, MCS section 1602.3.5 Inbound Market Dominant Multi-Service

Agreements with Foreign Postal Operators 1. *Id.* at 24–27.

III. Commission Action

The Commission establishes Docket No. MC2026–387 for consideration of matters raised by the Request. The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3642 and 3622(c)(10) and 39 CFR 3040.130–.132, 3040.180–.181, and 3040.220–.222. Comments are due October 16, 2026. The public portions of the filings can be accessed via the Commission's website (<https://www.prc.gov>).

The Commission appoints Samuel Robinson to represent the interests of the general public (Public Representative) in this docket, pursuant to 39 CFR 3010.101(q)(3). The Public Representative does not represent any individual person, entity, or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. MC2026–387 for consideration of matters raised by the Postal Service's Request.

2. Pursuant to 39 CFR 3010.101(q)(3), Samuel Robinson is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due October 16, 2026.

4. This Order, or an abstract thereof, shall be published in the **Federal Register**.

By the Commission.

Parvaneh Higareda,
Senior Paralegal Specialist.

[FR Doc. 2026–19285 Filed 9–21–26; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2026–390 and K2026–379]

New Postal Products

AGENCY: Postal Regulatory Commission.
ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

ADDRESSES: Submit comments electronically via the Commission's

Filing Online system at <https://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT:
David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Public Proceeding(s)
- III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

None. *See* Section III for summary proceedings.

III. Summary Proceeding(s)

1. *Docket No(s)*: MC2026–390 and K2026–379; *Filing Title*: USPS Request to Add New Fulfillment Standardized Distinct Product, PM–GA Contract 1097, and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 17, 2026; *Filing Authority*: 39 U.S.C. 3642 and 3633, 39 CFR 3035.105, and 39 CFR 3041.325.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–19353 Filed 9–21–26; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106407; File No. SR–NYSE–2026–46]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.10 Clearly Erroneous Executions

September 17, 2026.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b–4 thereunder,³ notice is hereby given that on September 14, 2026, New York Stock Exchange LLC (“NYSE” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.10 (“Clearly Erroneous Executions”) in light of the Commission's approval of Overnight Protected Bands for 23/5 Trading. The proposed rule change is available on the Exchange's website at www.nyse.com and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

New York Stock Exchange LLC (“NYSE” or the “Exchange”) proposes

to amend Rule 7.10 (“Clearly Erroneous Executions”) in light of the Commission's approval of Overnight Protected Bands under the LULD Plan for 23/5 Trading.

Background

In conjunction with the industry's plans for the introduction of trading 23 hours a day, 5 days a week (“23/5 Trading”), the Operating Committee of the Plan to Address Extraordinary Market Volatility (“LULD Plan”) filed proposed Amendment 27 to the LULD Plan, which proposed to establish price band protections during overnight trading hours (“Overnight Price Bands”).⁴ The Operating Committee proposed that the Overnight Price Bands would initially be temporary static bands 20% above and below two reference points, and that after implementation, the Operating Committee would evaluate the performance of such Overnight Price Bands and propose appropriate changes in a new plan amendment.⁵ On August 5, 2026, the Commission approved the proposal.⁶

In light of the Commission's approval of these changes to the LULD Plan, the Exchange now proposes several amendments to Rule 7.10 regarding Clearly Erroneous Executions. In general, the rule describes the process a market participant may use to request cancellation of a transaction that was “clearly erroneous.” The current rule's central premise is that if LULD Price Bands under the LULD Plan were available and correct at the time the transaction was executed, the transaction is not eligible for clearly erroneous review. Specifically, Rule 7.10(c)(1) currently provides that “[i]f the execution time of the transaction(s) under review is during the Core Trading Session, the transaction will not be reviewable as clearly erroneous” except in certain limited circumstances, including when (A) the transaction is in an NMS stock that is not subject to the LULD Plan (e.g., rights and warrants), (B) the transaction was executed at a time with LULD Price Bands were unavailable or trading should have been prevented due to a regulatory halt or other halt, or (C) several other limited

⁴ *See* Securities Exchange Act Release No. 105596 (June 1, 2026), 91 FR 33774 (June 4, 2026) (File No. 4–631) (Notice of Filing of 27th Amendment to the National Market System Plan).

⁵ *See id.*

⁶ *See* Securities Exchange Act Release No. 106042 (August 5, 2026), 91 FR 51515 (August 10, 2026) (File No. 4–631) (Order Granting Approval of the 27th Amendment to the National Market System Plan to Address Extraordinary Market Volatility to Establish Temporary Price Band Protections in Overnight Trading).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

circumstances.⁷ In approving the existing version of the rule, the Commission noted that restricting clearly erroneous review in this way during times when LULD Price Bands were in effect was “consistent with the Act and will further the goal of providing greater certainty to market participants that trades executed within the Price Bands will stand and not be broken. . . . Thus, the proposal is designed to limit the potential discordance between the LULD mechanism and CEE review process.”⁸

Currently, LULD Price Bands are available only during the Core Trading Session, meaning that the restrictions on clearly erroneous review described above apply only during the Core Trading Session. With the introduction of Overnight Price Bands, the Exchange now proposes to extend the existing restrictions on clearly erroneous review to the period when Overnight Price Bands are in place. This proposed change would be consistent with the Commission’s rationale in approving the current version of the rule because it would limit any potential discordance between the LULD mechanism and CEE review in the overnight trading session, providing greater certainty to market participants that trades executed with the Overnight Price Bands will stand and not be broken.

Proposed Changes to Rule 7.10(c)(1)

To implement this change, the Exchange proposes to add several definitions to Rule 7.10(c)(1). First, the Exchange would add that the term “LULD Protected Hours” includes the Core Trading Session and “Overnight Protected Hours” defined in Section VIII of the LULD Plan. Second, the Exchange would define “LULD Price Bands” or “Price Bands” to mean the Price Bands defined in Section V of the LULD Plan (*i.e.*, the Price Bands that apply during the Core Trading Session) and “Overnight Price Bands” as defined in Section VIII of the LULD Plan (*i.e.*, the Price Bands that apply to the Overnight Protected Hours from 9:00 p.m. ET through 4:00 a.m. ET).

The Exchange proposes to amend the current first sentence of Rule 7.10(c)(1) to replace the phrase “Core Trading Session” with “LULD Protected Hours,” to provide that “[i]f the execution time of the transaction(s) under review is during LULD Protected Hours, the

transaction will not be reviewable as clearly erroneous” This change would extend the LULD-based restrictions on clearly erroneous review currently in place during the Core Trading Session to the Overnight Protected Hours.

The Exchange also proposes to amend Rule 7.10(c)(1)(B)’s reference to “Percentage Parameter” to incorporate the Percentage Parameter that applies to Overnight Protected Hours. The amended provision would provide for the applicability of clearly erroneous review if the price of the transaction to buy (sell) that is the subject of the clearly erroneous complaint is greater than (less than) the Reference Price by an amount that equals or exceeds the applicable Percentage Parameter defined in Appendix A to the LULD Plan (with respect to the Price Bands that apply during the Core Trading Session) or the “Overnight Percentage Parameter defined in Section VIII of the LULD Plan” (with respect to Overnight Protected Hours).

In addition to these changes, the Exchange also proposes to make a non-substantive change to Rule 7.10(c)(1)(A), substituting the term “LULD Plan” for the current text “the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ‘Limit Up-Limit Down Plan’ or ‘LULD Plan,’)” as the “LULD Plan” would be defined in the proposed revision to Rule 7.10(c)(1).

Proposed Changes to Rule 7.10(c)(2), (d)(3), and (f)

As noted above, current Rule 7.10(c)(1)(A) permits clearly erroneous review even during the Core Trading Session when the transaction in question is in an NMS Stock that is not subject to the LULD Plan, *i.e.*, rights and warrants. Such transactions are reviewed for clearly erroneous status using the procedures set out in Rule 7.10(c)(2), including the Numerical Guidelines set out in the table accompanying Rule 7.10(c)(2)(A). The Exchange now proposes to introduce a similar provision regarding transactions in NMS Stocks not subject to the LULD Plan that are executed during the Overnight Protected Hours; such transactions would be subject to the same Numerical Guidelines as transactions occurring in the Early Trading Session.

The heading of Rule 7.10(c)(2) addresses “[r]eview of transactions occurring during the Early Trading Session or eligible for review pursuant to paragraph (c)(1)(A).” The Exchange proposes to replace the phrase “eligible for review pursuant to paragraph

(c)(1)(A)” (which, in the current rule, means transactions executed during the Core Trading Session in NMS Stocks not subject to the LULD Plan) with “during LULD Protected Hours in NMS Stocks not subject to the LULD Plan.” This proposed language would cover transactions in NMS Stocks not subject to the LULD Plan in the Core Trading Session and expand the same treatment to transactions executed in NMS Stocks not subject to the LULD Plan during Overnight Protected Hours. As such, the proposed change is not novel.

The Exchange proposes to make the same change everywhere else such language appears in the rule—namely, in the text of paragraphs (c)(2)(A), (c)(2)(B), (c)(2)(C), (c)(2)(D), (d)(3), and (f).⁹ In each case, the Exchange proposes to replace the phrase “transactions occurring during the Early Trading Session or eligible for review pursuant to paragraph (c)(1)(A)” with “transactions occurring during the Early Trading Session or during LULD Protected Hours in NMS Stocks not subject to the LULD Plan.”

The Exchange also proposes to make corresponding changes to the headings of the table accompanying Rule 7.10(c)(2)(A). The Exchange proposes to change the heading of the second column from “Core Trading Session Numerical Guidelines for transactions eligible for review pursuant to paragraph (c)(1)(A)” to “Numerical Guidelines for Transactions Executed During the Core Trading Session in NMS Stocks Not Subject to the LULD Plan.” This change would simply replace the shorthand “eligible for review pursuant to paragraph (c)(1)(A)” with the fuller description that such transactions are “executed during the Core Trading Session in NMS Stocks not subject to the LULD Plan,” and is not a substantive change.

Similarly, the Exchange proposes to change the heading of the third column from “Early Trading Session Numerical Guidelines” to “Numerical Guidelines for Transactions Executed During the Early Trading Session or During Overnight Protected Hours in NMS Stocks Not Subject to the LULD Plan.” The proposed change addresses the fact that transactions executed during

⁹ Rule 7.10(c)(2)(A)–(D) specifies general rules for applying clearly erroneous review to transactions where such review is not precluded by paragraph (c)(1). Rule 7.10(d)(3) specifies conditions where the Exchange may use a revised Reference Price for the purpose of clearly erroneous review in certain transactions where such review is not precluded by paragraph (c)(1). Rule 7.10(f) specifies that for transactions where clearly erroneous review is not precluded by paragraph (c)(1), an officer may initiate clearly erroneous review on his or her own motion.

⁷ See Rule 7.10(c)(1)(A), (B), and (C).

⁸ See Securities Exchange Act Release No. 95658 (September 1, 2022), 87 FR 55060 at 55063 (September 8, 2022) (SR–CboeBZX–2022–037) (Order Approving a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Amend BZX Rule 11.17, Clearly Erroneous Executions).

Overnight Protected Hours in NMS Stocks not subject to the LULD Plan are eligible for clearly erroneous review—just as are transactions in NMS Stocks not subject to the LULD Plan executed during the Core Trading Session—but at the Numerical Guidelines that apply outside of the Core Trading Session.

Together, these proposed changes would extend the eligibility of clearly erroneous review for transactions in NMS Stocks not subject to the LULD Plan that is currently in place during the Core Trading Session to the Overnight Protected Hours, and would apply the Commission's recent approval of Overnight Price Bands to the clearly erroneous executions rule.

Implementation

The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals, the substance of which are identical to this proposal. The Exchange proposes that this rule change would become operative at the commencement of 23/5 Trading, which is scheduled to commence industry-wide on December 6, 2026.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.¹⁰ Specifically, the proposal is consistent with Section 6(b)(5) of the Act¹¹ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

The Exchange believes that the proposed change is consistent with just and equitable principles of trade because it extends the basic premise of the current rule that clearly erroneous review should be generally unavailable any time a transaction is executed within LULD Price Bands at a time the Price Bands were available and correct. Currently, LULD Price Bands are available only during the Core Trading Session, meaning that the restrictions on clearly erroneous review described above apply only during the Core Trading Session. With the introduction of Overnight Price Bands, the Exchange believes that extending such restrictions on clearly erroneous review to the

period when Overnight Price Bands are in place would remove impediments to and perfect the mechanism of a free and open market and a national market system by enhancing the transparency and consistency of the rule.

The resulting rule would thus extend the LULD-related limits on clearly erroneous review that are applicable in the Core Trading Session to the overnight period. The proposed change would also be consistent with the Commission's rationale in approving the current version of the rule because it would limit any potential discordance between the LULD mechanism and CEE review in the overnight trading session, providing greater certainty to market participants that trades executed with the Overnight Price Bands will stand and not be broken.¹²

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposal is consistent with Section 6(b)(8) of the Act¹³ in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather than impacting competition, the proposed change would simply extend the basic premise of the current rule that clearly erroneous review should be generally unavailable any time a transaction is executed within LULD Price Bands at a time the Price Bands were available and correct. The Exchange understands that the other national securities exchanges and FINRA will also file similar proposals, the substance of which are identical to this proposal. Thus, the proposed rule change will help to ensure consistency across SROs without implicating any competitive issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵ Because the

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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁷ 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 such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)¹⁸ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSE-2026-46 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-NYSE-2026-46. This file

change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ 15 U.S.C. 78s(b)(2)(B).

¹² See 87 FR 55060 at 55063, *supra* note 8.

¹³ 15 U.S.C. 78f(b)(8).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁵ 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

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(5).

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-NYSE-2026-46 and should be submitted on or before October 13, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106402; File No. 4-927]

Order Granting Temporary Conditional Exemptive Relief, Pursuant to Section 36(a)(1) of the Securities Exchange Act of 1934, From the Definition of "Exchange" in Section 3(a)(1) of the Exchange Act for the Use of Certain Distributed Ledger Trading Venues for Tokenized NMS Stocks and From the Definition of "Dealer" in Section 3(a)(5) of the Exchange Act for Certain Liquidity Providers for Tokenized NMS Stocks, and Request for Comment

September 17, 2026.

I. Introduction

The Securities and Exchange Commission ("Commission" or "SEC") hereby issues these temporary, conditional exemptions to facilitate the permissioned trading of tokenized NMS stock using innovative automated market makers ("AMMs") and liquidity pools (together referred to as "AMM Liquidity Pools"). Specifically, the Commission hereby issues to "Tokenized Securities Venues" ("TSVs") an exemption from the definition of "exchange" in section 3(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act") ("TSV Exemption"). The Commission also hereby issues an exemption from the

definition of "dealer" in section 3(a)(5) of the Exchange Act to certain liquidity providers in an AMM Liquidity Pool that supply liquidity in the form of tokenized NMS stock ("Covered Firm Exemption").

A TSV is an organization, association, or group of persons that brings together buyers and sellers of Tokenized NMS Stock by: (1) providing one or more AMM Liquidity Pool(s) for permissioned participants to interact and agree to terms of a trade and (2) setting standards for persons to access trading on such AMM Liquidity Pool(s). For purposes of this order ("Order"), "Tokenized NMS Stock" means an NMS stock¹ that is (1) a security tokenized² by, or on behalf of, the issuer of the underlying NMS stock; or (2) a security tokenized by a third party that is unaffiliated with the issuer of the underlying NMS stock.³ "Tokenized NMS Stock" does not include securities where a third party issues a crypto asset representing its own security that provides synthetic exposure to an underlying security, such as a tokenized linked security or a tokenized security-based swap.⁴

Over the past several years, advancements in distributed ledger⁵ technology have facilitated innovations in trading across non-security crypto

assets.⁶ These innovations have enhanced access and efficiencies for buyers and sellers to discover prices, interact, find counterparties, and execute trades in these assets. Additionally, distributed ledger technology and related applications have led to developments in the tokenization of securities.⁷

Increasingly, retail investors, institutional investors, and professional securities market participants are seeking to buy and sell Tokenized NMS Stock on trading venues that use distributed ledger applications.⁸ Such distributed ledger applications include smart contracts⁹ that automate transactions in crypto assets, such as smart contracts within an AMM Liquidity Pool. An AMM consists of a smart contract (or smart contracts) that enforces terms of trading, including setting token prices based on the ratio of the quantities of the assets committed to a liquidity pool. AMM smart contracts act in tandem with liquidity pool smart contracts. A liquidity pool is a portfolio of crypto assets that is algorithmically bound and traded based on the terms of the smart contracts that compose the AMM Liquidity Pool.

Distributed ledger technology and associated applications, including smart contracts, can be employed in various other ways in connection with crypto assets. For example, smart contracts can be programmed with permissioning criteria to allow certain participants to access trading in certain crypto assets, AMM Liquidity Pools, or both. While AMM Liquidity Pools for non-security crypto assets generally operate on a permissionless basis, certain market participants have expressed the desire to provide access to trading of Tokenized NMS Stock on a

¹ "NMS stock" means any NMS security other than an option. 17 CFR 242.600(b)(65). "NMS security" means any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options. 17 CFR 242.600(b)(64).

² Tokenization is the process of creating a digital representation of a tangible or intangible asset using distributed ledger technology. See Statement on Tokenized Securities, Division of Corporation Finance, Division of Investment Management, Division of Trading and Markets, dated Jan. 28, 2026, available at <https://www.sec.gov/newsroom/speeches-statements/corp-fin-statement-tokenized-securities-012826-statement-tokenized-securities> ("Statement on Tokenized Securities"), at n. 3. The statement, and any other staff statement referenced in this release, is not a rule, regulation, guidance, or statement of the Commission, and the Commission has neither approved nor disapproved its content. Staff statements have no legal force or effect; they do not alter or amend applicable law, and they create no new or additional obligations for any person. See *id.* at n. 2.

³ See generally *id.* (stating that "tokenized securities" generally fall in such categories). See also *id.* at nn. 5, 11, 13-15 and accompanying text.

⁴ See *id.* at n. 16 and accompanying text. In addition, Tokenized NMS Stock eligible for trading on a TSV does not include rights and warrants.

⁵ A "distributed ledger" is technology in which data is shared across a network that creates a public digital ledger of verified transactions or information among network participants and cryptography is used to link the data to maintain the integrity of the public ledger and execute other functions. Section 2(8) of the Guiding and Establishing National Innovation for U.S. Stablecoins Act, Public Law 119-27, 139 Stat. 419 (2025) ("GENIUS Act").

⁶ A "crypto asset" is any digital representation of value that is recorded on a cryptographically secured distributed ledger. The foregoing definition of "crypto asset" is identical to the definition of "digital asset" in section 2(6) of the GENIUS Act. A "non-security crypto asset" is a crypto asset that itself is not a security. See Securities Exchange Act Release No. 11412 (Mar. 17, 2026), 91 FR 13714, 13716 (Mar. 23, 2026) ("Crypto Asset Interpretative Statement").

⁷ See, e.g., Statement on Tokenized Securities; Crypto Asset Interpretative Statement at section III.E.

⁸ A "distributed ledger application" means any executable software that is deployed to and maintained on a distributed ledger and composed of source code that is publicly available, including a smart contract or network of smart contracts.

⁹ A "smart contract" is a self-executing contract or program that (A) is stored using distributed ledger technology and (B) automatically executes or enforces digital asset transactions upon the occurrence of explicit, pre-determined conditions encoded in the contract or program, without intervention, other than to provide data, by any entity or natural persons.

¹⁹ 17 CFR 200.30-3(a)(12).

permitted basis and using AMM Liquidity Pools selected by such market participants.

Section 36(a)(1) of the Exchange Act grants the Commission the authority to “conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.”¹⁰

For the reasons discussed below, the Commission finds it appropriate in the public interest and consistent with the protection of investors to issue a temporary exemption, under section 36(a)(1) of the Exchange Act, from the definition of “exchange” to a TSV, subject to conditions.

Additionally, the Commission finds it appropriate in the public interest and consistent with the protection of investors to issue a temporary exemption from the definition of “dealer” under section 3(a)(5) of the Exchange Act to any liquidity provider in an AMM Liquidity Pool that supplies liquidity in the form of Tokenized NMS Stock using proprietary capital and may also be engaged in additional activities that are indicia of dealing activity, such as quoting pricing to customers or entering into agreements to provide committed capital (“Covered Firm”), subject to conditions.

On January 21, 2025, Acting Chairman Mark T. Uyeda established the Crypto Task Force to help provide greater clarity on the application of the Federal securities laws to the crypto asset markets.¹¹ The Crypto Task Force’s focus is to support, among other things, the Commission’s efforts to draw clear regulatory lines; appropriately distinguish securities from non-securities; craft tailored disclosure frameworks; provide realistic paths to registration for crypto asset offerings and intermediaries subject to the Federal securities laws; and ensure that investors have the information necessary to make informed investment

decisions.¹² To this end, the Crypto Task Force has hosted a series of roundtables, including an April 11, 2025 roundtable on secondary market trading,¹³ and requested and received written input from,¹⁴ and held meetings with, members of the public.¹⁵

In addition, on January 23, 2025, the White House issued an executive order, stating the policy to “support the responsible growth and use of digital assets, blockchain technology, and related technologies,” including by “providing regulatory clarity and certainty built on technology neutral regulations, frameworks that account for emerging technologies, transparent decision making, and well-defined regulatory boundaries.”¹⁶ Pursuant to the executive order, in July 2025, the President’s Working Group on Digital Asset Markets released a report entitled, “Strengthening American Leadership in Digital Financial Technology” that, among other things, provides a framework for regulatory reforms relating to crypto asset markets.¹⁷ In connection with the release of the PWG Report, Chairman Paul S. Atkins launched “Project Crypto,” a Commission-wide initiative to modernize rules and regulations under the Federal securities laws in accordance with the President’s Working Group’s recommendations to enable America’s financial markets to move onchain.¹⁸

This Order is informed by the extensive feedback the Commission and

its staff have received from the public to date, including from the Crypto Task Force’s roundtables, written input, and meetings.¹⁹ Some of the feedback addressed various risks and benefits associated with the trading of tokenized securities using distributed ledger technology and the ability of the Commission’s current regulatory regime to address them.²⁰ Based in part on this feedback, the Commission has determined to issue temporary exemptions to allow permitted trading of Tokenized NMS Stock on a TSV, subject to conditions. Public feedback has informed the formulation of the exemptions, including the scope, term, and breadth of the exemptions. As described in detail below, the exemptions are carefully scoped to ensure that they further the goals of protecting investors; maintaining fair, orderly, and efficient markets; and facilitating capital formation. The conditions applicable to TSVs, which are tailored to activities that are akin to activities that currently occur on registered national securities exchanges and alternative trading systems (“ATSs”) pursuant to SEC rules, are informed by the Commission’s extensive experience regulating securities trading and are designed to ensure the relief is in the public interest and consistent with the protection of investors.

Set to expire five years after publication, this Order is intended as an interim, targeted measure to facilitate the trading of Tokenized NMS Stock using distributed ledger technology, subject to the limitations and conditions specified herein, while the Commission considers the need for future rulemaking or other related actions. Although the Commission may determine to undertake rulemaking in the future, this Order is intended to address the immediate concerns of market participants seeking to establish a TSV while maintaining appropriate investor protections and allowing the Commission to proceed in a deliberate manner as it considers potential regulatory changes or other actions. The Commission anticipates that experience with the Order, both in the form of public input and the practical application of the exemptions, which are time-limited and subject to enumerated conditions, will help inform any future Commission actions in this area, including rulemaking. As an initial step in that process, the Commission solicits public comment about possible modifications to the exemptive relief provided in this Order

¹⁰ See 15 U.S.C. 78mm(a)(1).

¹¹ See U.S. Securities and Exchange Commission, Crypto Task Force, <https://www.sec.gov/about/crypto-task-force>. Acting Chairman Mark T. Uyeda designated Commissioner Hester M. Peirce to lead the Crypto Task Force. See Crypto Task Force Designation Letter from Acting Chairman Mark T. Uyeda (Feb. 4, 2025), available at <https://www.sec.gov/files/crypto-task-force-designation-letter.pdf>. On April 21, 2025, Chairman Paul S. Atkins was sworn into office. See U.S. Securities and Exchange Commission, Paul S. Atkins Sworn In as SEC Chairman (Apr. 21, 2025), available at <https://www.sec.gov/newsroom/press-releases/2025-68>.

¹² See U.S. Securities and Exchange Commission, Crypto Task Force, <https://www.sec.gov/about/crypto-task-force>.

¹³ See U.S. Securities and Exchange Commission, Crypto Task Force Roundtables, “Between a Block and a Hard Place: Tailoring Regulation for Crypto Trading,” <https://www.sec.gov/about/crypto-task-force/crypto-task-force-roundtables>.

¹⁴ See U.S. Securities and Exchange Commission, Crypto Task Force Written Input, <https://www.sec.gov/about/crypto-task-force/crypto-task-force-written-input>.

¹⁵ See U.S. Securities and Exchange Commission, Crypto Task Force Meetings, <https://www.sec.gov/about/crypto-task-force/crypto-task-force-meetings>.

¹⁶ Exec. Order No. 14,178 (“Strengthening American Leadership in Digital Financial Technology”), 90 FR 8647 (Jan. 31, 2025).

¹⁷ See The President’s Working Group on Digital Asset Markets, Strengthening American Leadership in Digital Financial Technology, dated July 30, 2025, available at <https://www.whitehouse.gov/wp-content/uploads/2025/07/Digital-Assets-Report-EO14178.pdf> (“PWG Report”).

¹⁸ See Chairman Paul S. Atkins, “American Leadership in the Digital Finance Revolution,” July 31, 2025, available at <https://www.sec.gov/newsroom/speeches-statements/atkins-digital-finance-revolution-073125>. For purposes of this Order, “onchain” refers to transactions or data that are processed and recorded directly on a crypto network, “offchain” refers to transactions or data that are processed and recorded outside of a crypto network, and a “crypto network” is a blockchain or similar distributed ledger technology network.

¹⁹ See *supra* notes 13–15.

²⁰ See *id.*

and potential next steps.²¹ The Commission looks forward to continued public engagement to help the Commission further assess the efficacy and sufficiency of the temporary exemptions.

A. Definition of Tokenized Securities Venue

A TSV is defined as an organization, association, or group of persons that brings together buyers and sellers of Tokenized NMS Stock by: (1) providing one or more AMM Liquidity Pool(s) for permissioned participants to interact and agree to terms of a trade and (2) setting standards for persons to access trading on such AMM Liquidity Pool(s).

First, a TSV can make available for trading only a Tokenized NMS Stock²² that is trading in a pair²³ with another Tokenized NMS Stock, a non-security crypto asset (e.g., a payment stablecoin issued by a permitted payment stablecoin issuer),²⁴ or a tokenized money market fund.²⁵ Any non-security crypto asset or tokenized money market fund must be directly paired and traded alongside a Tokenized NMS Stock to be eligible for trading on a TSV. The TSV Exemption does not limit the type of non-security crypto asset a TSV can pair with a Tokenized NMS Stock. A TSV will determine which Tokenized NMS Stock, non-security crypto assets, and

tokenized money market funds can trade on a TSV, subject to conditions as discussed herein.

Second, a TSV provides one or more AMM Liquidity Pool(s) for verified or credentialed users and liquidity providers (“TSV Participants”) to interact and agree to terms of a trade. An AMM Liquidity Pool typically operates pursuant to programmed rules and algorithms to set the prices of assets offered to users based on the ratio of assets committed by liquidity providers in the AMM Liquidity Pool. Liquidity providers commit assets to the liquidity pool and, in return, receive liquidity pool tokens (“LP tokens”) that are proportionate to the percentage of assets they have contributed to the liquidity pool.²⁶ A user willing to buy and sell particular assets can obtain prices and sizes either directly from the AMM Liquidity Pool or from an offchain functionality.²⁷ As users trade against offered prices derived from liquidity providers’ assets, or as liquidity providers add or remove their assets from the AMM Liquidity Pool, the AMM smart contract rebalances the price of the assets offered for trading in the AMM Liquidity Pool. Generally, thereafter, asset allocation among liquidity providers is updated and the value that the LP token represents will fluctuate based on the proportion of assets in the pool. Liquidity providers normally earn a fee as an incentive for depositing assets in the liquidity pool, which is paid by users who interact with the liquidity pool.

AMM Liquidity Pool business models and pricing mechanisms vary, generally depending on the protocol from which they are derived. TSVs can also use distributed ledger applications in conjunction with AMM Liquidity Pools to, for example, set fees or halt trading. AMM Liquidity Pools consist of distributed ledger applications that are encoded with non-discretionary rules under which TSV Participants interact and agree to the terms of a trade for a Tokenized NMS Stock.²⁸ A TSV that designates or controls an AMM Liquidity Pool as the means and location for trading Tokenized NMS Stock “provides” the AMM Liquidity Pool for purposes of the TSV definition.

For example, a TSV provides an AMM Liquidity Pool by selecting and designating the AMM Liquidity Pool as the means and location for TSV Participants to trade.²⁹ A TSV may also provide an AMM Liquidity Pool by exercising control over certain aspects of an AMM Liquidity Pool, including, for example, by deploying an AMM smart contract for trading a given pair of assets, setting or altering the rules or parameters of the pool, determining the fees for the pool, and/or having the ability to pause trading in the pool.

Third, a TSV sets standards for persons to access trading on an AMM Liquidity Pool. A TSV dictates which person(s) can access trading on the AMM Liquidity Pool. This includes, for example, the ability of TSV Participants to enter, display, and receive displayed orders, interact with counterparties, and agree to terms of a trade.³⁰ A TSV sets standards to allow only permissioned TSV Participants to access trading and to buy and sell Tokenized NMS Stock on the TSV. Permissioning access to trading a Tokenized NMS Stock on the TSV can, for example, help ensure that TSV Participants trading against each other are not subject to economic and trade sanctions and do not present illicit finance risks. Applicable identification or eligibility screening processes may be done through, for example, active, offchain management or onchain protocols.

The permissioning criteria for trading set by a TSV to grant access or limit levels of access may be enforced using a distributed ledger application in different ways. For example, an AMM Liquidity Pool used by the TSV may be encoded with criteria or a list of persons to ensure that only certain “white-listed” or “allow-listed” crypto asset wallet participant addresses (i.e., wallet addresses that meet certain credentialing requirements) gain access

²¹ See *infra* section VI.

²² The Order does not provide an exemption for purposes of the Investment Company Act of 1940 (“Investment Company Act”). Activities related to tokenized investment companies may raise issues under the Investment Company Act, such as multi-class issues under section 18 of the Investment Company Act and the application of section 22(d) and rule 22c-1.

²³ A trading “pair” on a TSV can include two or more legs. Each such leg must be a Tokenized NMS Stock, non-security crypto asset, or tokenized money market fund.

²⁴ The terms “payment stablecoin” and “permitted payment stablecoin issuer” have the meanings set forth in section 2 of the GENIUS Act. A “payment stablecoin” does not include a digital asset that is a security, as defined in section 2 of the Securities Act of 1933 (“Securities Act”), section 3 of the Exchange Act, or section 2 of the Investment Company Act. See section 2(22) of the GENIUS Act. Payment stablecoins issued by a permitted payment stablecoin issuer categorically will not be securities by operation of statute after the effective date of the GENIUS Act, which is the date that is the earlier of 18 months after its date of enactment (July 18, 2025) or the date that is 120 days after the date on which the “primary Federal payment stablecoin regulators” (as such term is defined in section 2(25) of the GENIUS Act) issue any final regulations implementing the GENIUS Act. See sections 17 and 20 of the GENIUS Act. This Order does not provide any interpretation as to whether TSVs are, or could be, “digital asset service providers,” as the term is defined in the GENIUS Act. See section 2(7) of the GENIUS Act.

²⁵ Money market funds are a type of fund registered under the Investment Company Act and regulated pursuant to Rule 2a-7 under the Investment Company Act.

²⁶ See PWC Report at 23, n. 61.

²⁷ The TSV Exemption is limited to activity performed through the functionalities and systems provided by a TSV.

²⁸ A TSV may consist of various functionalities that operate collectively to bring together buyers and sellers. If a TSV provides the use of a functionality to enter, display, or agree to terms of a trade on an order (e.g., a website, browser extension, or other software application), such functionality would be considered part of the TSV for purposes of the TSV Exemption.

²⁹ A person that solely performs the administrative act of encoding a smart contract to whitelist an AMM Liquidity Pool would not be providing an AMM Liquidity Pool.

³⁰ Under the TSV Exemption, a TSV is not limited to using only orders and may offer TSV Participants the use of other trading interest, such as indications of interest or requests for quotes, which are generally non-firm trading interest. For purposes of the TSV Exemption only, “trading interest” collectively refers to orders, quotes, indications of interest, and requests for quotes. For context, other Commission requirements—including Form ATS-N for ATSs that trade NMS stock (“NMS Stock ATSs”), which was adopted in 2018—apply to both orders and non-firm trading interest. See Form ATS-N, Part II, Item 1 (providing examples of “trading interest” including quotes, conditional orders, or indications of interest). See also Securities Exchange Act Release No. 83663 (July 18, 2018), 83 FR 38768 (Aug. 7, 2018).

to trading in the TSV.³¹ Alternatively, a Tokenized NMS Stock could be encoded with criteria to only allow transfers of the Tokenized NMS Stock to crypto wallet addresses of persons that meet the TSV's credentialing requirements.

B. Exemption From the Definition of "Exchange" and Scope

Today, permissioned AMM Liquidity Pools are unavailable for trading Tokenized NMS Stock, which may be a result of ambiguity surrounding the regulatory status of a TSV and how a TSV trading Tokenized NMS Stock could comply with the Federal securities laws. Federal securities laws and Commission rules today may not fully accommodate the use of a trading venue that incorporates AMM Liquidity Pools for trading Tokenized NMS Stock without requiring potentially burdensome changes to its business model. Given the nature of the TSV business model and the unique characteristics of trading tokenized securities, a TSV may face substantial challenges as a national securities exchange or ATS for Tokenized NMS Stock under Regulation NMS.³² For example, as prices on AMM Liquidity Pools are generally set based on the ratio of the quantities of the assets in a liquidity pool without directly considering external pricing, a TSV using an AMM Liquidity Pool may be unable to comply with the trade-through requirements of Rule 611 under Regulation NMS.³³ Additionally, there may be challenges for a TSV to meet the requirements of Rule 602(a) under Regulation NMS, which requires a national securities exchange to establish and maintain procedures and mechanisms for collecting and processing quotation information, including best bids and offers, from its member broker-dealers and making such information available to vendors; and to establish and maintain procedures for ascertaining and disclosing to other members of the exchange the identity of the responsible broker or dealer who made such bid or offer and the quotation size associated with it.³⁴ For

example, determining the best bids and offers of a TSV may be challenging where a TSV may be composed of multiple distinct liquidity pools that contain different pair combinations for a Tokenized NMS Stock and where a TSV disseminates prices that are based on a particular ratio of such assets in each pool. Further, a TSV might be encumbered by being required to identify best bids and offers of a particular broker or dealer given that AMM pricing and asset allocation among liquidity providers is continually updated based on the proportion of assets in the pool. In addition, pricing from an AMM Liquidity Pool may include quoting Tokenized NMS Stock in finer increments than the minimum pricing increments required by Rule 612, and compliance with such rule by, for example, rounding pricing, may have ramifications on AMM pricing and affect arbitrage.³⁵ In addition to such potential compliance challenges, certain features of distributed ledger technology, such as the transaction, price movement, and participant interaction transparency provided by AMMs, may potentially obviate the need for certain regulations.

Considering questions surrounding the application of securities regulations to a TSV, the Commission hereby issues, subject to the conditions set forth herein, a temporary exemption from the definition of "exchange" to a TSV,³⁶

³⁵ Depending on the decimal conventions of the blockchain network used for tokenization, a Tokenized NMS Stock (and its crypto asset pair) could be quoted at a price and volume using six to 18 decimal places. See, e.g., Decimal Precision, Chainscore Labs, available at <https://chainscorelabs.com/glossary/token-standards-erc-20-721-1155-and-beyond/fungible-tokens/decimal-precision>; Decimal Calculator, available at <https://www.tokendecimals.com>.

³⁶ An "exchange" is "any organization, association, or group of persons, whether incorporated or unincorporated, which constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange as that term is generally understood, and includes the market place and the market facilities maintained by such exchange." 15 U.S.C. 78c(a)(1). Exchange Act Rule 3b-16(a) provides a functional test to assess whether a trading platform meets the definition of an exchange and, if so, triggers the requirement to register as a national securities exchange pursuant to section 5 of the Exchange Act and comply with the requirements applicable to exchanges. See 17 CFR 240.3b-16(a); 15 U.S.C. 78f. Under Rule 3b-16(a), "an organization, association, or group of persons shall be considered to constitute, maintain, or provide 'a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange,' if such organization, association, or group of persons: (1) brings together the orders for securities of multiple buyers and sellers; and (2) uses established, non-discretionary methods

finding it necessary and appropriate in the public interest and consistent with the protection of investors.³⁷ TSVs and the use of distributed ledger technology under this exemption can offer several benefits to various market participants. TSVs provide another choice of venue for permissioned buyers and sellers to come together to trade Tokenized NMS Stock. In addition, TSVs offer the potential to benefit investors by enabling investor self-custody, around-the-clock trading, fractional ownership of shares, and near instantaneous settlement. Further, TSVs' use of distributed ledger technology to permission access to trading could facilitate investor verification to, for example, help assure investors that their counterparties are not subject to economic sanctions and may not present elevated money-laundering risks. TSVs' use of distributed ledger technology may also strengthen their controls by improving auditability and recordkeeping, thereby advancing investor protection and market integrity. The use of such technology may also lower operating, recordkeeping, and transaction costs,³⁸ and improve efficiencies.³⁹ Additionally, distributed ledger technology may provide greater transparency, potentially reducing information asymmetries in furtherance of investor protection.

Section 11A(a)(2) of the Exchange Act directs the Commission, having due regard for the public interest, the protection of investors, and the

(whether by providing a trading facility or by setting rules) under which such orders interact with each other, and the buyers and sellers entering such orders agree to the terms of a trade." 17 CFR 240.3b-16(a).

³⁷ Because the evaluation of whether an organization, association, or group of persons is an exchange depends on facts and circumstances, no presumption that a TSV is an exchange shall arise on the basis of reliance on the TSV Exemption.

³⁸ For example, a TSV's use of distributed ledger technology may enable proxy communications with company shareholders at a lower cost than is otherwise available today.

³⁹ See, e.g., Sarah Dean, Kevin McCabe, Aleksander Psurek and Nalin Bhatt, *Modeling Arbitrage with an Automated Market Maker* 3-4 (GMU Working Paper in Economics No. 22-48, 2022), available at <https://ssrn.com/abstract=4247283> ("Since traders in [centralized exchanges] must be matched with one another to trade, an incomplete contract may occur, where one party decides to renege on the exchange at the last minute. This is not possible with AMMs because they eliminate the matching of two parties. Instead of an order book, AMMs are smart contracts, which are agreements built from code that automatically run when certain conditions are met. They allow users to create, hold, and trade digital assets, and can solve the incomplete contract problem with their automatic fulfillment. Once a trader makes an acceptable buy or sell offer to an AMM it is immediately executed; therefore, there is no opportunity for a party to leave the contract unfulfilled.").

³¹ If a third-party service provider performs permissioning services, such as verification-related services, for example, at the direction of or on behalf of the TSV, the TSV, not such third-party service provider, would be responsible for ensuring that the TSV services comply with the conditions of the TSV Exemption.

³² 17 CFR 242.600-614.

³³ 17 CFR 242.611(a). On June 11, 2026, the Commission proposed to rescind the trade-through rule for NMS stocks, the provision regarding locking and crossing quotations for NMS stocks, and certain defined terms. See Securities Exchange Act Release No. 105655 (June 11, 2026), 91 FR 36656 (June 17, 2026).

³⁴ 17 CFR 242.602(a).

maintenance of fair and orderly markets, to facilitate the establishment of a national market system for securities (which may include subsystems for particular types of securities with unique trading characteristics).⁴⁰ Pursuant to the TSV Exemption, TSVs will make available Tokenized NMS Stock for trading using AMM Liquidity Pools, which generally do not directly consider external pricing or executions. As discussed above, a TSV could not comply with the requirements of Regulation NMS⁴¹ without significant modifications to its trading model, which may adversely impact TSV Participants. Given that we are exempting TSVs from the definition of “exchange,” a TSV that meets the conditions of the TSV Exemption would not be considered an exchange for purposes of the Exchange Act and would not be required to register as a national securities exchange nor operate under the exemption from such registration available to an ATS.⁴² As a result, such TSV would not be considered a trading center or a market center under Regulation NMS,⁴³ and thus the rules under Regulation NMS applicable to exchanges, ATSs, trading centers, and market centers would not apply to such TSV.⁴⁴ Trading activity conducted through TSVs pursuant to the conditional and time-limited TSV Exemption will help the Commission evaluate the impact of trading Tokenized NMS Stock using AMM Liquidity Pools and the TSV trading model on the national market system and determine whether and how trading activity in Tokenized NMS Stock on TSVs should be integrated into the national market system.

The TSV Exemption does not apply to securities activity conducted outside the TSV. Such securities activity may be subject to Commission registration requirements, as applicable, and rules and regulations under the Federal securities laws. An organization, association, or group of persons that is registered with the Commission for securities activity unrelated to a TSV could be eligible to operate under the TSV Exemption but must keep any registered activity separate from the operation of the TSV. For example, a registered entity may operate an affiliate⁴⁵ in compliance with the

conditions of the TSV Exemption, provided the operation of the TSV affiliate is kept separate from any registered activity.

This Order does not provide an exemption from any other applicable laws, including but not limited to the anti-fraud and anti-manipulation provisions of the Federal securities laws, such as the obligations under section 10(b) of the Exchange Act⁴⁶ and Rule 10b-5 thereunder.⁴⁷ As set forth in statute and relevant rules, regulations, and judicial decisions thereunder, such Federal securities law requirements will apply to securities activities performed on a TSV.⁴⁸ In addition, as stated below, the TSV must be a U.S. person and thus must comply with economic and trade sanctions programs administered and enforced by the Office of Foreign Assets Control (“OFAC”).

The TSV Exemption cannot be relied upon if the organization, association, or person within a group that comprises a TSV is subject to a statutory disqualification, as defined in section 3(a)(39) of the Exchange Act,⁴⁹ unless that organization, association, or person has been permitted by the Commission or any relevant self-regulatory organization (“SRO”), by order, rule, or otherwise, to continue its membership in or participation with such SRO or its association with a member of an SRO or other Commission registrant notwithstanding that organization, association, or person’s statutory disqualification. Any such organization, association, or person who has not received such permission from the Commission or the relevant SRO cannot rely on the TSV Exemption as there is an increased potential for that person to adversely affect the public interest by, for example, creating an unreasonable risk of harm to investors or the markets without additional regulatory oversight of such person.

Finally, TSV Participants, which include users and liquidity providers, may consist of a variety of market participants, such as retail investors (*i.e.*, natural persons), institutional

person that, directly or indirectly, controls, is under common control with, or is controlled by, the specified person. “Control” is defined for purposes of this Order to mean the power, directly or indirectly, to direct the management or policies of a TSV, whether through ownership of securities, by contract, or otherwise. The definitions of “affiliate” and “control” are aligned with definitions in rules under the Exchange Act. *See* 17 CFR 242.300(c) and (f).

⁴⁶ *See* 15 U.S.C. 78j(b).

⁴⁷ *See* 17 CFR 240.10b-5.

⁴⁸ This Order also does not relieve a TSV or a TSV Participant from any applicable registration requirements for securities transactions under the Securities Act.

⁴⁹ *See* 15 U.S.C. 78c(a)(39).

investors, or registered entities such as broker-dealers. As a wide range of market participants may desire increased investor choice, including the ability to trade Tokenized NMS Stock on a TSV,⁵⁰ it is in the public interest not to limit the types of participants that may trade on TSVs under the TSV Exemption. The TSV Exemption does not apply to nor address the regulatory or registration status of securities activities performed by TSV Participants. Depending on their securities activities, TSV Participants may be subject to SEC and SRO registration requirements, as applicable, and rules and regulations under the Federal securities laws, including the rules of any SRO of which they are a member and anti-money laundering/countering the financing of terrorism (“AML/CFT”) compliance requirements.

A TSV must comply with all of the conditions set forth herein.⁵¹ The Commission welcomes feedback regarding the application of the TSV Exemption and related conditions to particular facts and circumstances. Staff will be available to answer questions and may publish responses to frequently asked questions, as needed.

II. Conditions of the TSV Exemption

The exchange regulatory framework is designed to promote fairness, efficiency, and transparency by applying requirements rooted in investor protections and fair and orderly market principles. As discussed above, pursuant to section 36(a)(1) of the Exchange Act,⁵² the Commission is granting a temporary exemption to TSVs from the definition of an “exchange,” subject to the conditions set forth herein.

The conditions of the TSV Exemption are designed to mitigate risks and challenges that might arise from a TSV performing exchange activities outside the protections offered by the exchange regulatory framework and the national market system. A TSV that meets the conditions of the TSV Exemption would not be subject to the exchange regulatory framework and therefore would not be subject to the same books and records, examinations, and other oversight requirements applicable to national securities exchanges and ATSs. Without appropriate conditions, the TSV Exemption could introduce certain risks or challenges that may otherwise be addressed by rules applicable to a national securities exchange or an ATS.

⁵⁰ *See* PWC Report at 18–19 (discussing the types of market participants that use digital assets).

⁵¹ *See infra* section II.

⁵² *See* 15 U.S.C. 78mm(a)(1).

⁴⁰ 15 U.S.C. 78k-1(a)(2).

⁴¹ 17 CFR 242.600–614.

⁴² *See* 15 U.S.C. 78e, 15 U.S.C. 78f, and 17 CFR 242.301–304.

⁴³ 17 CFR 242.600(b)(106), 17 CFR 242.600(b)(55).

⁴⁴ *See, e.g.*, 17 CFR 242.605, 17 CFR 242.610, 17 CFR 242.611, 17 CFR 242.612, and 17 CFR 242.613.

⁴⁵ For purposes of this Order, “affiliate” shall mean, with respect to a specified person, any

For instance, TSVs could provide TSV Participants differing levels of transparency regarding, for example, permissioning, fees, and trading services, which could put some TSV Participants at an informational disadvantage. More generally, the use of distributed ledger technology could present cybersecurity and manipulation risks that, if not disclosed, could go unknown to TSV Participants.⁵³ In addition, fair and orderly markets could be impeded if, in the absence of a requirement to stop trading, a TSV continues to trade a Tokenized NMS Stock in the event of a stoppage of trading in the underlying security on the primary listing exchange. The conditions attendant to this Order are designed to address these types of risks and challenges, facilitate transparency and fair and orderly markets, and ensure that the TSV Exemption is in the public interest and consistent with the protection of investors.

A. TSV Distributed Ledger Applications

To ensure transparency, distributed ledger applications (*i.e.*, smart contracts) used by a TSV must be auditable, public, and deployed on a public, permissionless distributed ledger.⁵⁴ “Permissionless” generally means that anyone can read or write to the distributed ledger without authorization.⁵⁵ Requiring distributed ledger applications to be deployed on a public, permissionless distributed ledger will provide information that could help TSV Participants understand how their trades are effected on a TSV.

In addition, requiring that the distributed ledger application be auditable, public, and deployed on a public, permissionless distributed ledger will enhance TSV transparency, support market integrity, and reduce

systemic and operational risk by empowering participants and third parties to audit and report vulnerabilities, as well as help TSV Participants better assess the risks of trading on a particular TSV.

B. U.S. Persons

To be eligible for the TSV Exemption, a TSV must be a U.S. person.⁵⁶ U.S. persons are required to comply with economic and trade sanctions programs administered and enforced by the OFAC, including, but not limited to, the prohibition from engaging in transactions with persons on the Specially Designated Nationals and Blocked Persons (“SDN”) List and the requirement to block property of SDNs that are in the U.S. person’s possession or control.⁵⁷ Requiring a TSV to be a U.S. person, and thereby to comply with OFAC prohibitions and requirements as a U.S. person, should help mitigate the risk of illicit actors accessing the U.S. financial system and deter behavior that undermines U.S. national security or foreign policy.

C. Public Notice

To qualify for the TSV Exemption, at least 30 calendar days before operating, a TSV must publish a copy of a notice (“Notice”) prominently on its publicly available website that includes the information described below.⁵⁸ Such Notice must be written in plain English and presented in a clear, concise, and understandable manner. Within one business day of the publication of the Notice, the TSV must provide the Commission written notice at tradingandmarkets@sec.gov that it intends to operate pursuant to the TSV Exemption, including the means for contacting the TSV (*e.g.*, an email address and phone number) and the location of the Notice (*e.g.*, website URL). Such Notice will help inform

market participants and the Commission about when the TSV begins to operate.⁵⁹

A TSV must, in the same form and location as the initial Notice, publish a revised Notice: (1) within five business days to disclose that it has commenced or ceased making any Tokenized NMS Stock available for trading, paused or resumed trading in connection with the volume thresholds under the TSV Exemption, or received a timely Notice of Issuer Objection;⁶⁰ (2) 20 calendar days in advance of any material change to the operations of the TSV or to the disclosures in the Notice; (3) no later than 30 calendar days following the end of any calendar quarter to describe any non-material change to the operations of the TSV or to the disclosures in the Notice; and (4) within five business days of the discovery of any materially inaccurate or incomplete information in the Notice, including in any previous revisions to the Notice.⁶¹

Pursuant to the TSV Exemption, a TSV must provide the Commission written notice within one business day of publishing any revised Notice on its website. The TSV must maintain all versions of its Notice on its website.⁶²

Revised Notices will provide market participants and the Commission with current information about whether the TSV has commenced, ceased, paused, or resumed trading in a Tokenized NMS Stock; material changes to the TSV operations and Notice disclosures that are forthcoming; and non-material changes that have been made to the operations of the TSV or its Notice disclosures. By providing advance notice of material changes, the revised Notice will allow market participants to protect their interests and consider whether the use of the TSV, as modified, would be consistent with their trading objectives. Furthermore, requiring a revised Notice to correct any materially inaccurate or incomplete information in the Notice will help ensure the disclosure of accurate information to market participants that rely on the Notice disclosures.

D. Issuer Notice and Notice of Issuer Objection

Before making available for trading a Tokenized NMS Stock that is tokenized by a third party unaffiliated with the

⁵³ See PWG Report at 38 (stating that, similar to traditional markets, digital asset markets face risks from fraud, manipulation, and illicit conduct, and that “[s]mart contracts may introduce certain risks due to potential coding errors, inadequate testing or auditing of code, or security vulnerabilities that can be exploited, leading to unauthorized transfers or loss of funds”). See also Campbell R. Harvey, Joel Hasbrouck, and Fahad Saleh, *The Evolution of Decentralized Exchange: Risks, Benefits, and Oversight*, Research Policy, Volume 55, Issue 3 (2026) (discussing types of front-running that can occur on AMMs).

⁵⁴ TSVs are welcome to engage with Commission staff on questions regarding whether the distributed ledger on which their distributed ledger applications are deployed satisfies the requirements of this condition. The Commission encourages market participants, including TSVs that may not meet one or more of the conditions of the TSV Exemption, to engage with the Commission staff on whether additional relief from any requirement of the federal securities laws is necessary, or the conditions should be otherwise modified.

⁵⁵ A permissioned AMM Liquidity Pool can be deployed on “permissionless” blockchain.

⁵⁶ A “U.S. person” means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States. See, *e.g.*, 31 CFR 560.314 (Iranian Transactions and Sanctions Regulations (ITSR)); 31 CFR 598.318 (Foreign Narcotics Kingpin Sanctions Regulations); 31 CFR 591.312 (Venezuela Sanctions Regulations).

⁵⁷ “All U.S. persons must comply with OFAC sanctions, including all U.S. citizens and permanent residents regardless of where they are located, all individuals and entities within the United States, and all U.S. incorporated entities and their foreign branches.” Basic Information on OFAC and Sanctions, available at <https://ofac.treasury.gov/faqs/11>. See also 31 CFR 500–599.

⁵⁸ See *infra* section III. With respect to all notices required by conditions of the TSV Exemption, if a TSV comprises a group of persons, one person from that group can be designated to provide notice on behalf of all such persons.

⁵⁹ See *infra* section III.

⁶⁰ See *infra* sections II.D, II.F.

⁶¹ Each revision to the Notice must indicate which of these categories the change that is being made falls under, and if the change has not yet been made, the date such change will go into effect.

⁶² The TSV may identify the changes in a marked document or “redline” to help market participants and the Commission easily review changes it is making in any revision.

issuer of the underlying NMS stock, a TSV must provide written notice to the issuer of the underlying NMS stock ("Issuer Notice").⁶³ Trading of a Tokenized NMS Stock on the TSV may not commence until at least 30 calendar days from the date when the issuer receives the Issuer Notice.⁶⁴

If the issuer provides, on or prior to the 30th calendar day following receipt of the Issuer Notice, written notice to the TSV that it objects to a Tokenized NMS Stock that was tokenized by a third party unaffiliated with the issuer being made available for trading on the TSV ("Notice of Issuer Objection"), the TSV cannot make such Tokenized NMS Stock available for trading on the TSV. Within five business days, the TSV must amend the public Notice⁶⁵ to inform the public that it has received the Notice of Issuer Objection.

An issuer's ability to object to the trading of a Tokenized NMS Stock that was tokenized by a third party unaffiliated with the issuer on a TSV will enable the issuer of the underlying NMS stock to consider the balance of potential benefits and risks accompanying trading of its Tokenized NMS Stock on a TSV. For example, an issuer of the underlying NMS stock may be concerned about the risk of maintaining its shareholder register related to onchain transfers or the potential price dislocation or adverse effects on the price of the underlying NMS stock, particularly given that prices disseminated by an AMM Liquidity Pool are most likely based only on the ratio of the quantities of assets in that liquidity pool.

A TSV operating under the TSV Exemption that fails to provide Issuer Notice, or makes available for trading the Tokenized NMS Stock of an issuer that has delivered a Notice of Issuer Objection to the TSV in the manner set forth above, would not meet the conditions of the TSV Exemption with respect to trading such Tokenized NMS Stock.

⁶³ Issuer Notice must be sent to the physical or email address for the issuer's principal executive offices listed on the cover page of the issuer's Exchange Act reports. Issuer Notice must include the TSV's current and accurate contact information for the issuer to provide any notice of its objection.

⁶⁴ A TSV can obtain confirmation of whether and when an issuer received an Issuer Notice by, for example, requesting a return receipt/proof of delivery or a receipt notification depending on whether the Issuer Notice was sent to the issuer's physical or email address.

⁶⁵ See *infra* section III.j.

E. No Primary Issuance and Rights of the Holders of the Tokenized NMS Stock Traded

All offers and sales of Tokenized NMS Stock under the TSV Exemption must be registered under the Securities Act or conducted pursuant to an exemption from the registration requirements of the Securities Act. No primary issuance or initial offerings of securities are permitted on a TSV under the TSV Exemption.

A TSV must verify that the Tokenized NMS Stock made available for trading on the TSV provides holders the same rights and privileges as does traditional NMS stock of an equivalent class. A Tokenized NMS Stock would be deemed to provide the same rights and privileges as does traditional NMS stock if, among other things, it conveys the same interest in the company that holders of the underlying NMS stock have, a right to receive the same dividends that the company issues to holders of the underlying NMS stock, a right to exercise the same voting rights that holders of the underlying NMS stock may exercise, and a right to receive the same share of the residual assets of the company upon liquidation as holders of the underlying NMS stock receive. For example, regardless of the mechanism used to pass through any voting rights of the underlying NMS stock, a TSV can only make available for trading an NMS stock tokenized by a third party that is unaffiliated with the issuer of the underlying NMS stock if the third party distributes or otherwise makes available to holders of the Tokenized NMS Stock any related proxy materials or other issuer communications at no cost to the issuer or the shareholders.

F. Limitations on Number of Symbols and Volume of Tokenized NMS Stock Traded

Tokenized NMS Stock traded on a TSV under the TSV Exemption is subject to limitations on the number of symbols and volume traded. Tokenized NMS Stock is divided into two tiers: Tier 1 ("Tier 1 Tokenized NMS Stock") and Tier 2 ("Tier 2 Tokenized NMS Stock"). Tier 1 and Tier 2 Tokenized NMS Stock comprise the NMS stocks in Tier 1 and Tier 2, respectively, of the National Market System Plan to Address Extraordinary Market Volatility ("Limit Up-Limit Down Plan" or "LULD Plan").⁶⁶

⁶⁶ The Commission approved, on a pilot basis, the LULD Plan in 2012. See Securities Exchange Act Release No. 67090 (May 31, 2012), 77 FR 33531 (June 6, 2012) (Order Granting Accelerated Approval of Proposed Rule Changes as Modified by

Tier 1 Tokenized NMS Stock traded on a TSV under the TSV Exemption cannot exceed 75 symbols traded and 0.25 percent of the average daily share volume during the prior month in the relevant NMS stock as reported by an effective transaction reporting plan.⁶⁷ Tier 2 Tokenized NMS Stock traded on a TSV under the TSV Exemption cannot exceed 250 symbols traded and 2.5 percent of the average daily share volume during the prior month in the relevant NMS stock as reported by an effective transaction reporting plan. The percentage of the average daily share volume during the prior month for a given security shall be calculated using the average daily share volume of a given Tokenized NMS Stock traded on the TSV as the numerator, and the average daily share volume of the NMS stock (as reported by an effective transaction reporting plan) as the denominator.⁶⁸ When calculating volume for purposes of compliance with the TSV Exemption, a TSV must aggregate its trading volume with that of its affiliated TSVs for a given Tokenized NMS Stock. Similarly, when calculating the number of symbols traded for purposes of compliance with the TSV Exemption, the TSV must aggregate its number of symbols traded with the number of symbols traded by its affiliated TSVs.⁶⁹ This is intended to help avoid a situation in which businesses are structured into multiple

Amendments No 1, Relating to Trading Halts Due to Extraordinary Market Volatility). The Commission approved the LULD Plan on a permanent basis in 2019. See Securities Exchange Act Release No. 85623 (Apr. 11, 2019), 84 FR 16086 (Apr. 17, 2019). There have been subsequent amendments to the LULD Plan. See, e.g., Securities Exchange Act Release No. 103845 (Sept. 3, 2025), 90 FR 43254 (Sept. 8, 2025). See also <https://www.luldplan.com/plans>.

⁶⁷ "[A]s reported by an effective transaction reporting plan" means as reported by the Consolidated Tape Association Plan/Consolidated Quotation Plan (CTA/CQ Plans) and the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (UTP Plan) for inclusion in the securities information processor (SIP). These include data from various market centers, including national securities exchanges, FINRA, and broker-dealers.

⁶⁸ NMS stocks are, by definition, securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan. See *supra* note 1.

⁶⁹ For purposes of determining the trade date for the calculation of daily share volume and the number of symbols, the next trade date will start concurrently with when trades must be reported to the SIP. TSVs should monitor for amendments to the UTP and CTA/CQ Plans for any changes in the SIPs' operating hours and the definition of a trading day.

TSVs to avoid triggering the volume and symbol limitations.

As noted above, the Tokenized NMS Stock in Tier 1 and Tier 2 are the NMS stocks in LULD Plan Tier 1 and Tier 2. The NMS stock in Tier 1 of the LULD Plan consists of all NMS stocks included in the S&P 500 Index, the Russell 1000 Index, and certain exchange-traded products (“ETPs”) that trade over \$2,000,000 in notional consolidated average daily volume.⁷⁰ Tier 2 NMS stock under the LULD Plan is NMS stock that is not Tier 1 NMS stock and is not rights and warrants.⁷¹ LULD Plan Tier 1 NMS stocks have the largest capitalization of all U.S. equities and are generally more liquid and have higher average daily trading volume than those in Tier 2.⁷² The LULD Plan has been in place since 2012, and market participants are familiar with the categorization of LULD Plan Tier 1 and Tier 2 NMS stocks. Using Tier 1 and Tier 2 of the LULD Plan in the TSV Exemption corresponds with an established standard used for NMS stocks and provides a commonly understood and publicly available basis for categorizing the Tokenized NMS Stock offered for trading by a TSV for purposes of applying the TSV Exemption’s volume limitations.⁷³

Different limits for Tier 1 and Tier 2 Tokenized NMS Stock are designed to better calibrate the trading limits to the

types of securities within each tier. As average daily trading volume limits can more easily be exceeded for less liquid securities, Tier 2 Tokenized NMS Stock is subject to higher volume limits under the TSV Exemption than is Tier 1 Tokenized NMS Stock. Separate trading percentage limits for Tier 1 and Tier 2 Tokenized NMS Stock, rather than a single threshold applicable to all Tokenized NMS Stock, are designed to better calibrate the characteristics of stocks that trade in each tier. Because there are also more LULD Plan Tier 2 securities than in LULD Plan Tier 1, it is appropriate to set a higher limit on the number of symbols that can be Tier 2 Tokenized NMS Stock. Furthermore, separate limits on the number of symbols traded for Tier 1 and Tier 2 Tokenized NMS Stock incentivize TSVs to make available for trading Tokenized NMS Stocks that are not only the most liquid securities.

Exceeding the volume limit in any Tokenized NMS Stock will, depending on the circumstances, cause a TSV to not meet the conditions of the TSV Exemption with respect to trading such Tokenized NMS Stock and require the TSV to pause trading in the applicable Tokenized NMS Stock for three months. The Commission recognizes that a TSV may inadvertently exceed a volume threshold, for example, due to a miscalculation in either a numerator or denominator. The first time a TSV exceeds a volume threshold in a Tokenized NMS Stock, it will not be required to take any action, other than to ensure that it does not exceed the volume thresholds going forward. As TSVs are likely new to trading Tokenized NMS Stock, a stepped compliance approach will allow TSVs to become acclimated with complying with the trading limitations and will not be overly punitive if TSVs initially experience inadvertent errors coming into compliance.⁷⁴

After the first time a TSV exceeds the volume threshold in a given Tokenized NMS Stock, each time the TSV subsequently exceeds the volume threshold in the applicable Tokenized NMS Stock, the TSV must immediately pause trading in such Tokenized NMS Stock for three months.⁷⁵ The TSV may resume trading in the same Tokenized NMS Stock three months from the date the TSV exceeded the volume threshold. During such pause, a TSV may continue

to trade Tokenized NMS Stocks that have not exceeded the thresholds. Upon approaching a volume threshold but before triggering the threshold, a TSV may choose to pause trading in a Tokenized NMS Stock to avoid triggering the volume threshold. Each time that it has paused trading in a Tokenized NMS Stock in connection with the volume threshold, whether it be TSV-initiated or pursuant to the condition to pause, the TSV must immediately notify its TSV Participants of the pause in trading through any regular means of communication with its TSV Participants (e.g., website, software application, or interface)⁷⁶ and must accordingly amend its public Notice⁷⁷ within five business days.

The symbol number and trading volume limitations under the conditions of the TSV Exemption are designed to mitigate potential risks to the broader markets as TSV Participants experiment with trading Tokenized NMS Stock on TSVs and as the Commission considers rulemaking to address the trading of Tokenized NMS Stock. The thresholds of 0.25 percent for Tier 1 Tokenized NMS Stocks and 2.5 percent of average daily share volume during the prior month for Tier 2 Tokenized NMS Stocks are designed to mitigate potential disruptions in trading in the overall market for the NMS stock (whether tokenized or in traditional format) for the duration of the TSV Exemption. The Commission is mindful of the risk of potential adverse impacts of trading Tokenized NMS Stocks on TSVs on the broader markets for NMS stocks that are required to comply with Regulation NMS. In this regard, the prices of Tokenized NMS Stock trading on a TSV could dislocate from the prices of the NMS stock in traditional format, particularly given that AMM Liquidity Pools generally use the ratio of the quantities of assets in the liquidity pool to determine pricing. The trading volume limitations are designed to help limit the potential impact of any price dislocations between the Tokenized NMS Stock and the NMS stock in traditional format and any adverse effects on market quality for NMS stocks. Finally, the thresholds allow TSV Participants to engage in meaningful trading volume in a Tokenized NMS Stock on a TSV. The conditions to immediately announce a pause on a TSV’s website or via any regular means of communication and to

⁷⁰ The LULD Plan Appendix A, Schedule 1 lists the ETPs that are currently eligible for inclusion as a Tier 1 NMS Stock for purposes of the LULD Plan. See <https://www.luldplan.com/plans>. The LULD Plan Appendix A, Schedule 1 is generally updated semi-annually. For purposes of the TSV Exemption, Tier 1 Tokenized NMS Stock includes all Tokenized NMS Stock included in the S&P 500 Index, the Russell 1000 Index, and eligible ETPs as provided by the LULD Plan. See *id.*

⁷¹ Tier 2 Tokenized NMS Stock includes all Tokenized NMS Stock other than those in Tier 1.

⁷² Based on staff analysis of equity consolidated market data feeds for 2025, the daily weighted average trading volume for LULD Plan Tier 1 NMS stocks and Tier 2 NMS stocks was 3,022,668 shares and 1,207,978 shares, respectively, for the year ending 2025. To calculate the daily averages for the year, staff first calculated monthly daily averages for each NMS stock in the tiers, and then calculated a daily weighted average based on the number of trading days in each month. For avoidance of doubt, the TSV Exemption is using the LULD Plan tiering methodology only to categorize Tokenized NMS Stock; the TSV Exemption does not in any way alter or modify, or propose to alter or modify, the LULD Plan.

⁷³ The NMS stock that comprises Tier 1 and Tier 2 of the LULD Plan are specified in Appendix A to the LULD Plan, which is publicly available on the LULD Plan website. See <https://www.luldplan.com/plans>. For purposes of designing the TSV Exemption, the Commission used the NMS stocks in Tier 1 and Tier 2 of the LULD Plan as the model for Tier 1 and Tier 2 Tokenized NMS Stock. Because the LULD Plan excludes rights and warrants from LULD Tier 1 and Tier 2, Tokenized NMS Stock for purposes of the TSV Exemption excludes rights and warrants.

⁷⁴ The stepped compliance approach only applies with respect to the volume limitations and not to the limitations in the number of symbols. A TSV that exceeds the symbol number thresholds would not meet the conditions of the TSV Exemption.

⁷⁵ Affiliated TSVs must accordingly pause trading in the same Tokenized NMS Stock.

⁷⁶ A TSV has flexibility to determine an efficient way to disseminate the information to TSV Participants shortly after pausing trading in a Tokenized NMS Stock.

⁷⁷ See *infra* section III.

amend its public Notice allow TSV Participants to adjust their trading strategies in a timely manner.

G. Transaction Transparency

A TSV must make U.S. dollar-denominated data concerning transactions freely and publicly available in a machine-readable format for all transactions within the past thirty (30) days. The transaction data must be updated within ten (10) minutes of the occurrence of any transaction⁷⁸ and include, at minimum, the following: (i) the symbols for each Tokenized NMS Stock and paired asset (non-security crypto asset, tokenized money market fund, or Tokenized NMS Stock), (ii) the transaction price, (iii) the transaction size, (iv) the transaction time at the AMM Liquidity Pool,⁷⁹ and (v) the transaction direction.⁸⁰ In addition, the TSV must provide information pertaining to the AMM Liquidity Pool and its smart contract address, daily asset pair share volume,⁸¹ and end-of-day size of the AMM Liquidity Pool per asset pair.⁸²

Registered national securities exchanges and ATSs are subject to certain transaction reporting obligations to facilitate transparency and oversight. With distributed ledger technology, TSVs may provide transparency that could mitigate some of the risks that national securities exchange and ATS transaction reporting obligations are assigned to address. The transaction transparency conditions under the TSV Exemption require that all TSVs provide certain standard information to be eligible for the exemption. A TSV must make such transaction data publicly available to market participants at the same time and on the same terms. Conditioning the TSV Exemption on such transaction data from the TSV

being denominated in U.S. dollars and being made publicly available to all market participants at the same time and on the same terms will help reduce information asymmetries and provide market participants with equivalent data to evaluate the TSV and protect their interests. Further, the condition that transaction data be denominated in U.S. dollars will help facilitate compliance by TSVs and TSV Participants with other Commission rules and the Federal securities laws, as applicable.⁸³

H. Stoppage of Trading

A TSV must stop trading in a Tokenized NMS Stock concurrently with any stoppage of trading in the underlying NMS stock on the primary listing exchange, which includes a halt or a suspension. Stoppages in trading in a Tokenized NMS Stock occur for various reasons, such as, among others, a trading halt in the underlying NMS stock in the event a market-wide circuit breaker is triggered or pending dissemination of material news or a trading suspension of the underlying NMS stock by the SEC, the SRO, or associated with delisting proceedings.

Following any stoppage of trading in a Tokenized NMS Stock, a TSV must immediately notify its TSV Participants of the stoppage through any regular means of communication with its TSV Participants (e.g., website, software application, or interface).⁸⁴

Given the speed of trading and interconnected nature of the markets for Tokenized NMS Stock and the underlying NMS stock, a stoppage of trading at a single entity may quickly create losses and liability for market participants, including TSV Participants and particularly liquidity providers who commit assets to the liquidity pool. The condition to immediately publish stoppages on a TSV's website or via any regular means of communication allows

TSV Participants to adjust their trading strategies in a timely manner. The condition to stop trading a Tokenized NMS Stock concurrently with any stoppage of trading in the underlying NMS stock on the listing exchange will help prevent material price dislocations that could result from continuous trading of a Tokenized NMS Stock while the underlying NMS stock is under a stoppage of trading.

In addition, if the TSV determines on its own accord to stop making available a Tokenized NMS Stock for trading, the TSV must immediately notify TSV Participants.⁸⁵ This will provide TSV Participants, including liquidity providers that have committed assets to the liquidity pool, with information that will help them determine how and when to exit their positions.

I. Significant Operational Event

TSVs are dependent on sophisticated technology, which could potentially bring risks of exposure to cybersecurity events from threat actors intent on doing harm, and also operational systems problems that can arise inadvertently. To mitigate adverse effects of any such events, a TSV must immediately notify its TSV Participants,⁸⁶ and promptly notify the Commission,⁸⁷ of an event that has a significant impact on the operation of the TSV or on its participants ("significant operational event").⁸⁸ One example of such significant operational event would be a known disruption to the systems that support the TSV, such as functionalities relating to trading, the AMM Liquidity

⁸⁵ If the TSV ceases making a Tokenized NMS Stock available for trading for any reason, it also must revise its Notice within five business days. See *supra* section II.C.

⁸⁶ In the context of a significant operational event, the TSV must notify the TSV Participants of the event upon having a reasonable basis to conclude that the event has occurred. Notice to TSV Participants can be accomplished various ways, including a TSV making information publicly available on its website or its public communication channels (e.g., X.com). As part of the books and records conditions of the TSV Exemption, a TSV must also keep a record of the notice(s) it provided to TSV Participants of the event. See *infra* note 96 and accompanying text.

⁸⁷ The requirement for prompt notification, as opposed to immediate notification, is designed to provide some limited flexibility to the TSV to keep the Commission apprised of the significant operational event simultaneously as, or shortly after, the TSV notifies the TSV Participants of the occurrence. The TSV must provide notification of a significant operational event to the Commission in writing by email at tradingandmarkets@sec.gov.

⁸⁸ A significant operational event could take various forms. For example, an event is likely to be a "significant operational event" if it impacts systems (including systems that support distributed ledger applications or entering or disseminating trading interest) by limiting or precluding the TSV from permissioning access or offering trading services to TSV Participants.

⁷⁸ A TSV, for example, could provide a separate data feed of transaction reports (accessible, for example, via API) or make such information available on a public website or software application. The TSV must provide pricing and transaction data in U.S. dollars using consistent, impartial, and reasonable methods commonly applied by market participants for converting the value of an asset that is not quoted in U.S. dollars.

⁷⁹ The transaction time should be reported in UTC time (Coordinated Universal Time), the time standard used for crypto asset transactions. See UTC Time Definition, Gate, <https://www.gate.com/learn/glossary/utc-time-definition>.

⁸⁰ For each transaction, the direction shall specify the asset within the pair that is being contributed to the AMM Liquidity Pool and the asset that is being withdrawn from the AMM Liquidity Pool.

⁸¹ The daily asset pair trading volume is the volume calculated between the time of data publication as determined by the TSV and the previous 24 hours.

⁸² The end-of-day size of the AMM Liquidity Pool per asset pair is the size calculated at the time of data publication as determined by the TSV.

⁸³ For example, FINRA Rule 6110 requires FINRA members to "report transactions in NMS stocks, as defined in Rule 600(b) of SEC Regulation NMS, effected otherwise than on or through a national securities exchange to FINRA."

⁸⁴ A TSV has flexibility to determine an efficient way to disseminate the information to TSV Participants about the stoppage shortly after the stoppage. In addition, the TSV must make and keep current as part of its books and records, for any stoppage of trading by the TSV, the Tokenized NMS Stock that stopped trading, reasons for the stoppage, the start time and end time of the stoppage, the reasons for resuming trading, and the notice(s) it provided to TSV Participants and the public for the stoppage. See *infra* section II.L. In the Notice (discussed below), the TSV must describe the circumstances under which it would stop trading or displaying trading interest, any risk controls, and the circumstances and procedures for resuming trading, accepting trading interest, or displaying trading interest after a stoppage. See *infra* section III.cc.

Pool or protocol, or the entry of trading interest. Another example would be a known intrusion,⁸⁹ such as a system intrusion, that impacts trading or the assets of TSV Participants or the security of their information.⁹⁰

A TSV must remedy any known significant operational events as soon as reasonably practicable and notify its TSV Participants of the remediation. Notification of potential systems disruptions, for example, will allow TSV Participants to adjust their trading strategies and, in the case of a system intrusion that might put TSV Participants' assets at risk of loss, take precautionary steps to limit any damages. If a system used by a TSV is adversely impacted by a significant operational event, it may disrupt and impede orderly and efficient market operations of Tokenized NMS Stock and the NMS markets more generally. Notifications will allow the Commission to monitor the risks posed by systems that are used by the TSVs and facilitate the Commission's mission of maintaining fair and orderly markets. In addition, such notifications will inform the Commission as it considers establishing an appropriate regulatory framework to help ensure the resiliency of Tokenized NMS Stock markets. Appropriate remedial action following a significant operational event will mitigate potential harm to investors and enhance market integrity.

J. No Leverage

A TSV cannot engage in financing activities, which are generally not exchange activities, and are inappropriate for an entity that is not subject to requirements such as capital and margin rules to help ensure that such activities are conducted in a financially responsible manner. Thus, a TSV cannot borrow, whether secured or unsecured, securities or non-security crypto assets on the TSV, and cannot, directly or indirectly, hypothecate or arrange for or permit the hypothecation of any securities or non-security crypto assets on the TSV. A TSV is not permitted to extend credit to a TSV Participant for the purpose of purchasing a Tokenized NMS Stock on the TSV.

⁸⁹ The term "intrusion" includes unauthorized external intrusions as well as unauthorized internal personnel access to the systems and the information residing therein.

⁹⁰ The notice should provide information about the event, including the nature and the time of the event, the TSV's systems impacted by the event, and the event's impact on TSV Participants and the TSV's market for Tokenized NMS Stock.

K. No Misrepresentations and Public Disclaimer

A TSV cannot make any statements—public or private—to the effect that it is "registered" with the Commission or that the TSV's activities involving Tokenized NMS Stock and non-security crypto assets or tokenized money market funds used to trade in pairs with Tokenized NMS Stock have been "approved" or "endorsed" by the Commission, or any similar formulation. The TSV must also affirmatively disclose in its public Notice (discussed below) that it is not registered with the Commission. This condition will inform market participants that the TSV is not subject to the investor protection requirements of Commission registration as an exchange.

L. Books and Records

A TSV must make and keep current trading records as well as any information related to compliance with the conditions of the TSV Exemption, including:

- a. Information regarding trading interest in Tokenized NMS Stock, including date and time of receipt, size, and price (denominated in U.S. dollars);
- b. Information about transactions, including date and time of execution, size, non-security crypto assets or tokenized money market funds traded in pairs with a Tokenized NMS Stock, cancellations, modifications, and price (denominated in U.S. dollars);
- c. Information regarding the methods used to verify or screen TSV Participants and verify the wallet addresses associated with each TSV Participant used to access the TSV;
- d. Fees, rebates, and discounts, and any material sources of compensation to the TSV related to activities on the TSV;
- e. For any stoppage of trading by the TSV, the Tokenized NMS Stock that stopped trading, reasons for the stoppage, the start time and end time of the stoppage, and the reasons for resuming trading;
- f. The average daily share trading volume of each Tokenized NMS Stock traded on the TSV;
- g. Events that impact the operation of the TSV or the TSV Participants, such as system intrusions and system disruptions;⁹¹ and
- h. All notices submitted to the public, Commission, issuers, and TSV

⁹¹ The TSV must provide immediately to the TSV Participants, and promptly to the Commission, notice of a significant operational event. *See supra* section II.I. In its books and records, the TSV must make and keep current such events it has reported to the Commission. The books and records must also include details about events that impact the operation of the TSV or the TSV Participants that are not reportable as significant operational events.

Participants in connection with the TSV Exemption (e.g., public Notice,⁹² Issuer Notice,⁹³ notice of pausing trading in a Tokenized NMS Stock in connection with a volume threshold,⁹⁴ notice of a stoppage of trading in a Tokenized NMS Stock,⁹⁵ notice of a significant operational event⁹⁶).

A TSV must preserve all such books and records while the TSV Exemption is effective and for a period of three years after the end of the TSV Exemption, maintain such books and records in the United States, and make promptly available all books and records of the TSV to the Commission staff in both a human-readable format and a reasonably usable electronic format⁹⁷ upon request. A TSV must consent to examinations of its books and records by the Commission staff at any time, including for ongoing compliance with the conditions of the TSV Exemption.⁹⁸ Under the TSV Exemption, records from a distributed ledger would satisfy such books and records requirements if they can be readily accessed by the Commission in a human-readable format and a reasonably usable electronic format.

The books and records requirements will facilitate the Commission's ability to determine compliance with the conditions of the TSV Exemption. These books and records requirements are similar to those required of registered national securities exchanges and ATSS and tailored to the activities of a TSV. The books and records conditions are also intended to provide the Commission with prompt access to information needed to help determine whether fraudulent or manipulative activity has occurred and whether additional steps are necessary to halt such activity.

III. Information Included in the Public Notice

To operate under the TSV Exemption, the TSV must publish and, as necessary, revise a public Notice as set forth above.⁹⁹ As described herein, the Notice will include information designed to help market participants understand how to access and trade on a TSV and protect their interests. In addition, the

⁹² *See infra* section III.

⁹³ *See supra* section II.D.

⁹⁴ *See supra* notes 75–77 and accompanying text.

⁹⁵ *See supra* note 84 and accompanying text.

⁹⁶ *See supra* notes 86–88 and accompanying text.

⁹⁷ A human-readable format would be a format that can be naturally read by a human, and a reasonably usable electronic format would be a format that is common and compatible with commonly used systems for accessing and reading electronic records.

⁹⁸ *See generally* section II.

⁹⁹ *See supra* section II.C.

information will help the Commission oversee securities activities of the TSV and monitor developments in the trading of Tokenized NMS Stock. Accordingly, the following information must be in the Notice:

a. *Disclaimer*: State that: (i) the TSV is not registered with the Commission in any capacity for the activities performed under the TSV Exemption and the Commission has not passed upon the merits or accuracy of the disclosures in the Notice; (ii) the TSV is not subject to the fair access requirements applicable to registered national securities exchanges and ATSs subject to Rule 301(b)(5) of Regulation ATS¹⁰⁰ and that unfair and unreasonably discriminatory denials or limitations of access of TSV Participants by the TSV are not subject to SEC review; and (iii) the TSV is not subject to Regulation NMS.

b. *Use of the Exemption*: The TSV must acknowledge that its use of the TSV Exemption is subject to Commission oversight and that operating a TSV in a manner inconsistent with the TSV Exemption could result in a Commission enforcement action.

c. *Overview of the Tokenized Securities Venue*: Describe generally the structure and organization of the TSV and its products, services, and operations. Describe the ownership and/or governance structure of the TSV, including both offchain and onchain governance mechanisms, and provide the name of any affiliated TSV. Include, as applicable, a description of any governance rights of LP tokens.

d. *Non-Exempt Activities*: Identify whether the organization, association, group of persons, or any person within a group that comprises the TSV is registered in any capacity with the Commission and, if so, provide a summary of the activities that require such registration with the Commission.

e. *TSV Participants*: Describe the types of persons who are eligible to access and participate on the TSV (e.g., retail investors, institutional investors, liquidity providers, broker-dealers), including the types of persons that can access the TSV by way of a broker-dealer.

f. *Permission Trading Access*

Eligibility: Describe the criteria or standards used to grant a person access to the services of the TSV. Describe the procedures for approving access (e.g., white-listing or permissioning) of potential TSV Participants or wallet addresses, including, among others, any procedures to verify a person's identity, and the procedures for providing access based on such approval. Describe any conditions or circumstances for denying or limiting a person from accessing TSV services, including for purposes of compliance with economic and trade sanctions programs administered by OFAC and applicable AML/CFT requirements.

g. *Securities, Non-Security Crypto Assets, and Tokenized Money Market Funds Traded*: Identify the Tokenized NMS Stocks and non-security crypto assets and tokenized money market funds that the TSV makes available for trading in pairs with Tokenized NMS Stock on the TSV.¹⁰¹ If applicable, indicate whether the TSV has paused trading in a Tokenized NMS Stock in connection with the limitations on the volume traded.¹⁰²

h. *Tokenization of Securities*: Describe the Tokenized NMS Stock traded, including whether they are tokenized by or on behalf of the issuers of the underlying NMS stock, or are tokenized by third parties unaffiliated with the issuers of the underlying NMS stock, and the processes used for tokenizing the Tokenized NMS Stock. Describe any procedures the TSV uses to evaluate the legal status, technical soundness, and operational integrity of each Tokenized NMS Stock it makes available for trading, and the distributed ledger system on which that security is issued and transferred.

i. *Tokenization*: Describe the steps (e.g., audits, certifications, attestations) the TSV has taken to verify that the Tokenized NMS Stock provides holders the same rights and privileges as does traditional NMS stock of an equivalent class.¹⁰³

j. *Notice of Issuer Objection*: Identify any issuer of an NMS stock underlying a Tokenized NMS Stock that has provided a timely Notice of Issuer Objection to trading the Tokenized NMS Stock.¹⁰⁴

k. *Tokenization by the TSV or its Affiliates*: State whether the organization, association, group of persons, or any person within a group of persons that comprises the TSV, the TSV's affiliates, or both, issued or tokenized any Tokenized NMS Stock that is made available for trading on the TSV and identify any such Tokenized NMS Stock. Describe any differences in treatment between Tokenized NMS Stock that is issued or tokenized by any such person and any other Tokenized NMS Stock made available for trading on the TSV.

l. *Trading Activities of the TSV and Its Affiliates*: State whether the organization, association, group of persons, or any person within a group of persons that comprises the TSV, the TSV's affiliates, or both, can directly or indirectly display or enter trading interest on the TSV and, if so, state the capacity in which the TSV, its affiliates, or both, display or enter trading interest into the TSV as a TSV Participant (e.g., as a user or as a liquidity provider). For example, a TSV should state whether any organization, association, group of persons, or person within a group of persons comprising the TSV that is an issuer of Tokenized NMS Stock that is, or will be, available for trading on the TSV, can directly or indirectly display or enter trading interest on the TSV and the capacity in which it will engage in this activity.

m. *Differences in Treatment of TSV Participants*: Describe any standards, policies, and procedures the TSV uses to differentiate among TSV Participants. Identify and describe any differences in treatment between or among TSV Participants (including any organization, association, group of persons, or any person within a group of persons that comprises the TSV and/or the TSV's affiliates that display or enter trading interest on the TSV). For example, identify and describe differences with respect to access, entry or display of trading interest, onchain or offchain trading procedures, market data, and fees.

n. *Distributed Ledger Technology*: Describe distributed ledger applications and networks of distributed ledger applications used by the TSV including the distributed ledger on which such applications are deployed and any cryptographic protocols employed to verify transactions on the distributed ledger; the smart contract addresses of distributed ledger applications; any use of protocols and applications (e.g., user interfaces, wallets, aggregators, solvers, relayers); and whether those protocols and applications are provided by the TSV, by related parties, or third parties,

¹⁰⁰ National securities exchanges must maintain standards for access, and provide fair procedures for disciplining members, denying membership, barring of any person from becoming associated with a member, and prohibiting or limiting access to services. 15 U.S.C. 78f(b). ATSs that are subject to the fair access requirements of Rule 301(b)(5) of Regulation ATS are required to establish reasonable written standards for access to the ATS and apply those standards to all prospective and current subscribers in a fair and non-discriminatory manner. 17 CFR 242.301(b)(5).

¹⁰¹ By including in the Notice disclosure of Tokenized NMS Stock that is tokenized by a third party unaffiliated with the issuer, the TSV is representing that it has provided Issuer Notice pursuant to section II.D of this Order.

¹⁰² See *supra* notes 75–76 and accompanying text.

¹⁰³ See *supra* section II.E for criteria for when a Tokenized NMS Stock would be deemed to provide the same rights and privileges as the underlying NMS stock.

¹⁰⁴ See *supra* section II.D.

or a combination thereof. Explain whether the distributed ledger applications are interoperable with third-party service providers. Describe whether and how TSV Participants can access the TSV via custom integrations or direct interaction with smart contracts. Describe any circumstances under which the distributed ledger applications used by the TSV can be upgraded, modified, suspended, overridden, or ceased, the persons (whether unilaterally or in combination) that can upgrade, modify, suspend, override, or cease the distributed ledger applications used by the TSV, and the methods for upgrading, modifying, suspending, overriding, or ceasing the distributed ledger application. Provide the names of any entities and/or the roles of persons permitted to upgrade, modify, suspend, override, or cease each distributed ledger application.

o. Entry of Trading Interest: Describe any procedures and functionality made available by the TSV for entering and interacting with trading interest in Tokenized NMS Stock and information solicited from TSV Participants (e.g., slippage tolerance, assets available to trade, price and quantity parameters). Describe the methods by which transactions are approved, confirmed, or verified on the relevant distributed ledger. In addition, describe procedures governing price and size parameters, including, but not limited to, minimum or maximum trade size, any daily trade limits, and any messages or flags provided to users.

p. AMM Liquidity Pool Trading Procedures: Describe any procedures for creating, modifying, accessing, and funding liquidity pools provided by the TSV. Describe procedures for purchasing and selling Tokenized NMS Stock using an AMM Liquidity Pool, including, among others, procedures governing the interaction among and between TSV Participants and trading in Tokenized NMS Stocks, including pricing, such as pricing models or curves (e.g., $x * y = k$), priority, ranking, order types, trading rules, allocation, and execution, as applicable.¹⁰⁵ Describe any procedures for using any features that the TSV offers to allow liquidity pool customization; the applicability of the customization (e.g., the terms available to customize, including fees, and where in a trade's lifecycle it may be implemented); any permissioning required to use such customization features or customized

liquidity pools; and procedures for addressing any requests made by users to alter or permit additional customizable settings.

q. Offchain Trading Procedures: Describe any offchain functionality used by the TSV to facilitate trading on the TSV, how and where in the lifecycle of a trade such offchain functionality is used, and whether, and how, TSV Participants access the offchain functionality to support their use of the TSV.

r. Hours of Operations: State the hours of operations of the TSV, including whether the TSV offers trading on a 24/7 basis.

s. Use of Market Data: Describe whether, and if so, how, the TSV uses or integrates external market data, such as with oracles.¹⁰⁶ Name any third-party service providers to the TSV for market data and describe the sources of any such market data. Describe the purposes of the market data (e.g., providing safeguards during periods of volatility or preventing manipulation) and how oracles are used by or on the TSV.

t. Display: Describe any display of trading interest, including what is displayed, when it is displayed, whether it is displayed onchain or offchain, and how such displayed trading interest can be accessed. Describe any dissemination of information resulting from a transaction on the TSV, including what information is disseminated by whom, to whom, when, and how.

u. Fees: Describe the fee structure of the TSV, including any charges, fees, rebates and discounts and any other forms of compensation and the source of compensation, including whether (and if so, how much of) fees are shared with TSV Participants. Include or provide a link to any applicable fee or rebate schedule. Any relevant formulas or protocols used to determine and/or allocate fees are responsive. If fees or rebates are individually negotiated with TSV Participants or imposed in any other non-standardized manner (e.g., applying exceptions), describe the variables that impact the fees or rebates established.

v. Complaints and Disputes: Describe any procedures for resolving TSV Participant complaints and execution errors and disputes. If the TSV does not have these procedures, state so in the Notice.

w. Procedures to Protect TSV Participant Information: Describe any

procedures and safeguards to protect the confidentiality of TSV Participants' information, including information that the TSV considers confidential, which can include any trading information on associated technology made available by the TSV (e.g., wallets). If the TSV does not have such procedures and safeguards, state so in the Notice. State whether the TSV will share TSV Participant confidential information and personally identifiable information ("PII") with other parties. Describe any policies and procedures designed to address Maximal Extractable Value ("MEV").¹⁰⁷ If the TSV does not have such policies and procedures, state so in the Notice.

x. Systems Safeguards: Describe any procedures related to the capacity, integrity, resiliency, availability, and security of the TSV, including any offchain or onchain systems, such as distributed ledger applications, used with the TSV. Such procedures include, but are not limited to: code review; the types of audits used (e.g., third-party audits, security audits, SOC 2 audits, code audits, incident audits, audits of distributed ledger applications, public auditability of the distributed ledger on which the distributed ledger applications are deployed); pre-trade risk assessments; post-deployment monitoring; authorization controls; stress tests; business continuity and disaster recovery plans testing; and any other contingency or incident response planning. If the TSV does not have such procedures, state so in the Notice. Identify the entity that performs each of the described functions, to the extent this information is available.

y. Clearing procedures and arrangements: Describe any procedures or material arrangements undertaken to facilitate clearance and settlement of transactions on the TSV, including a description of any requirements applied to TSV Participants related to such procedures or material arrangements.

z. Risks: Describe any known material risks to TSV Participants or the integrity of the TSV's market, such as artificial intelligence exploits or attacks, loss of private keys, compromised wallets, smart contract coding errors or bugs, access control failures, reentrancy attacks, denial-of-service attacks, congestion, impermanent loss, any

¹⁰⁵ To the extent that the TSV relies on a third-party protocol, in addition to a description of such protocol, the TSV may also include a link to a website of the third party describing such protocol.

¹⁰⁶ An oracle is a service that "connect[s] external data sources to blockchain networks. This enables smart contracts to execute onchain agreements based on real world prices and events." PWG Report at 12.

¹⁰⁷ Sequencing transactions on a blockchain involves multiple actors ultimately aimed at creating a block with the highest fees to the validators or "MEV." See PWG Report at 27. While this process typically leads to both the most efficient use of block space and the highest fees to the validators, the sequencing of transactions can be abused in attacks against users (such as front-running) or leveraged to protect users with price-stabilizing actions (such as back-running). See *id.*

abusive activity involving MEV (e.g., front-running, back-running, sandwich attacks), oracle manipulation, network cyber-attacks, or phishing attacks. Explain any actions the TSV takes to mitigate the risks and compensate for any losses.

aa. *Service Providers*: Identify any entities, other than the TSV, that support the services or functionalities of the TSV and describe their roles and responsibilities with respect to the TSV. These include, among others, service providers that perform services related to permissioning subscribers, identifying and mitigating cyber risk, monitoring trading activity, displaying trading interest, recordkeeping, and clearance and settlement.

bb. *Trading Oversight*: Describe any monitoring by the TSV to detect fraudulent or manipulative trading activity (e.g., spoofing, wash trading, front running, pump-and-dump schemes), illegal trading of Tokenized NMS Stock, and other market abuses occurring on the TSV. If the TSV does not perform such monitoring, state that in the Notice.

cc. *Stoppage of Trading*: Describe the circumstances under which the TSV would stop trading or displaying trading interest (e.g., a trading halt in the underlying NMS stock in the event a market-wide circuit breaker is triggered or pending dissemination of material news, a trading suspension of the underlying NMS stock associated with delisting proceedings or by the SEC, or a TSV-initiated stoppage upon approaching the volume threshold). Describe any risk controls, including any circuit breakers or reference price bands, and any procedures to address price volatility or trading involving, for example, corporate actions occurring when markets for the underlying securities are closed. Describe the circumstances and procedures for resuming trading, accepting trading interest, or displaying trading interest after a stoppage.

dd. *Exclusive or Predominant Venue for Trading of a Tokenized NMS Stock*: Describe whether the TSV may be the exclusive or predominant trading venue for a Tokenized NMS Stock (e.g., a Tokenized NMS Stock is encoded to trade exclusively on the TSV), and if so, describe any potential risks to TSV Participants associated with the TSV being the exclusive or predominant trading venue for a Tokenized NMS Stock. For example, such risks may include TSV Participants being unable to trade the Tokenized NMS Stock on another trading venue, which may subject TSV Participants to having no choice other than accepting the terms

and conditions, including fees, of the exclusive or predominant TSV to trade that Tokenized NMS Stock. Describe any procedures to address such risks, such as, for example, processes to burn or detokenize the Tokenized NMS Stock.

Transparency has long been a hallmark of the U.S. securities markets and is one of the primary tools used by investors to protect their interests. One of the most important functions the Commission can perform for investors is to ensure that they have access to the information they need to protect and further their own interests. National securities exchanges and NMS Stock ATSS make public disclosures about their trading operations and potential conflicts of interest. These disclosures allow market participants to assess whether to participate on a trading venue, and if they choose to do so, have the necessary information to carry out their trading objectives and protect their interests. The disclosures in the Notice are designed for similar purposes. The information provided by a TSV in its Notice can help TSV Participants, which may include a wide variety of retail, institutional, and professional market participants, make informed trading decisions and evaluate their participation in a TSV.

The disclaimer condition requiring that a TSV state in its Notice that it is not registered with the Commission and that the Commission has not passed upon the merits or accuracy of the Notice; that the TSV is not subject to any fair access requirements¹⁰⁸ and that unfair and unreasonably discriminatory denials or limitations of access of TSV Participants by the TSV are not subject to SEC review; and that the TSV is not subject to Regulation NMS, is intended to inform market participants that there are risks involved in participating in a TSV.

Disclosure of the structure and organization of a TSV, its products, services, operations, affiliates, its governance structure, and whether the organization, association, group of persons, or any person within a group that comprises the TSV is registered in any capacity with the Commission, will inform potential TSV Participants in deciding whether to trade on a TSV. Likewise, disclosing whether LP tokens provide governance rights will inform liquidity providers in deciding whether to do business on a TSV.

Information in the Notice about permissioned trading access requirements for a TSV, including the conditions or circumstances for denying

or limiting a person from accessing a service, and the categories of persons eligible to access and participate on the TSV will inform potential TSV Participants of what they need to do to trade a Tokenized NMS Stock on the TSV, either as a user or a liquidity provider. Further, it will help market participants better assess potential counterparties permitted to access the TSV and the risks of trading with such counterparties on the TSV. Disclosure of the conditions or circumstances for denying or limiting a person from accessing TSV services, including for purposes of compliance with economic and trade sanctions programs administered by OFAC and applicable AML/CFT requirements, will assure market participants that their counterparties do not present elevated money-laundering risks or are subject to economic sanctions.

Additionally, information in the Notice about the Tokenized NMS Stock and non-security crypto assets and tokenized money market funds trading in pairs with Tokenized NMS Stock that are made available for trading on a TSV, including whether the Tokenized NMS Stock is tokenized by or on behalf of the issuers of the underlying NMS stock or by third parties unaffiliated with the issuers of the underlying NMS stock, and the steps that the TSV has taken to verify that the Tokenized NMS Stock provides holders with the same rights and privileges as does traditional NMS stock of an equivalent class, is designed to help TSV Participants fully understand the features of such assets. Disclosure of the procedures used by a TSV to evaluate the legal status, technical soundness, and operational integrity of the Tokenized NMS Stock it makes available for trading, and the distributed ledger system on which that security is issued and transferred, should inform potential TSV Participants in deciding whether to trade in the Tokenized NMS Stock on the TSV. Information regarding Notices of Issuer Objection will provide TSV Participants with notice of Tokenized NMS Stock that the TSV may not make available for trading.

Describing a TSV's fundamental operational information, such as the distributed ledger technology used by a TSV, its use of offchain functionality and market data, AMM Liquidity Pool trading procedures, its business hours, its procedures for entering trading interest and for trading, procedures related to stoppages of trading, and any differences in treatment among TSV Participants will allow market participants to understand how the TSV operates and how they can effect their

¹⁰⁸ See *supra* note 100.

trading strategies on the TSV. Describing the TSV's procedures or material arrangements to facilitate clearance and settlement and the requirements applied to its TSV Participants related to such procedures or material arrangements should provide useful information for market participants considering whether to trade on the TSV, such as when trades will settle. Information in the Notice about how a TSV displays trading interest will allow TSV Participants to readily decide to act on a price and size of trading interest disseminated from an AMM Liquidity Pool.

Disclosure in the Notice of the distributed ledger technology used, including any protocols and applications such as user interfaces, wallets, aggregators, solvers, or relayers, and the providers of those protocols and applications, and the circumstances and the methods under which the distributed ledger applications used by the TSV can be upgraded, modified, suspended, overridden, or ceased, including the persons permitted to perform such actions, will help provide market participants with reasonable expectations regarding how the distributed ledger applications used by the TSV operate and if and how they can be changed.

Information in the Notice describing the handling of TSV Participant confidential information and PII will allow market participants to weigh the potential risks of participating in a TSV and protect their interests. For example, describing if or how a TSV protects TSV Participant information from unauthorized access, theft, and other threats and intrusions should inform a potential TSV Participant's decision whether to use a TSV. Likewise, whether a TSV shares TSV Participant confidential information with other parties is important to potential TSV Participants. Additionally, disclosing how a TSV addresses MEV will inform TSV Participants about how their transaction information may be used in a way that adversely impacts the price they receive from trading on the TSV.

Disclosure in the Notice of material risks, including those related to the security of the smart contracts, impermanent loss, abusive activity involving MEV, oracle manipulation, and others, and how a TSV mitigates or addresses such risks, will help market participants determine whether to trade on a TSV and what, if any, additional security or loss mitigation measures TSV Participants should implement with respect to their use of the TSV. Disclosure of the TSV's oversight of trading activity in Tokenized NMS

Stock is also designed to help potential TSV Participants decide whether to participate on a TSV. Additionally, disclosure of whether a TSV may become the exclusive or predominant trading venue providing access to trade its Tokenized NMS Stock—and if so, the associated risks¹⁰⁹ and any procedures used to address those risks—will inform potential TSV Participants of the risks of trading on such venue and whether those risks are mitigated, helping them to decide whether to trade on a TSV.

Furthermore, the interests of a TSV and/or its affiliates may compete against the interests of TSV Participants. These competing interests may give rise to conflicts of interest for the TSV and its affiliates, or potential leakage of TSV Participants' confidential trading information. Information about trading participation by the TSV, its affiliates, or both on the TSV, the services provided by the TSV, interoperability with third-party service providers, fees and sources of compensation, tokenization by the TSV or its affiliates, and governance will help TSV Participants understand potential conflicts of interest that may impact their trading on the TSV and assess the potential for information leakage.

The Notice requirements regarding the disclosure of system safeguards used by a TSV will aid potential TSV Participants in evaluating the integrity and security of a TSV. TSV Participants will directly interact with their TSV so the use of such safeguards by a TSV can help assure TSV Participants that they can trade safely and reliably on the TSV. For example, a TSV's code review procedures can assure TSV Participants that the code is checked for errors and security or design flaws. Disclosure of whether and how a TSV conducts post-deployment monitoring of its smart contracts can inform potential TSV Participants if the TSV surveils transactions and monitors for and responds to suspicious or abnormal activity and security incidents (like hacking attempts). The presence of smart contract audits can provide assurances that the AMM Liquidity Pool smart contracts used by a TSV are reviewed for, among other things, code errors, vulnerabilities, security risks, and compliance with evolving regulatory requirements, and that problems identified by these audits are

¹⁰⁹ For example, if a TSV is the exclusive venue providing access to a particular Tokenized NMS Stock and that TSV had to cease all trading in that Tokenized NMS Stock, then holders of the Tokenized NMS Stock would have limited options to liquidate their holdings.

remedied.¹¹⁰ The regular testing of a TSV's business continuity and disaster recovery plans can demonstrate to potential TSV Participants that the TSV will be able to continue its operations after a significant system disruption. Disclosures of safeguards such as these examples evidence whether a TSV employs protections that may prevent or mitigate the severity of systems issues, which could reduce trading outages or other problems that impact TSV Participants in other ways, such as compromising the confidentiality of their data or causing financial harm. Disclosure of the system safeguards used by a TSV can help potential TSV Participants better evaluate a TSV when deciding which TSV to use as a trading destination.

Information in the Notice regarding how a TSV handles TSV Participant complaints, disputes, and execution errors are intended to protect investors by providing transparency into whether and how a TSV offers any protections and recourse to TSV Participants in the event of these commonplace incidents. Additionally, this information should inform potential TSV Participants as they decide whether to participate on a TSV.

The Notice will also aid the Commission in its efforts to protect investors and maintain fair, orderly, and efficient markets by enabling the Commission to review for compliance with certain conditions of the TSV Exemption, such as whether the TSV falls under the scope of the exemption and whether the requirements of the TSV distributed ledger applications are met. Further, the Notice will provide the Commission with valuable information about developments in TSVs and in the trading of Tokenized NMS Stock.

IV. Exemption for Covered Firms

Section 3(a)(5) of the Exchange Act defines the term "dealer" to mean "any person engaged in the business of buying and selling securities . . . for such person's own account through a broker or otherwise," but excludes "a person that buys or sells securities . . . for such person's own account, either individually or in a fiduciary capacity,

¹¹⁰ The PWG Report recommends the following measures to mitigate against smart contract vulnerabilities: (i) adhere to secure development practices, conduct quality assurance and control of smart contracts prior to deployment, and employ third-party auditing to reduce risk of software defects; (ii) leverage trusted code libraries; (iii) monitor for new vulnerabilities; (iv) consider emergency stops and circuit breakers for unexpected smart contract issues. See PWG Report at 122. To the extent a TSV has adopted these recommendations, it should be discussed in its Notice.

but not as a part of a regular business.” This statutory exclusion from the definition of “dealer” is often referred to as the “trader” exception.¹¹¹ Absent an exception or an exemption, section 15(a)(1) of the Exchange Act makes it unlawful for a “dealer” to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security unless registered with the Commission in accordance with section 15(b) of the Exchange Act.

Liquidity provision alone does not constitute engaging in dealer activity, and the Commission anticipates that, absent other indicia of dealer activity, persons acting as liquidity providers in an AMM Liquidity Pool would typically be engaged in trader (and not dealer) activity. The Commission recognizes, however, that depending on the facts and circumstances,¹¹² certain liquidity provider activity may raise questions regarding whether it is dealer activity, as opposed to trader activity, under section 3(a)(5) of the Exchange Act. As an example, uncertainty may arise for liquidity providers if they were to

provide pricing to customers or assert control over pricing and inventory of committed liquidity to AMM Liquidity Pools pursuant to agreements, arrangements, or other understandings.

The Commission recognizes that liquidity providers that supply Tokenized NMS Stock and paired assets to smart contract-based AMM Liquidity Pools and may also engage in additional activities carrying indicia of dealing activity, are necessary and integral to a TSV’s core functionality. Absent committed liquidity, the automated pricing and execution mechanisms of AMMs related to AMM Liquidity Pools cannot operate as designed.

Accordingly, the Commission believes it is necessary or appropriate and consistent with the public interest and the protection of investors to provide a temporary, conditional exemption from the definition of “dealer” in section 3(a)(5) of the Exchange Act to Covered Firms solely within the limited context of AMM Liquidity Pools operating pursuant to the TSV Exemption.¹¹³ The Commission believes that narrowly tailored, temporary exemptive relief is warranted to facilitate responsible innovation in tokenized securities markets by providing greater legal certainty while the Commission evaluates the scope of the term “dealer” more broadly,¹¹⁴ as well as the application of existing broker-dealer regulatory frameworks to these novel market structures more specifically.

This section 3(a)(5) exemption is limited in duration and scope and is conditioned on operational, disclosure, and transparency requirements applicable to the TSV and Covered Firms.¹¹⁵

The Covered Firm Exemption cannot be relied upon if the Covered Firm or any of its affiliates are subject to statutory disqualification as defined in section 3(a)(39) of the Exchange Act,¹¹⁶ unless the Covered Firm or any of its affiliates has been permitted by the

Commission or any relevant SRO, by rule, order or otherwise, to continue its membership in or participation with such SRO or its association with a member of the SRO or other Commission registrant notwithstanding that Covered Firm or affiliate’s statutory disqualification.¹¹⁷

A. Conditions for the Covered Firm Exemption

As detailed below, the Covered Firm Exemption is subject to conditions designed to protect investors and maintain market integrity, including requirements relating to liquidity provider operations, activities, disclosures, and notices. These conditions are designed to facilitate the operation of the TSVs while preserving the Commission’s ability to oversee and assess the development of these markets. Additionally, the Covered Firm Exemption is temporary, expiring at the end of five years, running in parallel with the TSV Exemption. TSV Participants acting as a Covered Firm pursuant to the conditions herein remain subject to the anti-fraud and anti-manipulation provisions of the federal securities laws.

TSV Provided AMM Liquidity Pool. For purposes of compliance with the Covered Firm Exemption, a Covered Firm’s securities activities must be limited to activities related to the trading of Tokenized NMS Stock in an AMM Liquidity Pool operating pursuant to the TSV Exemption.¹¹⁸

Proprietary Accounts. A Covered Firm must provide liquidity through a TSV, engage in such trading activity solely for its own account, and must not hold or custody customer assets.

Maintenance of Records. A Covered Firm must make and retain records relating to: its ability to maintain sufficient liquid assets to cover potential losses associated with trading activity (e.g., financial statements); any liquidity supplied in an AMM Liquidity Pool; any agreement, arrangement or understanding with a TSV to provide liquidity, including market making, services to an AMM Liquidity Pool; and

¹¹¹ The purpose of the “trader” exception is to “exclude from the definition of ‘dealer’ members of the public who buy and sell securities for their own account as ordinary traders.” See *SEC v. Am. Inst. Counselors, Inc.*, Fed. Sec. L. Rep. (CCH) ¶ 95,388 (D.D.C. 1975) (citing *Loss, Securities Regulation* (2d ed. 1961)). See also 2002 Release (“[A] person that is buying securities for its own account may still not be a ‘dealer’ because it is not ‘engaged in the business’ of buying and selling securities for its own account as part of a regular business”); *River North*, 415 F. Supp. at 859 (traders purchase securities already in the marketplace and turn a profit from selling them after they appreciate in value); *Sodorff*, 1992 WL 224082, at *5 (same); *Crypto Freedom Alliance of Tex. v. SEC* No. 4:24-cv-00361-0, 2024 WL at *8 (N.D. Tex. Nov. 21, 2024) (“Crypto Freedom Alliance”) (stating that “for nearly the last 100 years, it has been commonly understood that anyone who buys and sells securities ‘not as a part of a regular business’ is a trader—not a dealer—under the Exchange Act.”). See also Definition of Terms in and Specific Exemption for Banks, Savings Associations, and Savings Banks Under sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934, Exchange Act Release No. 46745 (Oct. 30, 2002), 67 FR 67496 (Nov. 5, 2002) (explaining that “a person that is buying securities for its own account may still not be a ‘dealer’ because it is not ‘engaged in the business’ of buying and selling securities for its own account as part of a regular business,” and that “[t]his exclusion is often referred to as the dealer/trader distinction”).

¹¹² See Definition of Terms in and Specific Exemption for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934, Securities Exchange Act Release No. 47364 (Feb. 14, 2003), 68 FR 8685, 8688 (Feb. 24, 2003) (citing to Definition of Terms in and Specific Exemption for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934, Securities Exchange Act Release No. 46745 (Oct. 30, 2002), 67 FR 67496, 67499 (Nov. 5, 2002) (“2002 Release”) (concluding that “. . . the analysis of whether a person meets the definition of a dealer depends upon all of the relevant facts and circumstances”).

¹¹³ See 15 U.S.C. 78o(a)(2) and 15 U.S.C. 78mm.

¹¹⁴ As described in the SEC’s Spring 2025 Regulatory Flexibility Agenda, the Division of Trading and Markets (“Division”) is considering recommending that the Commission propose amendments regarding the scope of, and exceptions from, the term “dealer.” See Securities Exchange Act Release No. 103337 (June 27, 2025), 90 FR 45652 (Sept. 22, 2025); see also https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST¤tPub=true&agencyCode=&showStage=active&agencyCd=3235.

¹¹⁵ Because the evaluation of whether a person is a dealer depends on the facts and circumstances, no presumption shall arise on the basis of a person’s reliance on the Covered Firm Exemption that the person is a dealer.

¹¹⁶ 15 U.S.C. 78c(a)(39).

¹¹⁷ Any such person who has not received such permission from the Commission or any SRO cannot rely on the Covered Firm Exemption as there is an increased potential for that person to adversely affect the public interest by, for example, creating an unreasonable risk of harm to investors or the markets without additional regulatory oversight of such person as appropriate.

¹¹⁸ Provided that the conditions herein are met, a Covered Firm relying on this Covered Firm Exemption may engage in the trading of Tokenized NMS Stock on more than one TSV operating pursuant to the TSV Exemption. In addition, the Covered Firm Exemption does not limit a Covered Firm’s non-securities activities, such as activity related to payment stablecoins.

any incentives, fees, rebates, or any other form of compensation received for any liquidity provision, including for achieving certain volume thresholds.

Disclosures. A Covered Firm must prominently disclose on any public-facing website, if applicable: (1) that it is not registered as a broker-dealer with the Commission, (2) that it may enter into liquidity provision, including market making, agreements or arrangements with a TSV to provide liquidity to an AMM Liquidity Pool, and (3) that it may receive fees, tokens, or other incentives for providing liquidity or achieving certain volume thresholds from a TSV-provided AMM Liquidity Pool.

Notification. A Covered Firm must notify the Commission in writing at tradingandmarkets@sec.gov of its role as a Covered Firm including: the participant's name; a description of its business model and an overview of its risk controls, as applicable; its designated regulatory contact; a description of any liquidity provision or market making agreements, arrangements, or understandings it has entered into; a description of any fees, tokens, or other incentives it receives for providing liquidity or achieving certain volume thresholds from a TSV-provided AMM Liquidity Pool; an acknowledgement that neither the Covered Firm nor any of its affiliates is subject to statutory disqualification; its consent to requests for information from Commission staff of the Covered Firm's activities; and an acknowledgement that use of the Covered Firm Exemption is subject to Commission oversight and that operating a Covered Firm in a manner inconsistent with the Covered Firm Exemption could result in a Commission enforcement action.

V. Duration for the Exemptions

The exemptions are effective from September 17, 2026, until September 17, 2031. The Commission may modify the length or any other aspect of the exemptions pursuant to its authority under section 36 of the Exchange Act if it determines that such modification is necessary or appropriate in the public interest and consistent with the protection of investors.

VI. Solicitation of Comments

The Commission intends to monitor closely the use of the exemptions and whether any modifications to the exemptions may be necessary. The Commission solicits public comment on all aspects of the exemptions, including:

1. Should the Commission modify the TSV Exemption in any way? Why or

why not? If so, describe how the TSV Exemption should be modified.

2. Should the TSV Exemption be permanent? If so, what conditions of the TSV Exemption should TSVs be subject to on a permanent basis? Is the length of the temporary TSV Exemption appropriate? If not, what should the duration be?

3. How could trading of Tokenized NMS Stock on a TSV potentially impact the liquidity, pricing, or trading of underlying NMS stock in the broader market and how, if at all, should the TSV Exemption be potentially modified to account for any such impact? What effects could transaction reporting within ten minutes of the occurrence of a transaction and overnight trading have on market quality in underlying NMS stock, including on the market opening, reopening and closing processes of the exchanges? What, if any, modifications should be made to the TSV Exemption to account for such potential impacts?

4. Should the TSV Exemption be modified to permit a TSV to trade securities other than Tokenized NMS Stock? Which types of securities should TSVs be limited to trading under the TSV Exemption? Should the non-security crypto assets or tokenized money market funds that are permitted to trade in pairs with Tokenized NMS Stock on a TSV be limited to certain types of non-security crypto assets or tokenized money market funds?

5. Should the conditions of the TSV Exemption be modified in any way? Do any of the conditions pose any challenges for market participants? Please explain.

6. Is the categorization into Tier 1 and Tier 2 Tokenized NMS Stock appropriate for the limitations on volume and number of symbols for Tokenized NMS Stock? Are the limitations to trading 75 symbols and 0.25 percent of the average daily share volume during the prior month in the relevant NMS stock appropriate for Tier 1 Tokenized NMS Stock? Are the limitations to trading 250 symbols and 2.5 percent of the average daily share volume for Tier 2 Tokenized NMS Stock during the prior month in the relevant NMS stock appropriate? Please explain and provide any potential modifications to the limitations you believe may be appropriate.

7. Are there compliance or operational challenges impeding regulated entities from being TSV Participants? Should the Commission provide any relief from the requirements of Regulation NMS under the Exchange Act to TSV Participants that are registered broker-dealers? Why or why not? If so, please specify the provisions

of Regulation NMS from which broker-dealer TSV Participants would need relief and explain the necessity of such relief.

8. Should the Commission modify the Covered Firm Exemption in any way? Why or why not? If so, describe how the Covered Firm Exemption should be modified.

9. Should the Covered Firm Exemption be permanent? If so, what conditions of the exemption should Covered Firms be subject to on a permanent basis? Is the length of the temporary Covered Firm Exemption appropriate? If not, what should the duration be?

10. Are the conditions of the Covered Firm Exemption appropriate? Do any of the conditions, including those relating to the activities of the market participant as well as the maintenance of records, and disclosures, pose any challenges for market participants? Please explain.

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/comments/4-927/order-granting-temporary-conditional-exemptive-relief-pursuant-section-36a1-securities-exchange-act>); or

- Send an email to rule-comments@sec.gov. Please include File Number 4–927 on the subject line.

Paper Comments

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number 4–927. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules-regulations/2026/09/4-927>). Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions; you should submit only information that you wish to make available publicly.

VII. Conclusion

It is hereby *ordered* that pursuant to section 36(a)(1) of the Exchange Act that, until September 17, 2031, a Tokenized Securities Venue complying with the conditions set forth herein shall be exempt from the definition of “exchange” under section 3(a)(1) of the Exchange Act and a Covered Firm complying with the conditions set forth

herein shall be exempt from the definition of “dealer” under section 3(a)(5) of the Exchange Act. The Commission determines the exemptions set forth above are consistent with the public interest and the protection of investors and are necessary and appropriate in the public interest, consistent with section 36(a)(1) of the Exchange Act.

By the Commission.

J. Matthew DeLesDernier,
Deputy Secretary.

[FR Doc. 2026–19388 Filed 9–21–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106403; File No. SR–C2–2026–026]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule for Step Up Mechanism Auctions

September 17, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on September 11, 2026, Cboe C2 Exchange, Inc. (the “Exchange” or “C2”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fee Schedule to introduce new language governing the fees applicable to executions in Step Up Mechanism auctions.

The text of the proposed rule change is also available on the Commission’s website (<https://www.sec.gov/rules/sro.shtml>), the Exchange’s website (https://www.cboe.com/us/options/regulation/rule_filings/ctwo/), and at the principal office of the Exchange.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to introduce new language implementing the fees applicable to executions in Step Up Mechanism (“SUM”) auctions.

Currently, SUM auction fees are handled in the same manner as Complex Order Auctions (“COAs”). Meaning, that the incoming/auctioned order will receive applicable Add rates, and auction response and unrelated orders will receive applicable Remove rates.³ The Exchange now proposes to include additional language in its Fee Schedule stating that, for executions that occur within the SUM auction, the incoming order will receive applicable Remove rate, and the auction response and unrelated orders will receive the applicable Add rate.

By way of background, the Exchange recently adopted SUM, a new automated order handling mechanism.⁴ SUM is a feature within the System that provides automated order handling in designated classes for qualifying orders that are not automatically executed by the System and is set forth in Exchange Rule 5.35.

Under Rule 5.35(b), upon receipt of a SUM-eligible order, the System electronically exposes the order at the national best bid or offer (“NBBO”) immediately upon receipt, for a period of time determined by the Exchange on a class-by-class basis that may not exceed one second. During the exposure period, all Users may submit responses to the exposure message. The purpose of SUM is to provide all Users with the opportunity to improve their prices and

“step up” to meet the NBBO in order to interact with orders sent to the Exchange. As the Exchange explained in its prior filing, this allows the market participant sending an order to the Exchange to increase its chances of receiving an execution at the Exchange (the market participant’s chosen venue) instead of having the order be routed to another exchange.⁵ Further, SUM and the “step up” process enable Users to add liquidity that is available to interact with orders sent to the Exchange.

In connection with the adoption of SUM,⁶ the Exchange proposes to implement new language for the fees applicable to volume executed through SUM auctions. As a general matter, the Exchange’s Fee Schedule assesses a fee to volume that removes liquidity (a “remove” fee) and a separate fee (or, as applicable, a rebate or fee waiver) to volume that adds liquidity (an “add” fee). There is existing language in the Exchange’s Fee Schedule for COAs: “For executions that occur within the Complex Order Auction (“COA”) against auction responses, the incoming order will receive applicable Add rates, and auction responses and unrelated orders will receive applicable Remove rates.” Currently, this same logic is being applied for SUM auction executions.

The Exchange proposes to add in new language for executions in SUM auctions by stating that incoming orders will receive the applicable Remove rate and auction responses and unrelated orders will receive the applicable Add rates. As it relates to SUM auctions, the remove fee would apply to the volume resulting from a primary order (*i.e.*, the order that initiates the SUM auction and is exposed by the System), and the add fee would apply to the volume resulting from a response to SUM (*i.e.*, the liquidity-providing responses submitted by Users during the exposure period) or an unrelated order that executes against the initiating order in compliance with Rule 5.35. In other words, the primary order that initiates a SUM auction is treated as removing liquidity, while a response to a SUM auction or an unrelated order that executes against the initiating order is treated as adding liquidity. The Exchange believes this treatment appropriately reflects the function of each side of a SUM auction: the primary order is seeking to access liquidity, while the response is

⁵ *Id.*

⁶ SUM was implemented on the Exchange on September 4, 2026 (see Reminder—Cboe C2 Options to Introduce Step-Up Mechanism (SUM) Auction).

³ See C2 Options Fee Schedule.

⁴ See Securities Exchange Act Release No. 106224 (August 28, 2026), 91 FR 56514 (September 2, 2026) (SR–C2–2026–024).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

providing liquidity that steps up to interact with the primary order.

The proposed change does not adopt any new fee and does not change the amount of any fee assessed under the Fee Schedule; rather, it implements an updated fee framework for SUM volume.

The proposed language is similar to the existing treatment of SUM auctions on the Fee Schedule of the Exchange's affiliate, Cboe Exchange, Inc ("Cboe"). Consistent with the Cboe Fee Schedule, the Exchange's proposed language reflects the same principle that, in a SUM auction, the primary order that initiates the auction is treated as taker (removing) volume, and responses to the auction are treated as maker (adding) volume. The Cboe Fee Schedule reflects this treatment in Footnotes 9 and 44. As reflected in the Cboe Fee Schedule, the Taker fees apply to the volume resulting from a Customer's primary orders executed in SUM auctions, and the Maker fee waiver applies to volume resulting from a Customer's responses to SUM actions. The Exchange's proposed language is similar to the Cboe treatment for SUM auctions.

Lastly, the Exchange notes that this fee structure does not apply to orders in DJX and RUT as these products have their own pricing tables in the C2 Fee Schedule. The Exchange notes that this same approach exists today for the fee structure specified above for COAs.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁸ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁹ requirement that

the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁰ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes the proposed rule change is reasonable because it does not adopt any new fee or change the amount of any fee currently assessed under the Fee Schedule. Rather, the proposed language implements new language on how the Exchange's existing remove/add fee framework applies to volume executed through a SUM auction—namely, that the remove fee applies to the volume resulting from an incoming order that prompts a SUM auction and the add fee applies to the volume resulting from a response to SUM or an unrelated order executed as part of SUM. The Exchange believes it is reasonable to apply the remove fee to primary order volume and the add fee to response volume and unrelated orders because this treatment reflects the function of each side of a SUM auction, with the primary order accessing liquidity and the contra-side providing liquidity.

The Exchange believes the proposed rule change is equitable and not unfairly discriminatory because the proposed rule change applies to all market participants equally. The proposed remove/add treatment of SUM volume applies uniformly to the primary orders and responses of all market participants that participate in SUM auctions. In addition, the Exchange believes it is equitable and not unfairly discriminatory to assess the remove fee for the primary order volume that removes liquidity and to apply the add fee to the response volume that adds liquidity because the Exchange wants to encourage market participation and price improvement. By applying the add rate to responses that step up to provide liquidity, the proposed rule change encourages Users to submit responses during the SUM exposure period, which promotes the competitive price-improvement dynamic that SUM is designed to foster and benefits investors through improved execution quality. Similarly, unrelated orders that execute against the order that initiates the SUM auction also provide liquidity and as such, receive the add rate.

Finally, the Exchange believes the proposed rule change promotes just and

equitable principles of trade and supports consistency in SUM auctions between both C2 and its affiliated exchange, Cboe. The proposed language is similar to the existing treatment of SUM volume on the Cboe Fee Schedule, as reflected in Footnotes 9 and 44. Because SUM on C2 is based on Cboe Options Rule 5.35, the Exchange believes it is appropriate and consistent with the Act for the C2 Fee Schedule to reflect the same remove/add treatment of SUM volume as the Cboe Fee Schedule. This consistency reduces potential confusion for market participants that trade across the Cboe affiliated exchanges and promotes a coherent fee framework across those affiliated markets. Lastly, the Exchange believes that in explicitly calling out DJX and RUT as inapplicable, that it provides clarity for participants as there are already separate fee tables in place for these products.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe the proposed rule change will impose any burden on intramarket competition. The proposed language revises the application of the remove/add fee framework to SUM volume. This proposed framework applies uniformly to all market participants that participate in SUM auctions. The Exchange believes because the proposed treatment of primary orders as remove and contra-side interest as add reflects the economic function of each side of a SUM auction and is intended to encourage market participation and price improvement for the benefit of all market participants.

The Exchange does not believe the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change concerns only the revised application of the Exchange's own fees for volume executed on the Exchange through SUM auctions. To the contrary, the proposed rule change is designed to parallel the existing SUM fee treatment on the Exchange's affiliate, Cboe, thereby promoting consistency across the Cboe affiliated exchanges. Trading Permit Holders may readily direct their order flow to competing venues if they deem the Exchange's fees to be excessive. Market participants on other exchanges are welcome to become Trading Permit

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ *Id.*

¹⁰ 15 U.S.C. 78f(b)(4).

Holders and trade at C2 if they determine that this proposed rule change has made C2 more attractive or favorable.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹¹ and paragraph (f) of Rule 19b-4¹² thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-C2-2026-026 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-C2-2026-026. 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-C2-2026-026 and should be submitted on or before October 13, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2026-19299 Filed 9-21-26; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-106406; File No. SR-Phlx-2026-56]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt Options 10, Section 27, Influencing or Rewarding Employees of Others

September 17, 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 September 8, 2026, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt a new rule at Options 10, Section 27, Influencing or Rewarding Employees of Others, which is substantively similar to FINRA Rule 3220.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, and at the principal office of the Exchange.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a new rule at Options 10, Section 27, which is currently reserved. The new rule, "Influencing or Rewarding Employees of Others," is substantially similar to FINRA Rule 3220, Influencing or Rewarding Employees of Others. The Exchange also proposes a technical amendment at Options 10, Section 7, Supervision of Accounts.

The proposed rule is designed to protect against improprieties, such as conflicts of interest, which might arise when a member organization or an associated person gives an item of value to an employee of another person, such as an institutional customer, vendor, or counterparty. Adopting a rule substantially similar to FINRA Rule 3220 promotes consistency for member organizations that operate across multiple markets, reduces regulatory fragmentation, and enables the Exchange to enforce a uniform standard of business conduct regarding the giving of gifts and gratuities. Phlx member organizations that are also FINRA members are already subject to the amended FINRA Rule 3220, and the proposed rule would apply a substantially similar standard on the Exchange. Member organizations that are not FINRA members would be subject to the proposed rule to the extent that they conduct business on the Exchange.

Proposed Options 10, Section 27(a) provides that no member organization, Options Principal, Representative, officer, partner or branch office manager of the member organization shall, directly or indirectly, give or permit to be given anything of value, including gratuities, in excess of \$300 per individual per year to any person, principal, proprietor, employee, agent or

¹¹ 15 U.S.C. 78s(b)(3)(A).

¹² 17 CFR 240.19b-4(f).

representative of another person where such payment or gratuity is in relation to the business of the employer of the recipient of the payment or gratuity. Consistent with FINRA's determination, the Exchange believes that a \$300 gift limit would permit the exchange of business courtesies while helping to guard against excessiveness, and reasonably reflects changes to purchasing power.³ The proposed rule further provides that a gift of any kind is considered a gratuity.

Proposed Options 10, Section 27(b) provides that the Rule shall not apply to contracts of employment with or to compensation for services rendered by persons enumerated in paragraph (a), provided that there is in existence prior to the time of employment or before the services are rendered a written agreement between the member organization and the person who is to be employed to perform such services. Such agreement shall include the nature of the proposed employment, the amount of the proposed compensation, and the written consent of such person's employer or principal.

Proposed Options 10, Section 27(c) provides that a separate record of all payments or gratuities in any amount known to the member organization, the employment agreement referred to in paragraph (b), and any employment compensation paid as a result thereof shall be retained by the member organization for the period specified by Rule 17a-4 of the Exchange Act.

Proposed Options 10, Section 27(d) provides that the Exchange may, in exceptional circumstances, taking into consideration all relevant factors, exempt any member organization, either unconditionally or on specified terms and conditions, from any provision of this Rule for good cause shown, provided that such exemption is consistent with the purpose of the Rule, the protection of investors, and the public interest. This proposed provision mirrors FINRA's exemptive relief authority in Rule 3220(d).⁴ Given the scope of proposed Options 10, Section 27, which would apply to gifts given to a wide range of recipients where the payment is in relation to the business of the employer of the recipient, and given the diversity of member organization sizes, structures, businesses, and distribution models, the Exchange believes it would be useful and appropriate to have the ability to

provide relief from a particular provision of the Rule under specific factual circumstances.

Proposed Supplementary Material .01 (Gifts Incidental to Business Entertainment) would state that a gift given during the course of a business entertainment event is subject to Phlx Options 10, Section 27 unless it is consistent with the requirements of proposed Supplementary Material .04 (Personal Gifts) or .06 (De Minimis Gifts and Promotional or Commemorative Items). This provision states that gifts given during business entertainment may fall within the exclusion for de minimis or promotional items.⁵ For the purpose of the \$300 limit, the cost of the business entertainment event itself would not be included in the value of the gift.

Proposed Supplementary Material .02 (Valuation of Gifts) would require member organizations to value gifts (other than tickets for sporting or other events) at cost, exclusive of tax and delivery charges, and would require member organizations to value tickets for sporting or other events at a higher of cost or face value. If gifts are given to multiple recipients, member organizations must record the names of each recipient and calculate and record the value of the gift on a pro rata, per-recipient basis, for purposes of ensuring compliance with the \$300 limit in Phlx Options 10, Section 27(a). Requiring member organizations to value gifts (other than tickets for sporting or other events) at cost, rather than at the higher of cost or market value, reduces complexity and subjectivity because market value can be difficult and burdensome to determine, while distinguishing tickets for sporting or other events accounts for the fact that such tickets are commonly purchased on secondary markets at costs that differ from face value.

Proposed Supplementary Material .03 (Aggregation of Gifts) would require member organizations to aggregate all gifts given by the member organization and each associated person of the member organization to a particular recipient over the course of the year for purposes of ensuring compliance with the \$300 limit in Phlx Options 10, Section 27(a), and would require each member organization to state in its procedures whether it is aggregating all gifts given by the member organization and its associated persons on a calendar year, fiscal year, or on a rolling basis beginning with the first gift to any particular recipient. The aggregation requirement would not apply to

personal gifts under proposed Supplementary Material .04 or to gifts of de minimis value or promotional or commemorative items under proposed Supplementary Material .06, because those gifts are not subject to the gift limit in the first place. This would help ensure that persons who give multiple gifts in a year to the same recipient do not circumvent the gift limit.

Proposed Supplementary Material .04 (Personal Gifts) would state that gifts that are given for infrequent life events (e.g., a wedding gift or a congratulatory gift for the birth of a child) are not subject to the restrictions in Phlx Options 10, Section 27(a) or the recordkeeping requirements in Phlx Options 10, Section 27(c), provided the gifts are customary and reasonable, personal in nature, and not in relation to the business of the employer of the recipient. In determining whether a gift is "personal in nature and not in relation to the business of the employer of the recipient," member organizations should consider a number of factors, including the nature of any pre-existing personal or family relationship between the person giving the gift and the recipient and whether the associated person paid for the gift. When the member organization bears the cost of the gift, either directly or by reimbursing an associated person, the Exchange will presume that such gift is not personal in nature and instead is in relation to the business of the employer of the recipient.

Proposed Supplementary Material .05 would state that bereavement gifts that are customary and reasonable are not considered to be in relation to the business of the employer of the recipient and, therefore, are not subject to the restrictions in Phlx Options 10, Section 27(a) or the recordkeeping requirements in Phlx Options 10, Section 27(c).

Proposed Supplementary Material .06 (De Minimis Gifts and Promotional or Commemorative Items), at paragraph (a), would state that gifts of a de minimis value (e.g., pens, notepads, or modest desk ornaments) or promotional items of nominal value that display the member organization's logo (e.g., umbrellas, tote bags, or shirts) are not subject to the restrictions in Phlx Options 10, Section 27(a) or the recordkeeping requirements in Phlx Options 10, Section 27(c), provided that the value of the gift or promotional item is substantially below the \$300 limit. Proposed Supplementary Material .06(b) would state that customary and reasonable solely decorative items commemorating a business transaction are not subject to the restrictions in Phlx Options 10,

³ See Securities Exchange Act Release No. 104830 (February 12, 2026), 91 FR 7570 (February 18, 2026) (Order Approving File No. SR-FINRA-2025-003) ("FINRA Approval Order").

⁴ See *id.*

⁵ See FINRA Approval Order at 6.

Section 27(a) or the recordkeeping requirements in Phlx Options 10, Section 27(c). Where an item is not solely decorative, such item would remain subject to the restrictions in Phlx Options 10, Section 27.

Proposed Supplementary Material .07 (Donations Due to Federally Declared Major Disasters) would state that donations by a member organization or an associated person to any person, principal, proprietor, employee, agent or representative of another person to provide assistance to the individual for losses sustained in a natural event that the President has declared to be a major disaster, such as a wildfire, hurricane, tornado, earthquake, or flood, are not considered “in relation to the business of the employer of the recipient” for purposes of Phlx Options 10, Section 27(a) and are not subject to the restrictions in Phlx Options 10, Section 27(a) or the recordkeeping requirements of Phlx Options 10, Section 27(c). This provision recognizes that the nature of such disasters is unpredictable and catastrophic.

Proposed Supplementary Material .08 (Supervision and Recordkeeping) would state that the Exchange’s supervision rules at Options 10, Section 7 require a member organization to have a supervisory system reasonably designed to achieve compliance with Phlx Options 10, Section 27. The Exchange’s supervision requirements for member organizations conducting options business with the public are set forth in Phlx Options 10, Section 7 (Supervision of Accounts). To the extent applicable, member organizations would look to the applicable supervision rules of the Exchange to establish and maintain a supervisory system reasonably designed to achieve compliance with Phlx Options 10, Section 27. To meet these standards, member organizations would be required to have systems and procedures reasonably designed to ensure that payments and gratuities in relation to the business of the employer of the recipient given by the member organization and its associated persons to employees of another person are (a) reported to the member organization; (b) reviewed for compliance with Phlx Options 10, Section 27; and (c) maintained in the member organization’s records. Such procedures must be reasonably designed to ensure that an associated person who is giving a payment or gratuity is not responsible for determining whether such payment or gratuity is in relation to the business of the recipient’s employer. Member organizations are not required to maintain records of gifts that are consistent with the requirements of

proposed Supplementary Material .04 through .07. Requiring a person other than the associated person giving the gift to assess the nature of the gift is intended to encourage objectivity in making such determinations.

Proposed Supplementary Material .09 (Gifts to a Member Organization’s Associated Persons or Individual Retail Customers) would state that Phlx Options 10, Section 27 does not apply to gifts from a member organization to its own associated persons, or to gifts from a member organization or an associated person to individual retail customers. The Exchange believes proposed Supplementary Material .09 would clarify, and improve awareness and understanding of, the scope of Phlx Options 10, Section 27.

The Exchange believes the proposed rule change would promote efficiency without reducing protection for investors and the public interest. Because the Exchange proposes to adopt a rule substantially similar to FINRA Rule 3220, Members that are also FINRA members would be subject to a substantially similar rule when conducting business on the Exchange. In addition, Members that are not FINRA members would be subject to Phlx Options 10, Section 27 to the extent that such Members conduct business with the public.

In addition, adopting Options 10, Section 27 in a form substantially similar to FINRA Rule 3220 would enable the Exchange to incorporate Options 10, Section 27 into the regulatory allocation agreement between the Exchange and FINRA pursuant to Rule 17d–2 under the Act (the “17d–2 Agreement”). The 17d–2 Agreement allocates to FINRA regulatory responsibility, with respect to common members of the Exchange and FINRA, for the examination, investigation, and enforcement of compliance with certain federal securities laws, rules and regulations, and rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules.⁶ Because Options 10, Section 27 is currently reserved, this rule is not within the scope of the 17d–2 Agreement. Adopting the proposed rule in a form substantively similar to FINRA Rule 3220 would enable the Exchange to incorporate Options 10, Section 27 into the 17d–2 Agreement, further reducing duplicative regulation of member organizations that are also FINRA members.

⁶ See Securities and Exchange Release No. 99260 (January 2, 2024), 89 FR 981 (January 8, 2024) (approving File No. 4–818).

Technical Amendment

The Exchange proposes a technical amendment to Options 10, Section 7, Supervision of Accounts. The Exchange proposes to remove the following rule text, “*The deadline to submit the annual supervision-related reports pursuant to Options 10, Section 7(g) and (h) will be extended from June 30, 2020 to July 31, 2020.*” This rule refers to a dated deadline.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁸ 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.

As noted above, the proposed rule is substantially similar to FINRA Rule 3220, thereby promoting uniform standards across the securities industry. The proposed rule change is designed to enable the Exchange to incorporate Options 10, Section 27 into the 17d–2 Agreement, further reducing duplicative regulation of Members that are also members of FINRA. For the avoidance of doubt, Options 10, Section 27 would equally apply to Exchange-only Member as the Exchange believes it appropriately protects against improprieties that might arise when substantial gifts or monetary payments are given to certain persons.

Adopting a rule substantially similar to FINRA Rule 3220 promotes consistency and reduces the potential for confusion for member organizations that are also FINRA members, or that are members of other Nasdaq affiliated options exchanges, and that are subject to substantially similar rules on those markets. The proposed rule is designed to focus member compliance on the types of gifts that are more likely to be associated with the improprieties and improper incentives that the Rule is designed to address, and was also 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.

Specifically, adopting a \$300 gift limit is reasonable because it reflects current and anticipated economic conditions while maintaining the fundamental limitations intended to minimize potential improprieties, such as

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

conflicts of interest, that may arise when a member organization or an associated person gives an item of value to an employee of another person, such as an institutional customer, vendor, or counterparty. Providing exemptive authority is reasonably designed to provide the Exchange with flexibility to address issues that may arise under Phlx Options 10, Section 27, taking into account specific factual circumstances and differences among member organizations. Codifying and clarifying existing FINRA guidance that provides member organizations with clear and objective methods regarding the valuation, attribution, and aggregation of gifts, as well as the treatment of personal gifts, bereavement gifts, de minimis gifts and promotional items, commemorative items, and donations associated with federally declared major disasters, should facilitate compliance and clarify regulatory expectations. Codifying the obligation to maintain a supervisory system reasonably designed to achieve compliance with Phlx Options 10, Section 27 clarifies regulatory expectations and reasonably imposes on member organizations the obligation to oversee compliance with the Rule.

In addition, the Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act because it would harmonize Phlx's rulebook with the corresponding rules of other Nasdaq affiliated exchanges,⁹ thereby reducing regulatory fragmentation, promoting consistency across the Nasdaq affiliated options exchanges, and enabling the Exchange to apply and enforce a uniform standard of business conduct with respect to gifts and gratuities.

In addition, the proposed rule change would enable the Exchange to incorporate Options 10, Section 27 into its regulatory allocation agreement with FINRA pursuant to Rule 17d-2 under the Act, thereby further reducing duplicative regulation of member organizations that are also FINRA members and facilitating FINRA's performance of its regulatory functions under that agreement.

Technical Amendment

The Exchange's proposal to remove dated rule text from Options 10, Section 7 is a non-substantive amendment that does not impact the rule 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 to create a rule for Phlx that is substantially similar to FINRA Rule 3220. The proposed rule change would apply uniformly to all member organizations. Member organizations that are also FINRA members are subject to the amended FINRA Rule 3220. Member organizations that are not FINRA members would be subject to Phlx Options 10, Section 27 to the extent that they conduct business on the Exchange. Furthermore, the proposed rule change would provide harmonization between the Exchange's rules and comparable FINRA rules, resulting in less burdensome and more efficient regulatory compliance for member organizations that are also FINRA members, and facilitating FINRA's performance of its regulatory functions under the Exchange's regulatory allocation agreement with FINRA pursuant to Rule 17d-2 under the Act.

The proposed rule change would not impose any burden on intra-market competition because the Rule would apply uniformly to all member organizations. The proposed rule change would not impose any burden on inter-market competition because other national securities exchanges have adopted rules substantively similar to FINRA Rule 3220.¹⁰

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 Act¹¹ and

subparagraph (f)(6) of Rule 19b-4 thereunder.¹²

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-Phlx-2026-56 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-Phlx-2026-56. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-Phlx-2026-56 and should be submitted on or before October 13, 2026.

¹² 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁹ See The Nasdaq Stock Market LLC, Nasdaq Texas, LLC, and Nasdaq ISE, LLC ("ISE") Options 10, Section 27. Of note, Nasdaq GEMX, LLC and Nasdaq MRX, LLC Options 10, Section 27 incorporate by reference ISE Options 10, Section 27.

¹⁰ See *id.*

¹¹ 15 U.S.C. 78s(b)(3)(A)(iii).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–19298 Filed 9–21–26; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket # FAA–2026–6240]

FAA Contract Tower Competitive Grant Program; Fiscal Year (FY) 2027 Funding Opportunity

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of funding opportunity.

SUMMARY: The Department of Transportation (DOT), Federal Aviation Administration (FAA) announces the opportunity to apply for up to \$100 million in Fiscal Year (FY) 2027 Airport Infrastructure Grant funds for the FAA Contract Tower (FCT) Competitive Grant Program, made available under the Infrastructure Investment and Jobs Act of 2021 (IIJA), Public Law 117–58. The purpose of the FCT Competitive Grant Program is to make annual grants available to eligible airports for airport-owned airport traffic control tower (ATCT) projects that address the aging infrastructure of our nation’s airports.

DATES: Airport sponsors seeking consideration for FY 2027 FCT Competitive Grant Program funding should submit FAA Form 5100–144 as soon as possible, but no later than 5:00 p.m. Eastern Time on October 19, 2026.

ADDRESSES: Submit applications electronically at <https://www.faa.gov/bil/airport-infrastructure/fct> by following the instructions under Frequently Asked Questions, “How to apply.”

FOR FURTHER INFORMATION CONTACT: Daniel Neumann, Acting Manager, FAA Office of Airports IIJA Infrastructure Branch (APP–540), at (202) 267–9590 or IIJA.Airports@faa.gov.

SUPPLEMENTARY INFORMATION: The IIJA established the FCT Competitive Grant Program that will provide up to \$100 million of FY 2023 unobligated Airport Infrastructure Grant (AIG) funding to sustain, construct, repair, improve, rehabilitate, modernize, replace, or relocate non-approach control towers; acquire and install air traffic control, communications, and related equipment

to be used in those towers; or construct a digital tower certified by the FAA, including acquisition and installation of air traffic control, communications, or related equipment.

The full text of the Notice of Funding Opportunity (NOFO) is available on the FAA’s website at *FAA Contract Tower Competitive Grant Program | Federal Aviation Administration*. For more information applicants may also search *Grants.gov* using Funding Opportunity Number DOT–FAA–26–0117–002 or Assistance Listing Number 20.117. Mail and fax submissions will not be accepted.

Issued in Washington, DC, on September 18, 2026

Patrick W. Magnotta,

Acting Deputy Director, Office of Airport Planning & Programming, FAA Office of Airports.

[FR Doc. 2026–19328 Filed 9–21–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2026–2773]

Pipeline Safety: Meeting of the Liquid Pipeline Advisory Committee

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

ACTION: Notice of advisory committee meeting.

SUMMARY: This notice announces a public meeting of the Technical Hazardous Liquid Pipeline Safety Standards Committee, also known as the Liquid Pipeline Advisory Committee (LPAC). The meeting will be held virtually to discuss the following notices of proposed rulemaking (NPRMs): “Breakout Tank Inspection,” “Remote Monitoring of Hazardous Liquid Pipeline Rectifiers,” and “Hazardous Liquid Valve Maintenance Schedule.”

DATES: The LPAC will meet on Wednesday, October 21, 2026, from 9:00 a.m. to 3:00 p.m. EST to discuss the NPRMs. The meeting may end early or later depending on when the committee completes its review. Members of the public who wish to attend are asked to register on the meeting website at <https://primis-meetings.phmsa.dot.gov/> no later than October 17, 2026. Individuals who require accommodations because of a disability must notify Joseph Berry by email at

joseph.berry1@dot.gov by that date as well.

ADDRESSES: The meeting will be held virtually. The agenda, registration details, and virtual access instructions will be posted at <https://primis-meetings.phmsa.dot.gov/>. Presentations will be available on the meeting website and at <https://www.regulations.gov> in the docket for the respective rulemakings as soon as practicable following the meeting.

Comments: Members of the public who wish to submit any additional written statement for the Committee’s consideration may do so by October 7, 2026. PHMSA will also accept additional written comments after the meeting if received by no later than November 20, 2026. Submit comments to the docket number corresponding to the relevant rulemaking (as listed in section II below) using any of the following methods and identifying the docket number on the top of the first page:

- On <https://www.regulations.gov>, follow instructions to “submit a comment.”
- By Mail or hand delivery to Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Hand delivery is available between 9:00 a.m. and 5:00 p.m. EST, Monday through Friday, except Federal holidays. Submit two copies if you submit your comment by mail, and include a self-addressed stamped postcard if you wish to receive confirmation of receipt.

Comments may be viewed on the respective dockets on <https://www.regulations.gov>. Comments are posted without changes or edits, including any personal information provided. DOT’s privacy statement can be reviewed at <https://www.dot.gov/privacy>.

Confidential Business Information (CBI): You may designate a comment as CBI if your comment contains commercial or financial information that is customarily treated as private and that you actually treat as private by sending to the agency contact listed below, the following: (1) the original document with each page containing CBI marked as “confidential;” (2) a redacted copy with the CBI deleted; and (3) an explanation of why the information you are submitting is CBI. See 49 CFR 190.343. Any comment not specifically designated as CBI will be placed in the public docket.

FOR FURTHER INFORMATION CONTACT: Joseph Berry by phone at 720–601–3577 or by email at joseph.berry1@dot.gov.

¹³ 17 CFR 200.30–3(a)(12).

SUPPLEMENTARY INFORMATION:**I. Information on the Committee**

The LPAC is a statutorily mandated advisory committee that provides PHMSA and the Secretary of Transportation with recommendations on proposed standards for the transportation of hazardous liquid by pipelines. Established in accordance with 49 U.S.C. 60115 and the Federal Advisory Committee Act of 1972 (FACA, 5 U.S.C. Ch. 10), the LPAC is tasked with reviewing and providing recommendations on the technical feasibility, reasonableness, cost-effectiveness, and practicability of PHMSA's proposed changes to the hazardous liquid pipeline safety regulations. The committee consists of 15 members, with membership evenly divided among Federal and State governments, regulated industry, and the general public.

II. Meeting Agenda

The LPAC will meet on Wednesday, October 21, 2026 to discuss the following NPRMs:

1. *Pipeline Safety: Breakout Tank Inspection Rule*, Docket Number PHMSA–2025–1271. PHMSA proposed to update its 49 CFR part 195 regulations for breakout tanks to incorporate the 5th edition of API Std 653 (issued in November 2014 with addendums and errata through July 2025) by reference, and to authorize the use of risk-based inspection procedures for establishing the inspection intervals of in-service breakout tanks.

2. *Pipeline Safety: Remote Monitoring of Hazardous Liquid Pipeline Rectifiers*, Docket Number PHMSA–2026–1550. PHMSA proposed amendments to clarify that required electrical checks of rectifiers and other cathodic protection equipment may be performed remotely on hazardous liquid and carbon dioxide pipelines. This proposal is consistent with standards previously adopted for gas transmission pipelines.

3. *Pipeline Safety: Hazardous Liquid Valve Maintenance Schedule*, Docket Number PHMSA–2026–1554. PHMSA proposed to allow operators of hazardous liquid and carbon dioxide pipelines to determine a valve inspection schedule with a maximum valve inspection interval of one year, not to exceed 15 months.

The LPAC will review the NPRMs and supporting regulatory analyses, including, the preliminary regulatory impact analyses, environmental assessments, and other materials pertaining to the NPRM provided in the respective public docket.

Following the meeting, PHMSA will evaluate the LPAC's recommendations and consider comments received and relevant information from the meeting report in developing any final rules.

III. Public Participation

This virtual meeting will be open to the public. PHMSA also will record the meeting and post a record to the public docket.

Though verbal statements from members of the public will not be permitted during this meeting, PHMSA invites written comments. Members of the public who wish to submit any additional written statement for the Committee's consideration may do so by October 7, 2026. PHMSA also will accept additional written comments after the meeting if received by November 20, 2026.

PHMSA is not always able to publish a notice in the **Federal Register** quickly enough to provide timely notice regarding last-minute issues that impact a previously announced advisory committee meeting. Individuals should check the meeting website or contact Joseph Berry regarding any possible changes.

Issued in Washington, DC, under authority delegated in 49 CFR 1.97.

Timothy M. Gaither,

Acting Deputy Associate Administrator.

[FR Doc. 2026–19351 Filed 9–21–26; 8:45 am]

BILLING CODE 4910–60–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.

DATES: This action was issued on September 17, 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

On September 17, 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. ZAKER HOSSEIN, Hossein Ali (Arabic: حسین علی ذاکر حسین), Kish Sadaf Fazyek Kh Hananeh Shiday Yakom, Kish Island, Iran; DOB 23 May 1957; POB Shiraz, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport B61766700 (Iran) expires 20 Feb 2028; National ID No. 2296622909 (Iran) (individual) [IRAN] [IRAN-EO13902] (Linked To: ZANJANI, Babak Morteza).

Designated pursuant to section 1(a)(iv) 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 having acted or purported to act for or on behalf of, directly or indirectly, BABAK MORTEZA ZANJANI, a person whose property and interests in property are blocked pursuant to E.O. 13902.

2. ZAKER HOSSEIN, Mohammad Mahdi (Arabic: محمد مهدی ذاکر حسین) (a.k.a. ZAKER HOSSEIN, Hamed (Arabic: حامد ذاکر حسین)), Unit 7, Building 20, Esmail, Zarafshan Southern, Veranda East, Town West, Tehran, Iran; DOB 09 Sep 1981; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; Passport K61893781 (Iran) expires 24 Feb 2028; National ID No. 2298706875 (Iran) (individual) [IRAN] [IRAN-EO13902] (Linked To: PISHTAZ SIMORGH ELECTRONIC TRADE COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13902, for having acted or purported to act for or on behalf of, directly or indirectly, PISHTAZ SIMORGH ELECTRONIC TRADE COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13902.

3. HEIDARI, Seyed Adel (Arabic: سید عادل حیدری), KH Shari'ati KH Va'zi P40 Vahda 3, Tehran, Iran; DOB 22 Nov 1974; POB Shahrekord, Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions; Gender Male; National ID No. 4621551825 (Iran) (individual) [IRAN] [IRAN-EO13902] (Linked To: DOT ONE VALUE CREATION GROUP).

Designated pursuant to section 1(a)(iv) of E.O. 13902, for having acted or purported to act for or on behalf of, directly or indirectly, DOT ONE VALUE CREATION GROUP, a person whose property and interests in property are blocked pursuant to E.O. 13902.

Entities

1. PISHTAZ SIMORGH ELECTRONIC TRADE COMPANY (Arabic: شرکت تجارت الکترونیک پیشتاز سیمرغ) (a.k.a. PISHTAZ SIMORGH COMPANY; a.k.a. TEJARAT ELECTRONIC PISHTAZ SIMORGH), No. 2, 35th Street, Alvand Street, Argentina Square, Tehran, Iran; Website www.pishtazsimorgh.com; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 2024; Organization Type: Financial and Insurance Activities; National ID

No. 14012169913 (Iran); Registration Number 611800 (Iran) [IRAN] [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the digital asset sector of the Iranian economy.

2. BITBANK (Arabic: بیتبانک) (a.k.a. BITBANK3), No. 2, 35th Street, Alvand Street, Argentina Square, Tehran, Iran; Website www.bitbank3.com; alt. Website www.bitbank.com; Additional Sanctions Information - Subject to Secondary Sanctions; Organization Established Date 2024; Organization Type: Financial and Insurance Activities [IRAN] [IRAN-EO13902].

Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the digital asset sector of the Iranian economy.

(Authority: E.O. 13902)

Bradley T. Smith,

Director, Office of Foreign Assets Control.

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Part II

Federal Deposit Insurance Corporation

12 CFR Parts 303, 314, and 333
Merger Transactions; Proposed Rule

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 314, and 333

RIN 3064–AG18

Merger Transactions

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is inviting comment on a proposed rule that would fundamentally reform important aspects of the FDIC's approach to processing and evaluating merger transactions subject to the Bank Merger Act (BMA). Notable reforms under the proposed rule would include: accounting for credit unions and centrally booked deposits in the initial competitive effects analysis; establishing a letter filing process with "deemed approval" for "*de minimis* merger transactions;" tailoring other merger filing requirements to reduce burden and processing times based on the size and risk profile of a merger transaction and the attributes of the acquiring and resulting institution; limiting and clarifying the FDIC's discretion to remove a filing from expedited processing; and codifying the FDIC's reformed approach to evaluating the statutory factors under the BMA. Collectively, the revisions under the proposed rule would improve the speed, certainty, and predictability of the FDIC's bank merger framework in a manner consistent with the BMA. In addition, the proposed rule would modernize the framework to better reflect the competitive environment of the U.S. banking industry, including by tailoring it to reflect the full range of merger transactions subject to FDIC review along with reforming or eliminating outdated provisions.

DATES: Comments must be received on or before November 23, 2026.

ADDRESSES: The FDIC encourages interested parties to submit written comments. Please include your name, affiliation, address, email address, and telephone number(s) in your comment. You may submit comments to the FDIC, identified by RIN 3064–AG18, 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's website.
- **Mail:** Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments/Legal OES (RIN 3064–AG18),

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., eastern time.

- **Email:** comments@fdic.gov. Include RIN 3064–AG18 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/federal-register-publications>. Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this document will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT:

Sandra Macias, Associate Director, (202) 898–3642, smacias@fdic.gov, Division of Risk Management Supervision; Tara Oxley, Associate Director, (202) 898–6722, toxley@fdic.gov; David Sharp, Senior Examination Specialist, (202) 898–3997, dasharp@fdic.gov, Division of Depositor and Consumer Protection; Annmarie Boyd, Assistant General Counsel, (202) 898–3714, aboyd@fdic.gov; Kali Fleming, Senior Attorney, (571) 637–1896, kffleming@fdic.gov, Legal Division; Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

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I. Policy Objectives

The FDIC is issuing this notice of proposed rulemaking (proposed rule) to improve the speed and certainty of, modernize the FDIC's approach related to, and reduce the regulatory burden associated with, the FDIC's review of merger transactions subject to FDIC approval under the BMA. Many aspects of the FDIC's current framework for evaluating merger transactions are outdated, and the proposed rule would align the FDIC's approach with the current market environment. For example, banking and financial services have become far more competitive in the decades since the BMA was enacted,¹ given the significant increase in nonbanks that offer bank-like products or services,² the dramatic reduction in legal restrictions on interstate banking and branching, and technological innovations such as the internet and mobile phones that allow banks and nonbanks to offer products and services nationwide much more easily than in the past.

Other elements of the current merger review framework are also in need of modernization and reform. For example, for certain merger transactions, supervisory experience has demonstrated that an approval is routine and can be provided expeditiously because the size and nature of such transactions, together with the attributes of the acquiring and resulting institutions, necessarily result in a favorable finding on each of the statutory factors. The current merger filing and processing requirements have not been tailored to reflect these *de minimis* types of merger transactions that, at most, only marginally affect the size and/or risk profile of a well-rated institution, as well as other merger

¹ Public Law 86–463, 74 Stat. 129.

² This includes credit unions, financial technology companies (fintechs), money market funds, retailers, technology companies, independent mortgage companies, private credit, and various other nonbank financial companies.

transactions such as certain corporate reorganizations that routinely result in favorable findings on at least some of the statutory factors.

In addition, aspects of the FDIC's current framework are more stringent than the requirements under the BMA, resulting in an unnecessarily burdensome filing process with few additional public benefits. For example, the public notice requirement under the current framework is more burdensome than required by statute and does not reflect modern information channels and the way most members of the public receive and consume information today. The related public comment period, which is not required under the BMA, similarly has not been modernized to reflect that certain types of merger transactions, such as *de minimis* merger transactions and corporate reorganizations, typically garner little to no meaningful public interest.

The cumulative result of these and other aspects of the current BMA framework—such as the lack of prescribed timelines for FDIC action, the ability of the FDIC to remove a merger filing from expedited processing due to an unsubstantiated Community Reinvestment Act (CRA) protest or at the agency's discretion for “good cause,”³ and an undefined scope for transactions considered mergers in substance—is (at times) an undisciplined and unnecessarily long and inconsistent process.

The FDIC's approach to evaluating the statutory factors under the BMA also has revealed several shortcomings, including the undue weight placed on supervisory ratings. For example, in considering the adequacy of management of the acquiring institution, the FDIC considers the management component rating without always conducting a deeper review of the supervisory history to determine (1) management's ability to efficiently remediate identified concerns, and (2) whether and to what extent such concerns bear on the ability of management to successfully acquire and integrate the institution to be acquired.

Currently, information regarding the FDIC's evaluation of the statutory factors is available in the agency's SOP on Bank Merger Transactions and publicly-available filing processing materials; however, other important elements reflect unpublished internal practice. For example, the FDIC has, on occasion, taken qualitative elements into account when evaluating the competition factor, such as commuting patterns, that have not been disclosed in

public-facing materials. The legacy approach to providing information regarding the FDIC's evaluation of the statutory factors has served to magnify concerns regarding transparency and predictability.

In recognition of these shortcomings, in 2025 the FDIC commenced a comprehensive review of the agency's BMA framework, which began in earnest with a March 2025 proposal to rescind the FDIC's 2024 SOP on Bank Merger Transactions (2024 SOP) and reinstate the prior SOP (2025 proposal), which was initially adopted in 1998 and amended most recently in 2008.⁴ The 2025 proposal was intended to bring relatively more certainty and predictability to the industry and stakeholders while the FDIC conducted a broader review of the agency's BMA framework.⁵

The FDIC received 13 comments on the 2025 proposal. Commenters opposing the 2025 proposal expressed general support for the 2024 SOP, particularly with respect to the approaches to evaluating the financial stability and convenience and needs factors. Other commenters supported reinstatement of the prior SOP as an interim measure while the FDIC considered ways to improve the BMA framework and provided specific recommendations as to how the framework could be improved. Suggestions focused on modernization of the competitive effects analysis, including in highly concentrated rural areas and by more appropriately reflecting nonbank competition in the initial Herfindahl–Hirschman Index (HHI) analysis; placing less emphasis on supervisory findings for purposes of evaluating the statutory factors; improved coordination among the States and sister Federal agencies; enhanced scrutiny of bank-credit union mergers; clarification of the FDIC's analysis of the financial stability factor; a more disciplined approach to processing filings; and relatively closer adherence to the FDIC's statutory authorities under the BMA.

The FDIC is issuing this proposed rule to comprehensively reform the FDIC's framework for processing and evaluating bank merger transactions to address these and other concerns. Specifically, the proposed rule would improve the speed and certainty of the merger filing process by amending the FDIC's existing rules to establish a new framework for how the FDIC would

review and process merger filings. The proposed rule would establish clear processing procedures and faster timelines for nearly all merger transaction types that are subject to the FDIC's review under the BMA. The proposed rule also would define new categories of merger transactions, including mergers in substance (an area that has presented considerable confusion for applicants); *de minimis* merger transactions; and significant asset transfers, which would not be treated as merger transactions. Aspects of the proposed rule also are focused on reducing complexity in the merger filing review process. For example, the proposed rule would establish a letter filing requirement and eliminate the public comment period for *de minimis* merger transactions; more broadly reduce public notice requirements; and provide consistency around the process for determining whether a filing is substantially complete. Furthermore, the proposed rule would make long overdue revisions to the competitive effects analysis for purposes of the BMA, including by expressly accounting for credit union shares⁶ and centrally booked deposits as part of the initial analysis under the HHI. Other aspects of the FDIC's approach to evaluating the statutory factors would be reformed and made transparent. In the aggregate, the proposed rule is intended to result in a substantial and meaningful reduction in regulatory burden and to ensure that going forward, the agency's review of merger transactions is faster, more predictable, and appropriately tailored to reflect the type, size, and complexity of the potential risks of a merger transaction subject to FDIC approval. In addition, the proposed rule would modernize the framework to reflect the competitive environment of the banking industry and reform outdated provisions.

II. Background

The BMA, codified at section 18(c) of the Federal Deposit Insurance Act (FDI Act),⁷ prohibits an insured depository institution (IDI) from entering into a merger transaction without regulatory approval and establishes a framework that applies to the review of merger transactions by the FDIC, the Office of the Comptroller of the Currency (OCC), and the Board of Governors of the Federal Reserve System (Federal

⁴ See 63 FR 44761 (Aug. 20, 1998); 67 FR 48178 (Jul. 23, 2002); 67 FR 79278 (Dec. 27, 2002); and 73 FR 8870 (Feb. 15, 2008).

⁵ See 90 FR 11679 (Mar. 11, 2025).

⁶ Credit union shares are equivalent to bank deposits and evidence “money or its equivalent received or held by a credit union in the usual course of business and for which it has given credit or is obligated to give credit to the account of [a] member.” 12 U.S.C. 1752(5).

⁷ 12 U.S.C. 1828(c).

³ See 12 CFR 303.11(c)(2).

Reserve Board) (each, a responsible agency). The BMA requires the prior written approval of the FDIC before an IDI may merge or consolidate with, purchase or otherwise acquire the assets of, or assume any deposit liabilities of, another IDI if the resulting institution is a State nonmember bank or State savings association.⁸ The BMA also requires the FDIC's prior written approval before any IDI may merge or consolidate with, assume the liability to pay deposits or similar liabilities of, or transfer assets to a noninsured bank or institution. The BMA prohibits the responsible agency from approving a merger transaction that would result in a monopoly and also prohibits approval of other merger transactions that may substantially lessen competition. The BMA further requires the responsible agency to consider the following statutory factors when evaluating a potential merger transaction: the financial and managerial resources and future prospects of the existing and proposed institutions;⁹ the convenience and needs of the community to be served; the risk to the stability of the U.S. banking or financial system; and the effectiveness of any IDI involved in the merger transaction in combatting money laundering activities, including in overseas branches (collectively, statutory factors).¹⁰

Subpart D of 12 CFR part 303 (subpart D) establishes the FDIC's procedures for reviewing merger filings pursuant to the BMA. The FDIC has previously issued various SOPs intended to provide additional guidance to potential applicants and the public regarding the FDIC's consideration of the statutory factors when reviewing merger filings submitted pursuant to subpart D. The proposed rule would codify the FDIC's standards for evaluating the statutory factors, with certain modifications, to provide greater clarity and consistency for the public. As part of this rulemaking, the FDIC is proposing to rescind its current SOP concurrently with the issuance of a final rule.

III. Overview of the Proposed Rule

A. General Approach

The proposed rule would update many aspects of the FDIC's current merger framework with the goals of

improving the FDIC's procedures to provide greater clarity and certainty to applicants, improve discipline around processing timelines, modernize how the agency evaluates the statutory factors, and reduce regulatory burden. The proposed rule would establish a new regulatory framework that encompasses the procedural aspects of merger review under part 303 of the FDIC Rules and Regulations and provides transparency regarding the FDIC's consideration of the statutory factors for various types of merger transactions in new § 335.5.

The FDIC seeks comments on all aspects of the proposed rule.

B. Substantially Complete Determination

The proposed rule would provide that, should an applicant submit an incomplete merger filing, the FDIC would notify the applicant and provide a written explanation regarding the information required to render the merger filing complete within 21 days after receipt of the merger filing. If the applicant does not provide the requested information within 30 days of the FDIC's notification, the proposed rule would permit the FDIC to return the merger filing as incomplete without rendering a decision on the merger filing. If the FDIC does not notify the applicant that a merger filing is incomplete within 21 days of receipt of the merger filing, the proposed rule would provide that the merger filing would be deemed substantially complete as of the date of receipt. The timelines for rapid, expedited, and standard processing (discussed further below) would begin on the date that the FDIC receives a substantially complete merger filing.

C. Rapid Processing and Streamlined Filing Requirements for *de Minimis* Merger Transactions

The proposed rule would establish a new subcategory of merger transactions called *de minimis* merger transactions that would qualify for rapid processing with deemed approval. Under the proposed rule, a *de minimis* merger transaction would be defined as a transaction (1) that falls within one of the categories in § 303.61(c)(1); (2) in which all institutions involved in the transaction satisfy each of the criteria in § 303.61(c)(2), to the extent applicable; and (3) in which the resulting institution will be "well-capitalized" immediately following the merger transaction.

Section 303.61(c)(1) would identify types of merger transactions, including certain corporate reorganizations, that,

based on the FDIC's experience, satisfy the statutory factors when conducted by institutions that also satisfy the criteria in § 303.61(c)(2). The first category would include merger transactions, including certain corporate reorganizations, if the amount of assets being acquired is less than the adjusted lower threshold under section 7A(a)(2)(B)(i) of the Clayton Act, as amended by the Hart-Scott-Rodino Act (HSR Act),¹¹ and 5 percent of the assets of the acquiring IDI. The second category would include corporate reorganizations in which (1) an IDI acquires one or more operating subsidiaries; and (2) the legal and financial risk that the IDI is exposed to is substantially identical before and after the transaction.

Section 303.61(c)(2) would require all institutions involved in the *de minimis* merger transaction to satisfy the following criteria, as applicable: each institution (1) received an FDIC-assigned composite rating of 3 or better under the Uniform Financial Institutions Rating System (UFIRS) as a result of its most recent examination; (2) received a satisfactory or better CRA rating at its most recent examination (provided it is examined for CRA); (3) received a compliance rating of 1, 2, or 3 from its primary Federal regulator at its most recent examination; (4) is well-capitalized; and (5) is not subject to certain orders, directives, or written agreements with the primary Federal regulator or chartering authority. Section 303.61(c)(3) would require that the resulting institution will be well-capitalized immediately following the merger transaction.

De minimis merger transactions would be subject to a streamlined letter filing requirement and would be eligible for "rapid processing" in which the transaction would, unless the U.S. Attorney General objects to the transaction on competition grounds, be deemed approved five business days after the latest of (1) the FDIC's receipt of a substantially complete filing; or (2) if the transaction is not a corporate reorganization, five business days after (A) receipt of a competitive factors report (if applicable) indicating the Attorney General does not object to the transaction on competition grounds; (B) the expiration of the 30-day time period for the Attorney General to provide a competitive factors report under the BMA if no competitive factors report has been received; or (c) the end of the time period set forth in a request by the Attorney General for additional time to analyze competitive concerns. If the

⁸ If the acquiring, assuming, or resulting bank is to be a national bank or a Federal savings association, then the OCC is the responsible agency. 12 U.S.C. 1828(c)(2)(A). If the acquiring, assuming, or resulting bank is to be a state member bank, then the Federal Reserve Board is the responsible agency. 12 U.S.C. 1828(c)(2)(B).

⁹ The FDIC considers each of these elements separately as part of a single statutory factor.

¹⁰ 12 U.S.C. 1828(c)(5), (11).

¹¹ 15 U.S.C. 18a(a)(2)(B)(i).

Attorney General issues an adverse competitive factors report for a merger transaction subject to the FDIC's review under the BMA, it would not qualify for rapid processing as a *de minimis* merger transaction under the proposed rule.

The proposed rule would also eliminate the public comment period for all *de minimis* merger transactions.

D. Expedited Processing for Corporate Reorganizations That Are Not de Minimis Transactions

The proposed rule would refine the definition of "corporate reorganization" to clarify that a corporate reorganization is a merger transaction involving solely an IDI and one or more affiliated institutions that are affiliates as of the time of filing to provide certainty to applicants regarding the point in time when the FDIC evaluates whether a merger transaction constitutes a corporate reorganization.

To qualify for this category of expedited processing, either: (1) all parties to the merger transaction would have received a composite rating of 3 or better under UFIRS as a result of their most recent Federal or State examination; or (2) the acquiring party would be an eligible depository institution (as defined in § 303.2(r)) and the amount of the total assets to be acquired would not exceed an amount equal to 25 percent of the acquiring institution's total assets as reported in its consolidated report of condition and income (Call Report) for the immediately preceding quarter.

For qualifying corporate reorganizations that are not a *de minimis* merger transaction, the FDIC would take action by the latest of (1) 30 days after receipt of a substantially complete filing, or (2) for an interstate merger transaction subject to the provisions of section 44 of the FDI Act, five business days after the FDIC receives confirmation from the host State (as defined in § 303.41(e)) that the applicant has both complied with the filing requirements of the host State and submitted a copy of the filing to the host State bank's supervisor. Such transactions would be authorized for immediate consummation upon approval.

The proposed rule would also reduce the public comment period to 15 days for corporate reorganizations that are eligible for this category of expedited processing and are not *de minimis* merger transactions.

E. Expedited Processing for Eligible Depository Institutions Engaging in Merger Transactions That Are Not Corporate Reorganizations or de Minimis Merger Transactions

Subpart D currently provides expedited processing for eligible depository institutions so long as (1) the resulting institution will be "well-capitalized;" and (2) either (a) all parties to the merger transaction are eligible depository institutions, or (b) the acquiring institution is an eligible depository institution and the amount of the total assets to be transferred does not exceed an amount equal to 10 percent of the acquiring institution's total assets. The proposed rule would retain expedited processing for eligible depository institutions, but update the asset threshold to reflect that the amount of the total assets to be acquired could not exceed an amount equal to 25 percent (as opposed to the current 10 percent) of the acquiring institution's total assets as reported in its Call Report for the immediately preceding quarter.

F. Standard Processing

The proposed rule would establish new tailored timeframes for standard processing of merger filings. Under the proposed rule, an applicant submitting a merger filing that does not qualify for rapid or expedited processing would receive a written determination by the FDIC within 90 days after submitting a substantially complete filing if (1) the resulting institution would have less than \$50 billion in assets, (2) authority to act on the filing is not reserved to the FDIC's Board of Directors, and (3) consummation of the merger transaction is not dependent upon action by another Federal regulator. All other merger filings not qualifying for expedited processing or the 90-day timeline would be acted upon within 150 days after the FDIC's receipt of a substantially complete filing. The FDIC would have discretion to extend the 90-day or 150-day processing timelines based on extenuating circumstances, for a maximum of 180 days or 270 days, respectively.

G. Mergers in Substance

The proposed rule would replace the FDIC's current qualitative, facts and circumstances-based approach for identifying a merger in substance with an approach that uses a transparent and predictable asset-based threshold. Specifically, the proposed rule would define a merger in substance as any merger transaction or series of merger transactions over a rolling 12-month period in which an IDI directly or

indirectly acquires all or substantially all, meaning 80 percent or more, of the assets of another institution.

H. Significant Asset Transfers

The proposed rule would establish a new notice and non-objection process for significant asset transfers to provide the FDIC with supervisory visibility into asset transfers that may affect the safety and soundness of an FDIC-supervised institution without requiring a more complex filing process. A significant asset transfer would be defined as a transaction that is not a merger transaction but that is a single transaction or a part of a series of transactions with the same counterparty or one or more affiliates of the same counterparty that would increase the size of the acquiring FDIC-supervised institution's assets by 25 percent or more over a rolling 12-month period. The proposed rule would exempt from the notice and non-objection framework transactions that are otherwise subject to FDIC approval or filing requirements.

Under the proposed rule, an institution must provide advance notice of the significant asset transfer. The FDIC would issue a decision within 30 days of receipt of the notice unless it notified the applicant that an extension was necessary due to extenuating circumstances. The FDIC could extend the processing timeline one time by a maximum of 60 days, for a total processing timeline of 90 days. The proposed rule specifies factors the FDIC will consider when reviewing the notice, including the capital level of the resulting institution, conformity with applicable law, the purpose(s) for the significant asset transfer, and the impact on safety and soundness.

I. Adverse Public Comments and CRA Protests

The proposed rule would clarify that the FDIC expects to use its discretion to remove a filing from expedited processing sparingly, particularly in the case of adverse public comments or CRA protests. Specifically, in the circumstance where an adverse comment or CRA protest can be resolved within the filing processing timeframe, the FDIC expects that a filing qualifying for expedited processing would not be removed from expedited processing simply due to the FDIC's receipt of an adverse comment or CRA protest. Additionally, the proposed rule provides that the FDIC would only remove an otherwise qualifying filing from expedited processing based on an adverse comment or CRA protest if certain criteria are met. These changes would apply to all filings submitted to

the FDIC under part 303 of the FDIC Rules and Regulations—not just merger filings.

J. Statutory Factors

The proposed rule would codify the FDIC's approach to evaluating the statutory factors. By codifying the FDIC's approach, the proposed rule would provide for a more durable and transparent framework regarding the agency's review and adjudication of merger filings submitted pursuant to the BMA, particularly when compared to the existing SOP. Notably, the proposed rule would specify that the FDIC would conduct a tailored review of a merger filing according to the facts and circumstances of the merger transaction, including taking into account the structure, scale, and materiality of the merger transaction.

The FDIC would also consider the applicant's plans to timely remediate any previously unresolved deficiencies identified in the supervisory record of the applicant or institution being acquired. The FDIC would place heightened focus on the resulting institution and the cumulative benefits and impact of the merger transaction in its review of the statutory factors.

The proposed rule would clarify and significantly reform the FDIC's approach to evaluating competition in the context of a merger transaction. The FDIC uses the HHI as an initial screen to evaluate the competitive effects of a merger transaction in a relevant geographic market, as defined at new § 303.61(l). The proposed rule would update how the FDIC calculates the initial HHI screen to more accurately reflect competition in a relevant geographic market today. Specifically, the FDIC's initial HHI screen would incorporate the deposits of all banks and thrift institutions, as well as centrally booked deposits of banks and thrift institutions, and shares of credit unions.

The proposed rule would establish a safe harbor for applicants using the results of the initial HHI screen. Under the proposed rule, absent objection from the Attorney General, the FDIC would not deny a merger filing on competition grounds where: (1) the initial HHI screen in a relevant geographic market is 1,800 points or less after consummation of the merger transaction; (2) if the initial HHI screen is more than 1,800 after consummation of the merger transaction, the increase is less than 200 points from the HHI in a relevant geographic market prior to the merger transaction; or (3) the transaction is a corporate reorganization.

The proposed rule also describes how the FDIC would analyze transactions

that exceed the safe harbor thresholds. To the extent the initial HHI screen exceeds the safe harbor thresholds described above, the FDIC would consider other factors, such as alternative geographic market definitions or other procompetitive effects, including the public interest, as part of its consideration of the impact of a merger transaction on competition.

The proposed rule would also codify a revised approach to analyzing the financial stability factor, which would include a safe harbor that specifies the types of merger transactions that would conclusively result in a favorable finding.

IV. Section-by-Section Description of the Proposed Rule

A. Scope (§ 303.60)

The proposed rule would revise § 303.60 to eliminate a reference to the FDIC's SOP, which the FDIC expects to rescind upon finalizing changes to subpart D. Section 303.60 would also be updated to reference additional considerations the FDIC takes into account when evaluating the statutory factors under the BMA, which would be codified at new § 333.5.

Question 1: Should the FDIC revise the current SOP to serve as supplementary information in addition to a final rule and, if so, what areas of the proposed rule would benefit from further explanation or discussion in a revised SOP?

B. Definitions (§ 303.61)

1. Centrally Booked Deposits (§ 303.61(a))

The proposed rule would define “centrally booked deposits” at § 303.61(a) to clarify that the term “centrally booked deposits” refers to deposits recorded at an institution's central office. Central booking occurs when an institution records deposits at a central office and does not attribute the deposits to a branch based on the location of the depositor. The FDIC seeks comment on whether additional specificity, or an alternative definition, would best capture the universe of deposits that are part of a nationwide platform, rather than local branches.

This clarification would correspond to changes in the methodology used by the FDIC to determine the competitive effects of a merger transaction in new § 333.5(c). In new § 333.5(c), the FDIC would consider a representative portion of the centrally booked deposits of a bank or thrift institution with one or more branches in a relevant geographic market in its initial HHI screen.

Question 2: Should the FDIC provide additional specificity regarding how to apply the proposed definition of centrally booked deposits? If so, what additional specificity would be appropriate?

Question 3: Should the FDIC adopt a different definition of centrally booked deposits? Why or why not?

2. Corporate Reorganization (§ 303.61(b))

The proposed rule would refine the definition of “corporate reorganization” at § 303.61(b) to clarify that a corporate reorganization is a merger transaction that involves solely an IDI and one or more institutions that are affiliated with the IDI at the time of filing. The proposed definition is consistent with the BMA's statutory exception to the requirement to request a competitive factors report from the Attorney General for a corporate reorganization.¹² It would also align with the definition of “affiliate” under the Bank Holding Company Act.¹³

This change would clarify and provide certainty on the point in time at which the FDIC evaluates affiliation for purposes of determining whether a merger transaction is a corporate reorganization. Under the proposed rule, certain corporate reorganizations would be eligible for new categories of rapid and expedited processing. Moreover, as discussed in more detail in §§ 303.64 and 333.5, the FDIC's tailored approach to reviewing corporate reorganizations under the proposed rule would result in more streamlined processing. For example, through this rulemaking, the FDIC would conclude that corporate reorganizations generally do not present anticompetitive concerns, and the FDIC would similarly not request a competitive factors report as a result.¹⁴

The proposed revisions to the definition of “corporate reorganization” would also clarify that a merger between an IDI and another institution would not be a “corporate reorganization” in the context of a contemporaneous holding company merger. Although the FDIC would not typically request a duplicative competitive factors report if the Federal Reserve Board also requested one in connection with the holding company merger, narrowing the definition as proposed would ensure the FDIC continues to observe the necessary BMA procedural requirements and

¹² See 12 U.S.C. 1828(c)(4)(C)(ii).

¹³ See 12 U.S.C. 1841(k) (defining “affiliate” as “any company that controls, is controlled by, or is under common control with another company”).

¹⁴ This is consistent with the BMA's statutory exception in 12 U.S.C. 1828(c)(4)(C)(ii).

timeframes applicable to merger transactions involving nonaffiliates.

This change would address a question frequently asked by applicants by codifying the FDIC's current and longstanding approach to determining whether an entity is an affiliate for purposes of a merger transaction.

Question 4: Should the proposed definition of "corporate reorganization" be revised to provide additional clarity? If yes, please explain.

Question 5: Should the FDIC adopt a different definition of "corporate reorganization?" If yes, please explain.

3. De Minimis Merger Transaction (§ 303.61(c))

The proposed rule would establish a new subcategory of merger transactions called "*de minimis* merger transactions" at § 303.61(c). The proposed rule would define "*de minimis* merger transaction" as a transaction that falls within one of the categories in paragraph (c)(1) for which all institutions involved in the transaction satisfy each of the criteria in paragraph (c)(2), to the extent applicable, and where the resulting institution would be "well-capitalized" immediately following the merger transaction.

New paragraph (c)(1) would include two categories of transactions that do not warrant the same level of regulatory scrutiny as other merger transactions when conducted by institutions that also satisfy the criteria in paragraph (c)(2). The first category in paragraph (c)(1)(i) would capture smaller merger transactions. Specifically, the category would apply to merger transactions where the amount of assets acquired by the IDI would be less than the adjusted lower threshold under the Clayton Act, as amended by the HSR Act, and the amount of assets acquired would be less than 5 percent of the acquiring IDI's assets. The first criterion would ensure that *de minimis* merger transactions remain limited to transactions that conform to thresholds established under Federal law for determining that a merger transaction is presumptively competitive and do not typically require pre-notification under other competition and antitrust statutes. Consistent with the BMA's requirements that the FDIC consider the competitive effects of a merger transaction, the FDIC views the adjusted thresholds set forth in the HSR Act, together with a finding by the Attorney General that a merger transaction is unlikely to have a significantly adverse effect on competition, to provide a meaningful proxy for a determination that a merger transaction is presumptively

competitive,¹⁵ particularly when coupled with the second criterion, which is intended to ensure that a *de minimis* merger transaction allows only for marginal growth of the acquiring IDI.

The second category of *de minimis* merger transaction in paragraph (c)(1)(ii) would capture a corporate reorganization in which (1) an IDI acquires one or more operating subsidiaries; and (2) the legal and financial risk that the IDI is exposed to is substantially identical before and after the transaction. In practice, corporate reorganizations between an IDI and one or more of its operating subsidiaries are often referred to as "roll-up" transactions. The FDIC has found that routine roll-up transactions are less complex in structure because the acquiring institution and resulting institution tend to be effectively the same entity. For example, the managerial resources analysis for a routine roll-up transaction typically involves the same management rating for all entities involved in the transaction. The same typically also holds true when examining the financial resources of all entities involved in the transaction.

Additionally, an IDI generally already bears the legal and financial risks associated with an operating subsidiary. The FDIC recognizes that there may be certain instances in which a roll-up transaction presents new or heightened legal and financial risks to the IDI, which may in turn present a risk to the resulting institution and the Deposit Insurance Fund (DIF). Accordingly, the proposed rule would only include in the definition of *de minimis* merger transactions roll-up transactions that would not present new or heightened legal and financial risks to the IDI, and therefore the DIF, upon consummation of the transaction. However, if the IDI does not already bear the legal or financial risks of the operating subsidiary, for example due to accounting reasons, the transaction would not qualify as a *de minimis* merger transaction. For example, a roll-up transaction would not be categorized as a *de minimis* merger transaction if it involved the roll-up of an operating subsidiary involved in substantial, ongoing litigation that the IDI was not already exposed to. In such cases, the roll-up transaction would not be

categorized as a *de minimis* merger transaction because the FDIC would have a supervisory interest in reviewing the transaction and the risks presented to the IDI, and therefore the DIF, more closely. However, the transaction would generally still be eligible for expedited processing for corporate reorganizations under § 303.64(d).

New paragraph (c)(2) would require all institutions involved in the merger transaction to satisfy the following criteria, to the extent applicable: each institution (A) received an FDIC-assigned composite rating of 3 or better under the UFIRS as a result of its most recent Federal or State examination; (B) received a satisfactory or better CRA rating from its primary Federal regulator at its most recent examination, if the depository institution is subject to examination under part 345 of the FDIC Rules and Regulations; (C) received a compliance rating of 1, 2, or 3 from its primary Federal regulator at its most recent examination; (D) is well-capitalized as defined in the appropriate capital regulation and guidance of the institution's primary Federal regulator; and (E) is not subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding, or other administrative agreement with its primary Federal regulator or chartering authority.

The criteria in new paragraph (c)(2) are consistent with the FDIC's definition of "eligible depository institution" in § 303.2(r), except that the definition would be expanded to include 3-rated institutions. In addition, new paragraph (c)(3) would require that the resulting institution will be "well-capitalized" immediately following the merger transaction. The FDIC has found that, when all institutions involved in a *de minimis* merger transaction receive a composite rating of 3 or higher under the UFIRS, a compliance rating of 3 or better, and satisfy the other criteria in the existing definition of "eligible depository institution," and the resulting institution will be "well-capitalized," the qualification criteria can serve as meaningful proxies for full consideration and favorable resolution of the statutory factors within the narrow context of *de minimis* merger transactions.

Question 6: Is the first category of transaction types in the definition of de minimis merger transaction appropriately tailored to the risks presented by such transactions? Why or why not?

Question 7: Is the second category of transaction types, i.e., roll-up transactions, in the definition of de

¹⁵ The purposes of the HSR Act are to help prevent monopolies, protect customers, and ensure a fair competitive marketplace. See Public Law 94-435, 90 Stat. 1391. The HSR Act amended the Clayton Antitrust Act to require companies planning a merger to notify the Federal Trade Commission (FTC) and the Department of Justice (DOJ) prior to consummation of the transaction.

minimis merger transaction appropriately tailored to the risks presented by certain roll-up corporate reorganizations? Why or why not? Should the FDIC consider alternative criteria to capture merger transactions with an operating subsidiary in which the IDI is already exposed to the legal and financial risk of the subsidiary?

Question 8: Are there other types of merger transactions with subsidiaries that the FDIC should consider including in the definition of “de minimis merger transaction?” If so, please explain.

Question 9: Should the FDIC consider additional criteria for purposes of defining a de minimis merger transaction? If so, which ones and why?

Question 10: Should the FDIC consider including an anti-evasion provision to prevent the structuring of one larger merger transaction into multiple de minimis merger transactions?

Question 11: Would another definition of de minimis merger transaction be more appropriate? If yes, please explain.

4. Interim Institution (§ 303.61(d))

The proposed rule would establish a new defined term, “interim institution,” at § 303.61(d), consistent with the definition of “interim institution” at § 303.21(b). “Interim institution” would be defined as a State- or Federally-chartered depository institution that does not operate independently but exists solely as a vehicle to accomplish a merger transaction. This definition would clarify how the FDIC views interim institutions for purposes of merger filings and, where applicable, associated deposit insurance applications.

Question 12: Would the new definition of “interim institution” provide additional clarity and certainty in subpart D? Why or why not?

Question 13: Would another definition of “interim institution” be more appropriate? Why or why not?

Question 14: Are interim merger transactions used for purposes not described in the proposed definition, and, if so, what are they?

5. Interim Merger Transaction (§ 303.61(e))

The proposed rule would revise the definition of “interim merger transaction” at current § 303.61(c) and move the term to new § 303.61(e). The proposed rule would make technical changes to incorporate the new defined term “interim institution.”

Question 15: Would the revised definition of “interim merger transaction” provide additional clarity

and certainty in subpart D? Why or why not?

Question 16: Would another definition of “interim merger transaction” be more appropriate? Why or why not?

6. Interstate Merger Transaction (§ 303.61(f))

The proposed rule would establish a new defined term, “interstate merger transaction,” at § 303.61(f). The proposed rule would define “interstate merger transaction” as any merger transaction that results in a State nonmember bank acquiring a branch in a State that is not its home State or in which it does not currently operate a branch. The introduction of the defined term “interstate merger transaction” is intended to provide additional clarity on the application of section 44 of the FDI Act to the transaction.¹⁶ Under section 44 of the FDI Act, the FDIC may approve a merger transaction involving two IDIs with different home States without regard to whether such transaction is prohibited under the law of any State. Although no State prohibits interstate mergers as of 2026, section 18(d) of the FDI Act nonetheless requires that certain requirements of section 44 of the FDI Act apply in cases where a State nonmember bank is acquiring, establishing, or operating a branch in any State other than the bank’s home State or a State in which the bank already has a branch.¹⁷ Additional information regarding the application of section 44 of the FDI Act can be found in § 303.62(b).

Question 17: Would the new definition of “interstate merger transaction” provide additional clarity on the application of section 44 of the FDI Act to interstate merger transactions? Why or why not?

Question 18: Would another definition of “interstate merger transaction” be more appropriate? Why or why not?

7. Merger in Substance (§ 303.61(g))

The proposed rule would establish a new defined term for “merger in substance” to clarify the scope of transactions that would be subject to the filing and processing requirements of subpart D and require prior FDIC approval under the BMA. The proposed rule would define a merger in substance as any merger transaction or series of merger transactions over a rolling 12-month period in which an IDI acquires all or substantially all, meaning 80 percent or more, of the assets of another

IDI, noninsured bank, or other institution. As a practical matter, mergers in substance typically would be limited to nonbank merger transactions¹⁸ or a series of nonbank merger transactions over a rolling 12-month period because merger transactions with IDI counterparties nearly always involve a transfer of deposit liabilities, which alone triggers application of the BMA.

The proposed definition of merger in substance is generally consistent with the FDIC’s longstanding practice of applying the BMA to certain transactions that are substantively and economically equivalent to a merger, while at the same time embedding substantially more transparency and predictability into such determinations. The FDIC’s current approach is largely qualitative and based on the facts and circumstances of a particular transaction or series of transactions. However, based on the FDIC’s experience, mergers in substance have been characterized by a transfer of all or nearly all the assets from the target institution to the acquiring institution. By incorporating a numerical percentage of assets threshold, the proposed rule would move away from the opaque nature of a facts and circumstances-based approach toward a more transparent and predictable asset-based threshold.

The FDIC considered adopting a factors-based approach to assist in its determination of whether a transaction or series of transactions constitutes a merger in substance, similar to the “*de facto* merger” doctrine. The *de facto* merger doctrine is an equitable, judicially-created and applied doctrine that is rooted in States’ common laws rather than Federal competition and antitrust statutes and regulations. Courts have generally coalesced around the following factors as relevant to the determination of whether a transaction constitutes a *de facto* merger: (1) continuity of ownership; (2) cessation of the ordinary business and dissolution of the selling entity; (3) assumption by the acquiring entity of liabilities ordinarily necessary for the uninterrupted continuation of the business of the selling entity; and (4) continuity of business operations, including management, personnel, physical location, and general business operations in the acquiring entity.¹⁹

¹⁸ This Supplementary Information uses the term “nonbank merger transaction” to refer to a merger transaction between an IDI and a nonbank entity.

¹⁹ See, e.g., *Cargo Partner AG v. Albatrans, Inc.*, 352 F.3d 41 (2d Cir. 2003); *Xie v. Sklover & Co., LLC*, 260 F. Supp. 3d 30, 49 (D.D.C. 2017); *Taylor v. Atlas Safety Equip. Co.*, 808 F. Supp. 1246 (E.D. Va. 1992); *Opportunity Fund, LLC v. Epitome Sys.*,

¹⁶ 12 U.S.C. 1831u(g)(6).

¹⁷ 12 U.S.C. 1828(d)(3).

Courts use the *de facto* merger doctrine to fashion equitable remedies in conjunction with shareholders' rights lawsuits and to establish successor liability under State law. State common law forms the basis of the *de facto* merger doctrine and States' common laws diverge on the scope of transactions that qualify as *de facto* mergers. Moreover, judicial interpretations of the types of transactions that constitute *de facto* mergers vary based on the State's common law that is being applied to a particular set of facts and circumstances. Even judicial interpretations applying the same State's common law to similar sets of facts and circumstances occasionally vary, which is a testament to the subjective nature of the doctrine.

Accordingly, the FDIC does not propose to adopt a factors-based approach similar to the *de facto* merger doctrine. Instead, the proposed rule would establish a simple and transparent definition of merger in substance.

The FDIC emphasizes that only a transaction or series of transactions over a rolling 12-month period in which the subject asset transfer is or exceeds 80 percent of an institution's assets would be treated as a merger in substance. The rolling 12-month lookback period for a series of transactions would require an applicant to submit a merger filing for a series of smaller transactions over a consecutive 12-month period, not simply those occurring within the same calendar or fiscal year, that, taken together, satisfy the definition of merger in substance. An acquisition of a business line that does not represent all or substantially all of an institution's assets would not be considered a merger in substance subject to subpart D, unless it also involved an assumption of deposits. An assumption of deposits triggers the applicability of the BMA as a merger transaction, irrespective of the asset size of the transaction.

An IDI would be required to submit a merger filing for the series of transactions prior to completing the

transaction that will exceed the 80 percent threshold. The FDIC expects an IDI to submit a merger filing when the IDI becomes aware that it will complete one or more transactions that will ultimately exceed the 80 percent threshold. The merger filing would be required to contain information related to all transactions that are part of the series. For example, in a series of three transactions involving acquisitions of 20 percent, 20 percent, and 40 percent of an entity's assets respectively, the applicant would be required to submit a merger filing containing information related to all three transactions. The FDIC recognizes that an IDI may not always intend to exceed the 80 percent threshold until after it has completed one or more transactions during a 12-month period. The FDIC encourages IDIs to contact the FDIC as soon as possible to discuss associated filing requirements.

Question 19: Does the definition of "merger in substance" provide an appropriate threshold for establishing whether substantially all of another institution has been acquired? Why or why not?

Question 20: Should the FDIC adopt a different framework or incorporate any other considerations for evaluating mergers in substance, such as common law considerations? Why or why not?

Question 21: Should the FDIC consider a lookback period that is longer than 12 months? Why or why not?

Question 22: Should the FDIC adopt an anti-evasion provision? Why or why not? If yes, what should the provision state?

Question 23: Should the FDIC adopt a timing requirement for the filing of a merger in substance-related filing? For example, should the FDIC require a merger filing prior to the first transaction in the series of transactions or prior to the transaction that will result in a merger in substance? Why or why not?

8. Merger Transaction (§ 303.61(h))

The FDIC proposes to revise the definition of "merger transaction" in current § 303.61(a) to more clearly delineate the types of merger transactions that are subject to the FDIC's approval under the BMA, and to move the revised definition to new § 303.61(h). Current § 303.61(a) tracks the statutory language of the BMA,²⁰ which condenses the types of merger transactions that are subject to the FDIC's approval into two short paragraphs. The proposed definition of

"merger transaction" would break these two paragraphs out into six shorter subparagraphs to improve readability and clarity. The definition of merger transaction in the proposed rule would not alter the scope of merger transactions subject to the FDIC's prior approval under the BMA.

Question 24: Is the proposed definition of merger transaction clear?

Question 25: Would another definition of merger transaction be more appropriate?

9. Operating Subsidiary (§ 303.61(i))

The proposed rule would adopt the definition of "operating subsidiary" in the Federal Reserve Board's Regulation W at new § 303.61(i).²¹ Regulation W defines "operating subsidiary" as including any subsidiary of an IDI except for the following: (1) a depository institution; (2) a financial subsidiary; (3) a company directly controlled by: (A) one or more affiliates (other than depository institution affiliates) of a Federal Reserve System member bank, or (B) a shareholder that controls the member bank or a group of shareholders that together control the member bank; (4) an employee stock option plan, trust, or similar organization that exists for the benefit of the shareholders, partners, members, or employees of the member bank or any of its affiliates; or (5) any other company determined to be an affiliate by the Federal Reserve Board.²²

Regulation W implements sections 23A and 23B of the Federal Reserve Act (sections 23A and 23B),²³ which apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank under the FDI Act.²⁴ Further, under the BMA, any company that would be an affiliate for purposes of sections 23A and 23B of a State nonmember insured bank if the State nonmember insured bank were a State member bank is deemed to be an affiliate of that State nonmember insured bank.²⁵ The new defined term is used in the proposed rule to provide rapid processing for certain corporate reorganizations. The FDIC proposes to rely on the Regulation W definition for purposes of subpart D to clarify how the FDIC analyzes the concept of affiliation under subpart D and to maintain consistency with its analysis of affiliation for purposes of sections 23A and 23B.

²¹ See 12 CFR 223.3(aa).

²² See 12 CFR 223.3(aa) (citing 12 CFR 223.2(b)(1)(i) through (v)).

²³ See 12 U.S.C. 371c, 371c–1.

²⁴ 12 U.S.C. 1828(j)(1)(A).

²⁵ 12 U.S.C. 1828(j)(1)(B).

Inc., 912 F. Supp. 2d 531 (S.D. Ohio 2012); *U.S. Automatic Sprinkler Co. v. Reliable Automatic Sprinkler Co.*, 719 F. Supp. 2d 1020 (S.D. Ind. 2010); *MyLocker.com, LLC v. S&S Activewear, LLC*, No. 25–CV–10160, 2025 WL 2350653, at *3 (E.D. Mich. Aug. 12, 2025); *Hadassa Inv. Sec. Nigeria Ltd. v. Swiftships Shipbuilders LLC*, No. 6:16–CV–01502, 2018 WL 1310104, (W.D. La. Mar. 12, 2018); *Farris v. Glen Alden Corp.*, 393 Pa. 427, 143 A.2d (1958); *Metropolitan Partners Fund IIIA, LP v. GemCap Lending I, LLC*, 2023 NY Slip Op. 33042 (Sup. Ct. Sept. 1, 2023); *Hydraulic IP Holdings, LLC v. Tan*, 2024 N.Y. Slip Op. 32930 (Sup. Ct., NY Cty, Aug 16, 2024). See also Jan G. Deutsch, *The Form and Substance of a Merger: A Reading of Farris v. Glen Alden Corp.*, 20 Vill. L. Rev. 80 (1974).

²⁰ See 12 U.S.C. 1828(c)(1), (2).

Question 26: Should the proposed rule cross-reference Regulation W for the purpose of defining an operating subsidiary or should the proposed rule provide a standalone definition? Why or why not?

10. Significant Asset Transfer (§ 303.61(j))

The proposed rule would adopt a new defined term for “significant asset transfers” at new § 303.61(j). A “significant asset transfer” would be defined as a transaction or series of transactions with the same counterparty, or one or more affiliated counterparties, that is not a merger transaction but that would increase the size of the acquiring FDIC-supervised institution’s assets by 25 percent or more over a rolling 12-month period. As with mergers in substance, use of a rolling 12-month period would require applicants to submit a significant asset transfer notice for a series of smaller transactions with the same counterparty or one or more affiliated counterparties that occur over the course of any consecutive 12-month period. To avoid duplicative filing requirements, the definition of “significant asset transfer” would not include a change in assets of an FDIC-supervised institution that is otherwise subject to FDIC approval or filing requirements. For example, a merger transaction subject to the FDIC’s approval under the BMA would not also be subject to the significant asset transfer notice requirement.

11. Substantially Complete (§ 303.61(k))

The proposed rule would define “substantially complete” at new § 303.61(k) as meaning the FDIC has received information sufficient to evaluate and make a determination on the statutory factors in section 18(c) of the FDI Act, as described in new § 333.5, and to confirm the applicant has complied with its statutory obligations. The processing timeline for a merger filing under § 303.64 of the proposed rule would start upon the FDIC’s receipt of a “substantially complete” merger filing. The FDIC recognizes that the determination of whether a merger filing is substantially complete can be confusing for applicants and has been applied in an ambiguous and inconsistent way. Accordingly, the FDIC proposes to define this term for purposes of subpart D in the proposed rule to provide additional transparency to applicants regarding when the timeline begins and to promote the consistency and accountability with respect to the proposed filing processing timelines.

Question 27: Should the FDIC define “substantially complete?” Why or why not?

Question 28: Is the proposed definition of “substantially complete” sufficiently clear? If not, please provide an alternative definition with explanation. Should the FDIC adopt a definition with more specificity? If so, how?

12. Relevant Geographic Market (§ 303.61(l))

The proposed rule would define “relevant geographic market” at new § 303.61(l) for purposes of conducting market concentration analysis under new § 333.5(c), as discussed in more detail below. “Relevant geographic market” would be defined as the banking market(s) of the acquiring institution and the institution to be acquired as defined by the Federal Reserve Board at the time a merger filing is submitted. If a banking market has not been defined by the Federal Reserve Board, the relevant geographic market would consist of each county in which both the acquiring institution and the institution to be acquired have branch locations, as adjusted to reflect factors that influence how customers in the market seek and obtain banking products and services. For additional discussion of this definition, see section IV.I.3 of this Supplementary Information.

Question 29: Is the proposed definition of “relevant geographic market” appropriate? Should the FDIC continue to rely primarily on the Federal Reserve Board’s definition of a banking market, or should the FDIC provide a different definition? Why or why not?

C. Transactions Requiring Prior Approval (§ 303.62)

The proposed rule would revise § 303.62 to reflect the new defined terms discussed above and to clarify the application of other FDIC Rules and Regulations to merger transactions.

1. Merger Transactions (§ 303.62(a))

Under § 303.62(a), and consistent with the BMA,²⁶ the FDIC’s prior written approval would be required for (1) any merger transaction in which the resulting institution is to be an FDIC-supervised institution;²⁷ and (2) any merger transaction that involves a bank

or institution that is not insured by the FDIC. The proposed rule would make conforming revisions to § 303.62(a) to reflect the new definition of “merger transaction” in § 303.61(h). The proposed rule would clarify that the definition of “merger transaction” includes a merger in substance, as defined in § 303.61(g).

As discussed previously, neither the revision of the defined term “merger transaction” in § 303.61(h), nor the conforming changes to § 303.62(a), are intended to alter the scope of transactions subject to FDIC approval under the BMA.

Question 30: Is the FDIC’s treatment of “mergers in substance” as subject to the same filing and processing requirements as merger transactions appropriate? Why or why not? Please explain why another approach may be appropriate.

2. Related Regulations (§ 303.62(b))

Section 303.62(b) states that transactions covered by subpart D may be subject to other regulations or application requirements (collectively, related regulations) in addition to those in subpart D. Section 303.62(b) then provides examples of potentially applicable related regulations. The FDIC routinely receives questions regarding the application of the related regulations to merger transactions and proposes to revise § 303.62(b) to provide additional clarity.

Question 31: Should the FDIC adopt a different approach for addressing related regulations? For example, should related regulations be addressed in preamble only, an appendix to 12 CFR part 303, or an SOP instead of in § 303.62(b)? Why or why not?

a. Interstate Merger Transactions (§ 303.62(b)(1))

The proposed rule would revise § 303.62(b)(1) to incorporate the new defined term “interstate merger transaction” and provide that such transactions are subject to the restrictions and requirements of section 44 of the FDI Act. Section 44(a) of the FDI Act provides that a responsible agency may approve a merger transaction under the BMA between insured banks with different home States, without regard to whether such transaction is prohibited under the law of any State, subject to certain limitations.²⁸ The FDIC encourages potential applicants to consult with the FDIC and the relevant State regulators to confirm whether, and to what extent, State law applies to a merger transaction

²⁶ See 12 U.S.C. 1828(c)(1) and (2).

²⁷ “FDIC-supervised institution” means any entity for which the FDIC is the appropriate Federal banking agency pursuant to section 3(q) of the FDI Act, 12 U.S.C. 1813(q). See 12 CFR 303.2(ee). The FDIC is the appropriate Federal banking agency for any State nonmember insured bank, any foreign bank having an insured branch, and any State savings association. See 12 U.S.C. 1813(g).

²⁸ See 12 U.S.C. 1831u(a).

prior to submitting a merger filing. Section 44(b) of the FDI Act outlines the filing requirements and applicable modifications to the statutory factor analysis for an interstate merger transaction. Under the proposed rule, an interstate merger transaction would be subject to such provisions.

Question 32: Would the proposed revisions to § 303.62(b)(1) with respect to interstate merger transactions provide additional clarity and certainty to the public? Why or why not?

Question 33: Should the FDIC address other elements of interstate merger transactions in subpart D or elsewhere? Why or why not?

b. Deposit Insurance for Interim Institutions (§ 303.62(b)(2))

The proposed rule would divide the content of current § 303.62(b)(2) into two separate subsections to more clearly address the distinctions between Federal deposit insurance for State-chartered interim institutions and Federally-chartered interim institutions. The proposed rule would not change the provision of Federal deposit insurance for certain interim institutions under section 5(a)(2) of the FDI Act or the procedures for applying for deposit insurance for interim institutions in § 303.24.

New § 303.62(b)(2)(i) would specify that State interim institutions are not insured by operation of law. The FDI Act only provides automatic Federal deposit insurance in the case of a Federal interim institution that is chartered by the appropriate Federal banking agency and will not open for business.²⁹ Therefore, FDIC action is needed to either grant Federal deposit insurance to the State interim institution or to act on the merger filing between a noninsured State interim institution and an IDI under the BMA.

New § 303.62(b)(2)(ii) would address deposit insurance for Federal interim institutions. The proposed rule would specify that where the resulting institution is FDIC-supervised and FDIC action is required under the BMA, an additional deposit insurance application is unnecessary. Further, the proposed rule would specify that Federal interim institutions that do not open for business are insured by operation of law pursuant to section 5(a)(2) of the FDI Act. Consequently, the merger of a Federal interim institution with another IDI is not subject to FDIC approval if the Federal interim institution has not been, and will not be, open for business.

Question 34: Would the proposed revisions to § 303.62(b)(2) provide

additional clarity and certainty to the public? Why or why not?

Question 35: Should the FDIC address other elements of deposit insurance for interim institutions in subpart D or elsewhere? Why or why not?

c. Other Related Regulations (§ 303.62(b)(3) and (4))

The proposed rule would revise the substance of current § 303.62(b)(3) and (4) to replace the term “application” with “filing” for consistency with the remainder of the proposed rule. The proposed rule would also strike the reference to the “Interagency Policy Statement Concerning Branch Closing Notices and Policies” (1 FDIC Law, Regulations, Related Acts (FDIC) 5391) in current § 303.62(b)(3) as part of the agency’s initiative to streamline the FDIC Rules and Regulations; however, this would not change the force of the statement. The FDIC notes that this joint policy statement specifically addresses merger transactions, and the FDIC encourages potential applicants to review this resource.³⁰ The proposed rule would retain current § 303.62(b)(5).

Question 36: Are there other elements of the related regulations that the FDIC should address in subpart D or elsewhere? Why or why not?

D. Filing Procedures (§ 303.63)

1. General (§ 303.63(a))

The proposed rule would revise § 303.63(a) to provide that forms and instructions may be obtained upon request from any FDIC regional office or the FDIC website. The proposed rule would also permit an IDI contemplating a *de minimis* merger transaction to submit a letter filing. This aspect of the proposed rule is consistent with the approach adopted in OCC regulations.³¹

2. Submission Requirements (§ 303.63(b))

The proposed rule would revise § 303.63(b) to provide that merger filings shall be accompanied by copies of all agreements or proposed agreements related to the merger transaction. The proposed rule would clarify that the FDIC may request additional information as necessary to reach a decision on the merger filing, and that an applicant may voluntarily submit additional information for consideration under the provisions of new § 333.5. These changes are consistent with longstanding practice that the FDIC may request additional information regarding agreements and proposed agreements related to the merger transaction if

necessary to evaluate the statutory factors.

Section 303.63(b) is not intended to establish a new compliance obligation. Submission of additional information for consideration under new § 333.5 is voluntary. If an applicant would like the FDIC to consider mitigating factors, as described in new § 333.5, then the applicant should submit supporting materials for the agency’s review.

Question 37: Should the FDIC permit applicants to voluntarily submit supplementary information? Why or why not?

Question 38: Should the FDIC permit or require applicants to submit information not otherwise addressed in § 303.63(b)? Why or why not?

3. Interim Merger Transactions (§ 303.63(c))

The proposed rule would retain much of the substance of § 303.63(c) with conforming changes to reflect the new definitions in the proposed rule.

Question 39: Should the FDIC adopt substantive changes to § 303.63(c)? Why or why not?

E. Processing (§ 303.64)

1. Filing Decisions (§ 303.64(a))

a. Timeliness (§ 303.64(a)(1))

The proposed rule would establish a new procedural framework for processing merger filings to implement more consistency, timeliness, and discipline regarding the FDIC’s review of and decisions concerning merger filings. Under new § 303.64(a)(1), the FDIC would be required to render a decision on a substantially complete merger filing within the new processing timelines in the proposed rule for the applicable merger transaction type. The BMA requires the FDIC to issue prior written approval of merger transactions and to inform the Attorney General of such approval,³² and, in its implementation of the proposed rule, the FDIC would issue written approval of its decision and copy the Attorney General on the associated notification to ensure compliance with the requirements of the BMA.

The FDIC recognizes that in recent years, the merger filing review process has been too lengthy and overly burdensome for applicants. The proposed rule is intended to address these concerns by requiring agency action within specified time frames that are appropriately tailored to the typical complexity of specific transaction categories.

²⁹ See 64 FR 34844, 34845 (June 29, 1999).

³¹ See 12 CFR 5.33(j).

³² See 12 U.S.C. 1828(c)(1), (2), and (6).

²⁹ See 12 U.S.C. 1815(a)(2).

Question 40: Should the FDIC adopt mandatory processing timelines? Why or why not?

b. Immediate Consummation
(§ 303.64(a)(2))

The proposed rule would provide that corporate reorganizations will be authorized for immediate consummation on receipt of the FDIC's written approval at new § 303.64(a)(2). Before acting on a merger filing, the BMA generally requires the responsible agency to (i) request a report on the competitive factors involved from the Attorney General; and (ii) provide a copy of the request to the FDIC when the FDIC is not the responsible agency.³³ However, the responsible agency is not required to request a competitive factors report if the merger transaction involves solely an IDI and one or more of the IDI's affiliates.³⁴ Congress established this exception in the Financial Services Regulatory Relief Act of 2006 (FSRRA), the purposes of which included providing regulatory relief and improving productivity for IDIs.³⁵ Eliminating the competitive factors report requirement for merger transactions involving solely an IDI and one or more of its affiliates suggests that Congress did not view such transactions as presenting a risk to competition in the market. This aligns with the FDIC's supervisory experience in reviewing such transactions and observation that affiliates generally do not compete against each other. Accordingly, the FDIC concludes that corporate reorganizations do not present a risk of violating the BMA's prohibition against approving a merger transaction that would result in a monopoly, be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking, or otherwise have the effect in any section of the country to substantially lessen competition, or tend to create a monopoly, or which in any other manner would be in restraint of trade.³⁶ For this reason, the FDIC does not typically request a competitive factors report from the Attorney General for a corporate reorganization, and would not do so under the proposed rule.

The BMA generally imposes a waiting period before the parties may consummate an approved merger transaction.³⁷ However, if the merger transaction is solely between an IDI and one or more of its affiliates and the

responsible agency has not requested a competitive factors report, then the transaction may be consummated immediately upon approval by the agency.³⁸ Because the FDIC has concluded corporate reorganizations do not present a risk to competition and will not request a competitive factors report for a corporate reorganization, the proposed rule would state that corporate reorganizations would be authorized for immediate consummation upon the applicant's receipt of the FDIC's written approval. The proposed rule would provide certainty to applicants regarding the FDIC's processing of corporate reorganizations, consistent with the purposes of FSRRA.

2. Substantially Complete Filings
(§ 303.64(b))

The proposed rule would address the FDIC's disposition of incomplete merger filings at new § 303.64(b). The proposed rule would provide that, for incomplete merger filings, the FDIC would notify the applicant within 21 days after receipt of the submission and provide a written explanation regarding the information or materials that would be needed to render the merger filing substantially complete. This reflects the FDIC's current practice of issuing an initial Additional Information Request to seek additional materials to render a merger filing complete but imposes a timeline on the FDIC to ensure that merger filings are processed in a timely manner. The proposed rule would provide that, if the FDIC does not provide notice within 21 days after receipt that a merger filing is incomplete, the merger filing would be deemed substantially complete as of the date of receipt. This provision would further ensure that merger filings are processed in a timely manner.

If the FDIC issued a notice under this subpart, the proposed rule would require an applicant to provide the information or materials requested by the FDIC within 30 days of the applicant's receipt of the notice. Additionally, the proposed rule would allow the FDIC to return a merger filing as incomplete without rendering a decision on the merger filing if the applicant failed to produce the requested information within the 30-day timeframe. This framework would impose substantially more rigor and discipline around timeframes for determining that a merger filing is substantially complete compared to the FDIC's historical approach.

The proposed rule would make corresponding changes to § 303.11(e) to

permit the FDIC to return an incomplete filing to an applicant if the filing does not contain all information set forth in the applicable subpart, or if information requested by the FDIC is not provided within the time specified by the FDIC. This change would apply to all filings submitted to the FDIC and is intended to provide additional clarity and certainty to applicants by establishing a process for the FDIC to clearly notify the applicant that a filing does not contain sufficient information for the FDIC to render a decision. Under the proposed rule, the FDIC would notify the applicant and any interested parties that submitted comments to the FDIC that the filing has been returned and that the FDIC has not rendered a decision on the filing.

Question 41: Should the FDIC codify the process and timelines for determining whether a filing is substantially complete? Why or why not?

Question 42: Are the proposed steps and timeframes for determining whether a filing is substantially complete appropriate? Why or why not?

Question 43: Should the FDIC adopt a process for returning an incomplete filing? Why or why not? Should a different process be adopted? Why or why not?

Question 44: Should the FDIC adopt an explicit provision that would enable an applicant to request, and the FDIC to grant, additional time to submit information? Why or why not?

Question 45: Should the FDIC apply the same timelines and process for all filings, or are there reasons different types of filings should be subject to different approaches?

3. Rapid Processing for de Minimis Merger Transactions (§ 303.64(c))

The proposed rule would establish a new category of rapid processing for *de minimis* merger transactions at § 303.64(c). Such transactions would, unless the Attorney General objects to the transaction on competitive grounds within the statutory timeframe, be deemed approved by the date that is the latest of: (1) five business days after the date of the FDIC's receipt of a substantially complete letter filing; or (2) if the transaction is not also a corporate reorganization, 5 days after (A) receipt of a BMA competitive factors report confirming that the Attorney General does not object to the transaction on competition grounds; (B) the expiration of the timeframe permitted in section 18(c)(4) of the FDI Act if no competitive factors report has been received; or (c) the end of the time period set forth in a request by the

³³ 12 U.S.C. 1828(c)(4)(A).

³⁴ 12 U.S.C. 1828(c)(4)(C)(ii).

³⁵ Public Law 109–351, 120 Stat. 1966.

³⁶ See 12 U.S.C. 1828(c)(5).

³⁷ 12 U.S.C. 1828(c)(6).

³⁸ 12 U.S.C. 1828(c)(6).

Attorney General for additional time to analyze competitive concerns.³⁹ Based on the FDIC's supervisory experience, it is appropriate to provide "deemed approval" for *de minimis* merger transactions because the definition of *de minimis* merger transaction in § 303.61(c) includes only transactions that necessarily satisfy the statutory factors by virtue of the size and/or structure of the transaction and the attributes of the institutions involved.

The definition of *de minimis* merger transactions has been constructed to ensure such transactions would result in a favorable finding on each of the statutory factors and therefore warrant a letter filing and deemed approval approach. Merger transactions below the HSR thresholds that are less than 5 percent of the assets of the acquiring institution and that do not result in an adverse competitive factors report from the Attorney General, and corporate reorganizations involving the consolidation of an operating subsidiary that do not change the IDI's legal and financial risks, each will always satisfy the competition and financial stability statutory factors due to the type of transaction. The other statutory factors are conclusively satisfied based on the eligibility criteria for the merging institutions and the criteria that the resulting institution must be well-capitalized.

Moreover, as discussed, the categories of transactions in § 303.61(c)(1) are limited to transactions that do not pose a risk to the safety and soundness of the acquiring IDI or the U.S. banking or financial system based on their structure or size, particularly when engaged in by IDIs that satisfy the eligibility criteria in § 303.61(c)(2).

The deemed approval construct for *de minimis* merger transactions would ensure routine, nearly automated approval of transactions that the FDIC has determined can be processed in a rapid fashion without in-depth supervisory review and potential delay. The proposed rule would also reduce regulatory burden for such transactions by establishing streamlined letter filing requirements for *de minimis* merger transactions in § 303.64(c)(2). These streamlined letter filing requirements reflect the information needed to review a *de minimis* merger transaction and ensure that the transaction qualifies as a *de minimis* merger transaction. A letter filing for a *de minimis* merger transaction that contains all the required

information would be considered substantially complete. The processing timeline would begin upon receipt of a substantially complete filing, and approval would follow based on the aforementioned timelines as a matter of course.

Question 46: What are the advantages and disadvantages of the filing and processing requirements for de minimis merger transactions? What changes, if any, should the FDIC consider for purposes of a final rule?

Question 47: What are the advantages and disadvantages of a letter filing for de minimis merger transactions?

Question 48: Are the content requirements for the letter filing appropriate? Why or why not? Are any of the proposed letter filing content requirements unnecessary? Are there additional content requirements that would be appropriate? If so, what are they, and what would be the advantages and disadvantages of including them for purposes of a final rule?

Question 49: Are the proposed timeframes for deemed approval of de minimis merger transactions reasonable? Why or why not? If not, what timeframe(s) would be reasonable, and why?

Question 50: Should the FDIC adopt flexibility to remove a de minimis merger transaction from rapid processing under § 303.64(c)? Why or why not? If yes, please explain under what circumstances.

Question 51: Given the limited risk presented by transactions qualifying for rapid processing under § 303.64(c), should the FDIC adopt a deemed approval framework for such transactions? Why or why not?

4. Removal From Expedited Processing (§ 303.11(c))

The proposed rule would provide that merger filings subject to expedited processing in new §§ 303.64(d) and (e) could be removed from expedited processing for any of the reasons set forth in revised § 303.11(c)(2).⁴⁰ Section 303.11(c)(2) currently provides that the FDIC may remove a merger filing from expedited processing if an adverse comment or CRA protest is received that warrants additional investigation or review, or if the appropriate Regional Director determines that the merger filing presents a significant CRA or compliance concern, a significant supervisory concern or significant legal or policy issue, or that other good cause exists for removal. Based on supervisory

experience, the FDIC has found that adverse comments and CRA protests typically do not warrant extensive additional investigation or review and can frequently be resolved within the expedited processing timeline. In a circumstance where an adverse comment or CRA protest can be resolved within this timeframe based on the supervisory record and other available information, the FDIC expects that a merger filing qualifying for expedited processing would not be removed from expedited processing simply due to the filing of an adverse comment or CRA protest. Additionally, under the proposed rule, the FDIC would not remove an otherwise qualifying merger filing from expedited processing based on an adverse comment or CRA protest unless the supervisory record or other available information supports the conclusion that the merger filing presents a significant CRA concern, a significant compliance or supervisory concern, a significant legal or policy issue, or that other good cause exists for removal. This is intended to ensure that a merger filing would only be delayed due to adverse comments or CRA protests if there is evidence to suggest that the adverse comments or CRA protests warranted additional investigation or review and the allegations were sufficiently severe such that they would impact the FDIC's analysis of the statutory factors.

While the additional time required to hold a hearing would constitute good cause for removing a merger filing from expedited processing, hearings have been exceptionally rare because, under § 303.10(c), "[t]he FDIC generally grants a hearing request only if it determines that written submissions would be insufficient or that a hearing otherwise would be in the public interest." Because, as discussed above, concerns raised in written submissions can generally be addressed based on the supervisory record and other available information, the FDIC expects that hearings will continue to be exceptionally rare. The public interest is generally not served by expending resources on hearings that do not produce information relevant to the statutory factors beyond that already in the written record. The determination as to whether a hearing is appropriate is within the sole discretion of the FDIC. As set forth in § 303.10(d), "[a] decision to deny a hearing request shall be a final agency determination and is not appealable."

The FDIC proposes to make corresponding changes to § 303.11(c) to reflect these expectations as applied not

³⁹ If the Attorney General issues an adverse competitive factors report regarding a merger transaction, it would not qualify for rapid processing as a *de minimis* merger transaction under the proposal.

⁴⁰ The proposed rule would not permit the FDIC to remove a transaction from rapid processing under § 303.64(c).

only to merger filings but also to other filings subject to removal under § 303.11(c) because the FDIC has determined that themes are consistent across filing types. Specifically, the proposed rule would refine the reasons for removal from expedited processing listed in § 303.11(c)(2). Under the proposed rule, the FDIC would be permitted to remove a filing from expedited processing at any time prior to final disposition if: (i) for filings subject to public notice under § 303.7, an adverse comment is received that is supported by the supervisory record or other available information and warrants additional investigation or review; and (ii) for filings subject to evaluation of CRA performance under § 303.5, a CRA protest is received that raises a significant CRA concern, is supported by the supervisory record or other available information, and warrants additional investigation or review.

Additionally, the proposed rule would add a new § 303.11(c)(5) to codify the FDIC's expectation that the removal of a filing from expedited processing would be rare. The proposed rule would provide that filing of an adverse comment or CRA protest would not automatically remove a filing from expedited processing, and that, rather, the FDIC would determine if it was necessary to remove a filing because the allegations were sufficiently severe to impact the FDIC's analysis of the statutory factors. This provision is intended to enhance the predictability of timelines for the FDIC's processing of merger filings.

Question 52: Are the proposed modifications to removal from expedited processing appropriate? Should the FDIC provide more or less specificity? Why or why not?

Question 53: Should the FDIC include a maximum number of days for the extension of the processing timeframe for filings that are removed from expedited processing due to the FDIC's receipt of an adverse comment or CRA protest in § 303.11(c)? If so, why, and what would be an appropriate number of days?

5. Expedited Processing for Corporate Reorganizations That Are Not *de Minimis* Merger Transactions (§ 303.64(d))

The proposed rule would establish new expedited processing procedures for corporate reorganizations that are not *de minimis* merger transactions at new § 303.64(d). Expedited processing would be available if: (1) immediately following the transaction, the resulting institution would be "well-capitalized,"

and (2) (A) all parties to the transaction received an FDIC-assigned composite rating of 3 or better under the UFIRS as a result of the most recent Federal or State examination, to the extent applicable; or (B) the acquiring party is an eligible depository institution and the amount of the total assets to be acquired does not exceed an amount equal to 25 percent of the acquiring institution's total assets as reported in its Call Report for the quarter immediately preceding the filing. This two-prong test is a change from the FDIC's existing criteria to qualify for expedited processing under current § 303.64(a). Under the first prong, the FDIC currently requires all parties to be eligible depository institutions; under the proposed approach, the parties would need to be 3-rated or better to qualify. Furthermore, under the second prong, the proposed rule would raise the asset threshold applicable to eligible depository institutions from the current 10 percent to 25 percent.

The FDIC has found that corporate reorganizations that are not *de minimis* merger transactions but that satisfy the proposed qualifying criteria are also typically less complex in structure and scale than other types of merger transactions and accordingly also warrant a relatively less intensive review of the statutory factors. However, such corporate reorganizations tend to be more complex than those qualifying for rapid processing as *de minimis* merger transactions.

For most corporate reorganizations that are not *de minimis* merger transactions, and particularly those that do not involve affiliate IDIs, review under the BMA involves only the ratings of the acquiring institution and an analysis of how the transaction would impact the resulting institution. For corporate reorganizations involving affiliate IDIs, both IDIs' ratings would be relevant to the analysis under the BMA. As discussed above, the FDIC has concluded corporate reorganizations do not present a risk of violating the BMA's competition-related prohibitions.

The FDIC would have the discretion to remove a corporate reorganization that is not a *de minimis* merger transaction from expedited processing for any of the reasons set forth in § 303.11(c)(2). However, given the reduced risks associated with a corporate reorganization eligible for expedited processing and the applicant's interest in timely consummation of a corporate reorganization, and for the other reasons discussed, the FDIC expects removal of such transactions from expedited processing to be rare.

Under the proposed rule, the FDIC would take action on a merger filing for a corporate reorganization that is not a *de minimis* merger transaction and qualifies for expedited processing by the date that is the latest of: (1) 30 days after the date of the FDIC's receipt of a substantially complete merger filing; or (2) for an interstate merger transaction subject to the provisions of section 44 of the FDI Act, five business days after the FDIC receives confirmation from the host State that the applicant has both complied with the filing requirements of the host State and submitted a copy of the filing to the host State's bank supervisor. Because the FDIC can conduct a meaningful review of the statutory factors for corporate reorganizations in a shorter timeframe than other types of merger transactions, other than those that qualify for rapid processing as *de minimis* merger transactions, the FDIC believes it is appropriate to establish a relatively shorter timeframe for processing such transactions. Indeed, experience has demonstrated that the FDIC can conduct a meaningful review of the BMA statutory factors within the proposed timeframes under this section regardless of the type of corporate reorganization, for example, whether the transaction involves affiliate IDIs or an IDI and a nonbank affiliate.

Question 54: Are the proposed timeframes for approval of a corporate reorganization that is eligible for expedited processing under § 303.64(d) and not a de minimis merger transaction appropriate? Why or why not? If not, what timeframes would be appropriate, and why?

Question 55: Should the FDIC adopt specific reasons for removing a corporate reorganization from expedited processing under § 303.64(d)? Why or why not? If yes, please explain.

Question 56: Are the eligibility criteria for expedited processing under § 303.64(d) appropriate? If not, please explain.

Question 57: Should the FDIC adopt presumptions or safe harbors that specific factors, for example, managerial resources, under § 333.5 will be resolved favorably for a corporate reorganization eligible for expedited processing under § 303.64(d) absent existing supervisory concerns? Why or why not?

Question 58: Given the limited risk presented by transactions qualifying for expedited processing under § 303.64(d), should the FDIC adopt a deemed approval framework for such transactions or otherwise process them pursuant to rapid processing under new § 303.64(c)? Why or why not?

Question 59: Are there additional criteria or requirements the FDIC could apply to such corporate reorganizations that would make a deemed approval framework appropriate?

Question 60: Should the FDIC expressly address requirements for merger transactions involving an acquisition of a subsidiary that is a permitted payment stablecoin issuer (PPSI), as that term is defined in the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act at 12 U.S.C. 5901(23)? Under the GENIUS Act, an IDI that seeks to issue payment stablecoins must do so through a subsidiary that has been approved to issue payment stablecoins. However, an IDI with a subsidiary that issues payment stablecoins may seek to exit that business and wind up the subsidiary, in which case the subsidiary could be merged into the IDI. In addition, there may be cases in which an IDI with a subsidiary that issues payment stablecoins enters into a merger transaction with another IDI with a subsidiary that issues payment stablecoins. Should the FDIC expressly address such transactions? If so, what provisions would be appropriate?

6. Expedited Processing for Eligible Depository Institutions Engaging in Merger Transactions That Are Not Corporate Reorganizations Eligible for Expedited Processing Under § 303.64(d) or de Minimis Merger Transactions (§ 303.64(e))

The proposed rule would revise current § 303.64(a) to address expedited processing for other merger transaction types when engaged in by eligible depository institutions, and relocate the revised § 303.64(a) to new § 303.64(e). The proposed rule would retain expedited processing for eligible depository institutions that satisfy the revised criteria in new § 303.64(e)(3). The proposed rule would update the expedited processing criteria in current § 303.64(a)(4)(ii)(B) to increase the transaction size threshold. Under the proposed rule, the maximum amount of the total assets to be transferred in the transaction would increase from 10 percent to 25 percent of the acquiring institution's total assets as reported in its Call Report for the quarter immediately preceding the filing.

The proposed rule would retain the timing provisions in current § 303.64(a)(2), with certain modifications to reflect the FDIC's practice with respect to the competitive factors report in § 303.64(a)(2)(iii) consistent with the language used in new § 303.64(c), along with the FDIC's discretion to remove a filing from

expedited processing for the reasons set forth in § 303.11(c)(2), as revised under the proposed rule. As discussed, the FDIC would expect removal from expedited processing to be rare.

Question 61: Should the FDIC adopt specific reasons for removing a merger transaction from expedited processing under § 303.64(e)? Why or why not? If yes, please explain.

Question 62: Are the eligibility criteria for expedited processing under new § 303.64(e) appropriately tailored? Should any of the criteria be modified? Please explain.

Question 63: Are there other categories of expedited processing that the FDIC should adopt? Why or why not?

Question 64: Given the limited risk presented by transactions qualifying for expedited processing under § 303.64(e), should the FDIC adopt a deemed approval framework for such transactions or otherwise subject them to rapid processing under new § 303.64(c)? Why or why not? If not, are there additional criteria or requirements the FDIC could apply to such transactions that would make a deemed approval framework appropriate?

Question 65: Should expedited processing under § 303.64(e) be limited to merger transactions where the resulting institution would not exceed a certain asset size threshold, e.g., \$50 billion? Why or why not?

7. Standard Processing for Qualifying Merger Transactions (§ 303.64(f))

The proposed rule would address standard processing procedures for certain qualifying merger filings that do not qualify for expedited or rapid processing at new § 303.64(f) and (g). In the FDIC's experience, merger transactions subject to standard processing procedures are often more complex and present more involved supervisory, regulatory, and legal considerations than merger transactions subject to expedited or rapid processing. As such, merger transactions subject to standard processing procedures require additional time and FDIC resources to process and evaluate against the statutory factors as compared to merger transactions qualifying for expedited or rapid processing. The additional required time and resources may vary based on the specific transaction, such as where action may be reserved to the FDIC Board of Directors (FDIC Board) or require interagency coordination. Accordingly, the proposed rule would adopt two separate standard processing timelines to account for processing complexities associated with certain merger transactions in § 303.64(f) and

(g). The proposed changes are intended to provide applicants with greater transparency and clarity and to enhance FDIC accountability with respect to timeframes while also allowing sufficient time to manage and resolve any complexities presented by a merger filing.⁴¹

Under new § 303.64(f), the FDIC would take action on certain qualifying merger filings within 90 days after receipt of a substantially complete merger filing. Standard processing under new § 303.64(f) would apply to merger filings in which the resulting institution would have less than \$50 billion in assets, authority to act on the merger filing is not reserved to the FDIC Board, and consummation of the transaction is not dependent upon action by another Federal regulator. A concurrent merger between two bank holding companies related to the merger of two banks would not prevent the FDIC from processing the bank merger transaction pursuant to this section. The FDIC would be able to extend the 90-day timeframe by a maximum of 90 additional days, for a total maximum processing time of 180 days, due to extenuating circumstances. The FDIC would be required to notify an applicant of any extension to the processing timeline and include a specific reason for the extension. Under the proposed rule, the FDIC would take action on a merger filing that is subject to an extended standard processing timeline within a maximum of 180 days.

For all merger filings subject to standard processing procedures in § 303.64(f) and (g), the FDIC expects that extensions of the initial processing timeline would be based on extenuating circumstances, such as significant credit or liquidity issues due to accounting errors affecting one of the institutions involved in the merger transaction. The initial processing timeline would not be extended due to internal delays within the FDIC's control; for example, due to the FDIC's workload.

8. Standard Processing for All Other Merger Transactions (§ 303.64(g))

For all other merger filings, the proposed rule would include new standard processing procedures in § 303.64(g). Based on the FDIC's experience, as compared to the standard processing option for qualifying merger transactions in § 303.64(f), merger transactions under § 303.64(g) often require additional processing time due

⁴¹ See General Application Processing Timeframes for Regional Offices, FDIC, available at <https://www.fdic.gov/regulations/applications/application-processing-timeframes.pdf>.

to the size of the transaction and certain processing considerations, including where authority to act on the merger filing is reserved to the FDIC Board or consummation of the transaction is dependent upon action by another Federal regulator. New § 303.64(g) would provide that the FDIC would take action on a merger filing under § 303.64(g) within 150 days of the FDIC's receipt of a substantially complete merger filing. The FDIC would be able to extend the 150-day timeframe by a maximum of 120 additional days, for a total maximum processing time of 270 days, due to extenuating circumstances as described above. The FDIC would be required to notify an applicant of any extension to the processing timeline and include a specific reason for the extension. As discussed, for all merger filings subject to standard processing procedures in § 303.64(f) and (g), the FDIC expects that extensions of the initial 90- or 150-day processing timeline would be based on extenuating circumstances.

Question 66: Should the FDIC adopt different processes and time limits for standard processing? Why or why not?

Question 67: Are there other categories of merger transaction subject to standard processing that the FDIC should address in subpart D? If yes, please explain.

Question 68: Should the FDIC adopt any exceptions to standard processing that may warrant the use of shorter or longer processing deadlines? If yes, please explain.

9. Standard Processing for State Savings Associations (§ 303.64(h))

The proposed rule would revise existing § 303.64(c) and move it to new § 303.64(h). The proposed rule would include technical changes to conform to terminology used in other sections of subpart D, such as removing references to automatic or default approval, but would not change the substance of this section, which requires the FDIC to approve or disapprove a merger filing filed by a State savings association before the end of 60 days of the FDIC's receipt of a substantially complete filing, consistent with the Home Owners' Loan Act.⁴² The 60 day time period is an outer limit, however, and a qualifying merger filing by a State savings association may receive rapid or expedited processing within a shorter time period if eligible.

F. Public Notice Requirements (§ 303.65)

1. General (§ 303.65(a))

The proposed rule would continue to address public notice requirements for merger transactions with modifications at § 303.65(a). Public notice is a statutory requirement of the BMA.⁴³ The BMA requires publication prior to the FDIC's approval of a merger transaction, in a form approved by the FDIC, at appropriate intervals during a period at least as long as the period allowed for furnishing a report of competitive factors, in a newspaper of general circulation in the community or communities where the main offices of the banks or savings associations are located, or, if there is no such newspaper in any such community, then in the newspaper of general circulation published nearest thereto. The FDIC is proposing to modify the publication cadence, and is considering modifying the definition of "newspaper of general circulation," in subpart D to reduce regulatory burden for applicants while ensuring compliance with the requirements of the BMA.

Under the current rule, an applicant for approval of a merger transaction must publish notice of the merger transaction on at least three occasions at approximately equal intervals in the community or communities where the main offices of the merging institutions are located. The proposed rule would decrease the number of requisite publications, so that an applicant for approval of a merger transaction that is not also a corporate reorganization would be required to publish notice of the merger transaction on at least two occasions instead of three.

For merger transactions that are not corporate reorganizations, the BMA requires publication at appropriate intervals during a period at least as long as the 30-day period for the Attorney General to furnish the competitive factors report. Two publications at appropriate intervals throughout the 30-day period satisfies that requirement. The FDIC does not believe that the third publication provides a material public benefit in the context of merger transactions today, particularly because once information is published, it generally remains available in the public domain throughout the required 30-day period.

Additionally, under new § 303.65(e)(1), comments for such merger transactions must be received by the appropriate FDIC office within 30 days after the first publication of the merger transaction notice, and under

new § 303.65, the last publication must be made 20 days after the first publication. The FDIC believes that two publications, structured in this manner at appropriate intervals, would provide the public with sufficient notice and opportunity to comment within that 30-day period.

Publication would only be required in the communities where the main offices of the banks or savings associations are located. Publication would not be required in the communities where the main offices of a merging entity that is not a bank or a saving association is located, consistent with the language of the BMA. By its terms, the BMA only requires publication in the community or communities where the main offices of the banks or savings associations involved are located, and not any other nonbank institution involved in the transaction.⁴⁴

Question 69: Would two rounds of publication provide sufficient notice to the public of a merger transaction? If not, why not?

Question 70: Should the FDIC codify other public notice requirements related to specific types of merger transactions, such as when Federal deposit insurance will terminate due to acquisition by a credit union? Why or why not?

Question 71: Should the FDIC codify procedures for satisfying the public notice requirement of the BMA? Why or why not? If yes, what would be the most appropriate procedure?

The FDIC considered, and seeks comment on, an alternative to the newspaper publication requirement that would involve defining "newspaper of general circulation" to reflect modern information channels and the means through which information is shared today. Specifically, the FDIC considered defining "newspaper of general circulation" to mean "a publicly available medium of communication reasonably calculated to provide notice to members of the community." This definition could be codified in § 303.2(ff) such that it would apply to all FDIC filings that require publication in a newspaper of general circulation.

Under this alternative, the FDIC also could allow an applicant to publish the notice only once, provided that the notice remains available to the public throughout the applicable newspaper publication period, or the applicable public comment period if there is no applicable newspaper publication period, as set forth in part 303 of the FDIC Rules and Regulations.

This alternative would recognize that the BMA and other similar statutes were

⁴² 12 U.S.C. 1467a(s)(2).

⁴³ 12 U.S.C. 1828(c)(3).

⁴⁴ 12 U.S.C. 1828(c)(3)(D).

drafted at a point in time when traditional print newspapers served as the primary source for sharing news and information. Modern communication channels such as online sources have drastically changed how news and information are shared today, making reliance on traditional print newspapers as the sole means by which an applicant can satisfy the public notice requirement outdated. Moreover, the requirement to publish notice in a traditional newspaper often imposes unnecessary regulatory burden on an applicant, for example, by requiring an applicant to locate a newspaper and pay the newspaper to publish notice. Under such an alternative, requiring publication more than once may be unnecessary because modern mediums for sharing information and news are generally available 24 hours a day, seven days a week during the applicable notice period.

Question 72: What are the advantages and disadvantages of the alternative public notice requirements discussed above? Are the other alternatives the FDIC should consider? If so, please explain.

Question 73: Should the FDIC define “newspaper of general circulation” for purposes of a final rule? Why or why not?

Question 74: Should the FDIC consider a different definition of “newspaper of general circulation” than the one discussed above? Would the definition under consideration benefit from more specificity? If so, how?

2. Corporate Reorganizations (§ 303.65(b))

The proposed rule would establish reduced publication requirements for corporate reorganizations at new § 303.65(b), consistent with the requirements of the BMA. As noted above, the BMA generally requires public notice to be published during a period at least as long as the period allowed for furnishing a report of competitive factors. However, the BMA does not require a responsible agency to request a competitive factors report for corporate reorganizations, and the FDIC will not request a competitive factors report for a corporate reorganization under the proposed rule.⁴⁵ The requirement that an applicant publish notice at appropriate intervals during a period at least as long as the period allowed for furnishing a report of competitive factors does not, practically speaking, apply to such transactions. Thus, the proposed rule would require an applicant for a corporate

reorganization to publish only once in a newspaper of general circulation in the community or communities where the main office of the bank or savings association is located instead of three times.

Question 75: Would one round of publication in a newspaper in the community or communities where the main office of the merging institutions are located provide sufficient notice to the public of a corporate reorganization? Why or why not?

3. Exceptions (§ 303.65(c))

The proposed rule would revise existing § 303.65(b) and move it to a new § 303.65(c). The proposed rule would reduce the number of newspaper publications for a merger transaction when the FDIC determines that an emergency exists requiring expeditious action. Under new § 303.65(c)(1), if the FDIC determines that an emergency exists requiring expeditious action, publication would only be required once. This clarification would also be consistent with the modernization efforts proposed in other parts of proposed § 303.65, including reducing the number of publications required for corporate reorganizations in § 303.65(b). The proposed rule would retain the current exception for merger transactions involving probable failures at new § 303.65(c)(2).

Question 76: Should the FDIC adopt other exceptions to the public notice requirements? Why or why not?

4. Content of Notice (§ 303.65(d))

The proposed rule would revise existing § 303.65(c) and move the provision to new § 303.65(d). The proposed rule would not change the notice content requirements; however, it would make clarifying changes to indicate that the public notice should make clear when branches will remain in operation and when they will be closed. Additionally, the proposed rule would delete existing § 303.65(c), which refers to an emergency requiring expeditious action, because this circumstance would be addressed in new § 303.65(c)(1).

Question 77: Should the FDIC make further revisions to the content of notice requirements? Why or why not?

5. Public Comments (§ 303.65(e))

The proposed rule would move existing § 303.65(d) to new § 303.65(e) with revisions. The proposed rule would retain the 30-day comment period for merger filings submitted pursuant to §§ 303.64(e) through (h). Under new § 303.65(e)(1), comments for such merger filings must be received by

the appropriate FDIC office within 30 days after the first publication of the merger transaction notice, unless the comment period has been extended or reopened in accordance with § 303.9(b)(2). However, if the FDIC has determined that an emergency exists requiring expeditious action, comments must be received by the appropriate FDIC office within 10 days after the publication under new § 303.65(e)(2). This time period is consistent with the existing comment period for such merger transactions at existing § 303.65(d) and the amount of time the BMA permits the Attorney General to respond to a request for a competitive factors report when the responsible agency advises the Attorney General that an emergency exists requiring expeditious action.⁴⁶

The proposed rule would shorten the public comment period for corporate reorganizations that are not also *de minimis* merger transactions to 15 days instead of 30 days at new § 303.65(e)(3). In the FDIC's experience, such transactions garner little, if any, public comment, and the public comment period unnecessarily delays consummation of corporate reorganizations, which are not subject to a statutory waiting period under the BMA. Accordingly, the FDIC proposes to shorten the public comment period for corporate reorganizations that are not also *de minimis* merger transactions.

The proposed rule would also eliminate the public comment period for *de minimis* merger transactions. In the FDIC's experience, such transactions garner little, if any, public comment. Indeed, corporate reorganizations between an IDI and its operating subsidiary present little interest to the community because they are a matter of corporate structure that do not impact services available to the community. For example, in the past five years, the FDIC has received one CRA protest for a corporate reorganization involving an IDI and its subsidiaries. In this case, the FDIC found that due to the nature of the merger transaction, the corporate reorganization had no impact on the IDI's ability to meet the convenience and needs of its communities. Similarly, the FDIC expects other *de minimis* merger transactions to have minimal impact on the communities served. In the FDIC's experience, public comments on these types of transactions generally do not raise concerns that the FDIC is not already aware of through the supervisory process. For these reasons, the FDIC proposes to eliminate the

⁴⁵ 12 U.S.C. 1828(c)(4)(C)(ii).

⁴⁶ See 18 U.S.C. 1828(c)(4)(B)(ii).

public comment period for *de minimis* merger transactions.

The proposed rule would also make corresponding changes to § 303.7(a) to reflect the updated public comment periods for merger filings and remove reference to publication in a newspaper of general circulation for other types of filings. Publication in a newspaper of general circulation is required by the BMA but not by other statutory authorities.

Question 78: Should the FDIC implement a shortened public comment period for all corporate reorganizations? Why or why not?

Question 79: Should the FDIC retain the public comment period for de minimis merger transactions? Why or why not? Would a shortened public comment for such transactions be more appropriate? Why or why not?

Question 80: Should the FDIC codify the removal of the comment period for de minimis merger transactions in the regulation? Why or why not?

6. Public Access to Filings (§ 303.8(a))

Under § 303.8(a), any person may inspect or request a copy of the non-confidential portions of a filing subject to a public notice requirement (the public file) until 180 days following final disposition of a filing. The FDIC has an obligation under the Freedom of Information Act to redact certain confidential information from the public file. Depending on the complexity of a particular filing, the redaction process can be time consuming and labor intensive. Accordingly, the FDIC requires time to prepare the public file before producing it for review. The FDIC proposes to update § 303.8(a) to provide that a public file would be provided to a requestor not more than one business day after preparation of the file is complete.

Question 81: Should the FDIC adopt a different timeframe for providing access to the public file? Why or why not?

G. Significant Asset Transfers (§ 303.66)

The proposed rule would adopt a new notice and prior non-objection framework for significant asset transfers under new § 303.66. The framework would be similar in purpose to the OCC's regulations regarding substantial asset changes by national banks and Federal savings associations.⁴⁷ Adoption of a parallel approach in the FDIC Rules and Regulations would provide the FDIC with supervisory visibility into significant asset transfers that would substantially increase the

size of the IDI, but that do not meet the asset thresholds associated with a merger in substance. Based on the FDIC's supervisory experience, asset transfers of this magnitude can have the potential to affect the safety and soundness of an IDI. Adoption of this approach would allow the FDIC to address any supervisory, regulatory, or legal concerns associated with such transfers.

In addition, the proposed definition of merger in substance may have the effect of limiting the scope of transactions subject to merger filing and processing requirements under § 303.62 and § 303.64, relative to prior practice. Adoption of a notice and non-objection framework for substantial asset transfers would subject such transactions to a framework that is materially less burdensome and time-consuming when compared to merger filing and processing requirements under § 303.62 and § 303.64.⁴⁸

The proposed rule would require an FDIC-supervised institution to provide the FDIC with written notice of a significant asset transfer. The FDIC would issue a written decision on a significant asset transfer notice within 30 days of receipt of any such notice or alternatively notify the applicant of an extension to the processing timeframe within that same period. The FDIC could extend the 30-day timeframe by a maximum of 60 days, if necessary, due to extenuating circumstances. The FDIC would notify the applicant of any such extension and describe in the notification the underlying extenuating circumstances with specificity. If the FDIC does not issue a written decision or notify the applicant of an extension within the initial 30-day period, the significant asset transfer notice would be deemed approved at the expiration of the 30-day period. If the FDIC extended

⁴⁸ To the extent an acquisition of assets would not constitute a merger in substance subject to the BMA and its competitive review framework, institutions undertaking such transactions should be mindful of the pre-merger notification requirements under the HSR Act. Under FTC Formal Interpretation Number 17, applicants planning nonbank merger transactions and certain corporate reorganizations involving a nonbank affiliate or subsidiary are required to report information about the merger transaction to the FTC and DOJ to enable the FTC and DOJ to conduct a premerger review of the transaction in accordance with the requirements of the HSR Act. See *Formal Interpretation No. 17*, FTC (Apr. 3, 2000). The HSR Act exempts from FTC and DOJ premerger review transactions that are already subject to specialized regulatory agency review, including bank merger transactions. However, the FTC and DOJ treat the nonbank portion of a nonbank merger transaction or a corporate reorganization as subject to the reporting requirements of the HSR Act, regardless of whether the nonbank entity is an affiliate of the bank entity or a subsidiary of the bank entity.

the processing timeframe and did not issue a written decision on the significant asset transfer notice before the expiration of the extended period, which would be a maximum of 60 days for a total processing timeframe of 90 days, the notice would be deemed approved upon expiration of the extended period.

In practice, the FDIC expects an FDIC-supervised institution to submit a notice when it becomes aware that it will exceed the 25 percent threshold. The notice should include information related to all transactions that are part of the series. For example, in a series of three transactions involving an acquisition that increases the institution's asset size by 10 percent, 10 percent, and 5 percent respectively, the institution should submit a notice containing information related to all three transactions. The FDIC emphasizes, as with mergers in substance, however, that asset transfers that do not meet the definition of significant asset transfer, including those that result in the entry or exit of a single business line but do not increase the FDIC-supervised institution's asset size by 25 percent or more over a rolling 12-month period, would not be subject to notice or filing requirements under subpart D.

The proposed rule would exempt from the notice requirements in subpart D a change in the assets of an FDIC-supervised institution that results from activity that is otherwise subject to FDIC approval or other FDIC filing requirements. For example, the FDIC would not require an institution to submit a notice under this subpart if a transaction was already subject to filing and approval requirements as a merger transaction under § 303.62 or if an institution acquired assets from a failed or failing institution as part of an FDIC-supervised resolution process.

The proposed rule would require the FDIC to consider the following factors in connection with the approval or non-objection to a significant asset transfer: (1) the capital level of the resulting institution; (2) the conformity of the transaction(s) to applicable law, regulation, and supervisory policy; (3) the purpose(s) of the transaction(s); and (4) the impact of the transaction(s) on the safety and soundness of the institution(s) involved in the transaction(s). The factors, which are consistent with the OCC's regulations regarding substantial asset changes by national banks and Federal savings associations, are intended to ensure the transaction or series of transactions fits within the non-objection framework and is not subject to approval under the

⁴⁷ 12 CFR 5.53.

BMA. The factors are intended to appropriately mitigate risk associated with potential growth resulting from the significant asset transfer. When evaluating the purpose(s) of the transaction(s), the FDIC would consider whether the applicant has structured the transaction(s) to evade compliance with the BMA.

The FDIC would have discretion to object to a notice of a significant asset transfer if the transaction(s) would have a negative impact on one or more of these factors that could not be appropriately mitigated by the institution(s) involved in the transaction(s). Significant asset transfers would not be subject to the FDIC's regulations in subpart A of part 303 concerning public notice, public comment, or the opportunity for a public hearing.

Question 82: What are the advantages and disadvantages of the proposed framework for significant asset transfers?

Question 83: Is the 25 percent threshold appropriate for defining significant asset transfers? Why or why not?

Question 84: Should the FDIC consider a lookback period that is longer than 12 months? Why or why not?

Question 85: What changes to the significant asset transfer framework could the FDIC consider to better tailor it to the size and risk profile of FDIC-supervised institutions?

Question 86: Should this type of notice and non-objection framework apply to additional types of transactions? If yes, please explain why, and under what applicability threshold(s)?

Question 87: Should the FDIC include other exceptions to the definition of significant asset transfer? If yes, for what type(s) of asset transfers and why?

Question 88: Should the FDIC consider other factors in determining whether to issue a non-objection? If yes, please explain such factor(s) and why it would be relevant to the issuance of a non-objection.

Question 89: Is there an alternative framework the FDIC should consider to provide supervisory visibility into and an opportunity to object to such transactions? If yes, please explain.

H. Severability (§ 303.67)

The proposed rule would include a severability provision at new § 303.67. The proposed rule would provide that if any provision of subpart D or its application to any person or to certain circumstances were held to be invalid, the remainder of subpart D and its

application would remain in force. Each provision of the proposed rule is designed to function sensibly without the others, and the FDIC intends for them to be severable so that each can operate independently.

Question 90: Should the FDIC adopt a severability provision in subpart D? Why or why not?

I. BMA Transactions (§ 333.5)

1. Scope (§ 333.5(a))

The proposed rule would codify the FDIC's evaluation of the statutory factors at new § 333.5. Section 333.5(a) would explain that § 333.5 would apply to merger transactions subject to FDIC approval under the BMA, and that the definitions in § 303.61 apply to § 333.5. Historically, the FDIC has provided supplements to the procedural and other requirements for such transactions in an SOP. New § 333.5 would provide for more durability and transparency by codifying all aspects of the FDIC's BMA review framework in regulation. New § 333.5 would also better enable applicants to supply additional information including mitigating factors or other pertinent details relevant to the FDIC's consideration of a merger transaction and the statutory factors. The proposed rule is not intended to impose additional burden or new compliance obligations on applicants.

2. General (§ 333.5(b))

a. Statutory Factors (§ 333.5(b)(1))

New § 333.5(b)(1) would reflect the statutory factors that the FDIC must consider under the BMA. In addition to considering the competitive impact of a merger transaction, as discussed in § 333.5(c), the BMA requires the responsible agency to consider the financial and managerial resources and future prospects of the existing and proposed institutions, the convenience and needs of the community to be served, the risk to the stability of the U.S. banking or financial system, and the effectiveness of the parties in combatting money laundering activities.⁴⁹

Question 91: What are the advantages and disadvantages of codifying how the FDIC would review the BMA statutory factors under the proposed rule, instead of revising its current SOP on Bank Merger Transactions? Does codifying how the FDIC reviews the statutory factors improve the transparency and certainty of the FDIC's BMA framework? Why or why not?

b. Tailored Review (§ 333.5(b)(2))

New § 333.5(b)(2) would specify that the FDIC would conduct a tailored review of a merger filing as appropriate to the facts and circumstances of the merger transaction, including taking into account the structure, scale, and materiality of the merger transaction. The BMA applies to a large spectrum of transaction types—from those involving the largest banks to a corporate reorganization involving a community bank and a small operating subsidiary. The FDIC's expectations regarding the statutory factors are not the same for all transactions falling across this spectrum. For example, when evaluating the financial, managerial, and future prospects statutory factor as applied to a corporate reorganization involving an IDI and a subsidiary, the FDIC will generally not conduct a resource-intensive review because the financial, managerial, and future prospects of the acquiring institution and resulting institution will typically either not change as a result of the corporate reorganization, or they may improve as a result of a simplification of the corporate structure.

More generally, the FDIC recognizes the fundamental differences between corporate reorganizations and merger transactions involving unaffiliated parties in evaluating the statutory factors. As discussed above and below, corporate reorganizations will always satisfy the statutory requirements with respect to competition. Furthermore, in the FDIC's experience, it is very rare that a corporate reorganization would result in an unfavorable conclusion with respect to the convenience and needs of the community factor, as such transactions rarely impact the products and services provided to customers. As noted, the FDIC will tailor its review of the statutory factors to the specific type of transaction.

Question 92: Should the FDIC provide additional guidance regarding the tailoring of its evaluation of merger transactions according to transaction structure? If so, please explain.

Question 93: Should the FDIC consider presumptions that certain statutory factors will be resolved favorably for merger transactions that meet certain criteria? If so, in what circumstances?

c. Remediation Plans (§ 333.5(b)(3))

New § 333.5(b)(3) would specify that the FDIC would consider the applicant's plans to timely remediate any previously unresolved deficiencies identified in the supervisory record of the acquiring institution, institution

⁴⁹ 12 U.S.C. 1828(c)(5) and (11).

being acquired, or resulting institution in its evaluation of the statutory factors. Under the proposed rule, effective remediation plans may result in a favorable finding on a statutory factor despite identified weaknesses. In the FDIC's supervisory experience, supervisory weaknesses can often be remedied by an acquiring institution with a thoughtful, tailored plan based on reasoned metrics and realistic timelines. The FDIC would rely upon its supervisory expertise to determine the reasonableness of the proposed remedial plans and to evaluate the relevant statutory factor as to the resulting institution in light of such remediation plans.

New § 333.5(b)(3) is not intended to change the FDIC's obligations under the BMA to consider certain statutory factors within the context of each institution involved in the merger transaction. The FDIC would retain discretion to deny a merger filing for weaknesses at the institution being acquired, particularly when the parties have not presented a reasonable remediation plan.

Question 94: Should the FDIC consider a different approach to considering the relationship between the acquiring IDI, the IDI being acquired, and the resulting institution? If yes, please explain and suggest an alternative approach.

Question 95: Should the FDIC adopt a provision regarding remediation plans? Why or why not?

Question 96: Would new § 333.5(b)(3) provide clarity and certainty to the public? Why or why not?

d. Focus on the Resulting Institution (§ 333.5(b)(4))

The proposed rule would also clarify that the FDIC would emphasize the resulting institution and the cumulative benefits and impact of the merger transaction in its review of the statutory factors at new § 333.5(b)(4). Consistent with the BMA, the FDIC would continue to take into account the acquiring institution, institution being acquired, and resulting institution in its review of the statutory factors. However, to emphasize the resulting institution, the FDIC would also take into account the applicant's plans to timely remediate any previously unresolved deficiencies identified in the supervisory record of the acquiring institution, institution being acquired, or resulting institution in its evaluation of the statutory factors, consistent with new § 333.5(b)(3), and the cumulative benefits and impact of the merger transaction consistent with new § 333.5(c)(4).

3. Competition (§ 333.5(c))

New § 333.5(c) would outline and reform how the FDIC considers and evaluates the competitive effects of a merger transaction (competition statutory factor), including by incorporating credit union shares and centrally booked deposits in the initial HHI screen. The FDIC believes codifying the standards used by the FDIC to evaluate the competition statutory factor would provide applicants and the public with greater transparency and certainty than has been previously provided through the agency's SOPs.

a. Generally (§ 333.5(c)(1))

The BMA generally requires the responsible agency to consider the impact a merger transaction may have on competition in the U.S. banking market. As part of this consideration, the responsible agency must request a report on the competitive factors involved from the Attorney General (competitive factors report) before acting on the transaction.⁵⁰ If the FDIC is not the responsible agency, then a copy of the competitive factors report must also be provided to the FDIC.⁵¹ The responsible agency is not required to request a competitive factors report if: (1) the responsible agency finds that it must act immediately in order to prevent the probable failure of one of the IDIs involved in the merger transaction; or (2) the merger transaction involves solely an IDI and one or more of the IDI's affiliates (*i.e.*, a corporate reorganization).⁵²

The Attorney General must provide the competitive factors report to the responsible agency not later than 30 calendar days after receipt of the request.⁵³ If the requesting agency advises the Attorney General that an emergency exists requiring expeditious action, the competitive factors report must be provided not later than 10 calendar days after receipt of the request.⁵⁴

The BMA prohibits the responsible agency from approving merger transactions under two scenarios. First, the responsible agency may not approve a merger transaction that would result in a monopoly, or that would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States.⁵⁵ Second, the responsible agency may not

approve a merger transaction whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the responsible agency finds that the anticompetitive effects of the transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.⁵⁶ The proposed rule would codify these statutory restrictions, as applied to the FDIC, at new § 333.5(c)(1).

b. Initial Herfindahl-Hirschman Index (HHI) Screen (§ 333.5(c)(2))

The HHI is a broadly used measure for analyzing market concentration.⁵⁷ It is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 ($30^2 + 30^2 + 20^2 + 20^2 = 2,600$). The HHI accounts for the relative size and distribution of the firms in a market and decreases as the number of firms in a market increases, provided they are of a relatively similar size. By contrast the HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases. Markets in which the HHI is between 1,000 and 1,800 points are considered to be moderately concentrated and those in which the HHI is in excess of 1,800 points are considered to be concentrated.

The proposed rule would clarify that the FDIC uses an initial HHI screen to evaluate the competitive effects of a merger transaction. The FDIC currently includes all the deposits of banks and thrift institutions with branches in a relevant geographic market(s) in its initial HHI screen. Deposits of thrift institutions are generally given a 50 percent weighting in the FDIC's initial HHI analysis today, but deposits of certain thrift institutions that are significantly engaged in commercial and industrial lending are given a 100 percent weighting.⁵⁸ The proposed rule

⁵⁶ 12 U.S.C. 1828(c)(5)(B).

⁵⁷ See, e.g., FDIC, Applications Procedures Manual, p. 4–19 (June 2019), available at <https://www.fdic.gov/regulations/applications/resources/apps-proc-manual/section-04-mergers.pdf>; see also DOJ, “Herfindahl-Hirschman Index” (last updated Jan. 17, 2024), available at <https://www.justice.gov/atr/herfindahl-hirschman-index>.

⁵⁸ To determine whether a thrift institution is significantly engaged in commercial lending, the FDIC looks at the thrift institution's total commercial and industrial lending as a percentage of assets. In general, if the commercial and industrial loans of a thrift institution constitute less

⁵⁰ 12 U.S.C. 1828(c)(4)(A)(i).

⁵¹ 12 U.S.C. 1828(c)(4)(A)(ii).

⁵² 12 U.S.C. 1828(c)(4)(C).

⁵³ 12 U.S.C. 1828(c)(4)(B)(i).

⁵⁴ 12 U.S.C. 1828(c)(4)(B)(ii).

⁵⁵ 12 U.S.C. 1828(c)(5)(A).

would expand the FDIC's initial HHI screen to include the deposits of banks and thrift institutions and shares of credit unions with branches in a relevant geographic market(s), with certain credit unions' shares calculated as a representative portion, as discussed below. Also as discussed further below, the relevant geographic market(s) would be the banking market(s) assigned by the Federal Reserve Board, or, if not defined by the Federal Reserve Board, the relevant geographic market would be all counties in which both the acquiring institution and the institution to be acquired have branch locations, as adjusted to reflect factors that influence how customers in the market seek and obtain banking products and services.

The Federal Reserve Board has divided the United States and U.S. territories into more than 1,400 local banking markets.⁵⁹ Various information is used by the Federal Reserve Board to determine the scope of a banking market, such as commuting patterns, shopping patterns, interviews with local government and business leaders, and surveys of local households or small businesses.⁶⁰ The Federal Reserve Bank of St. Louis operates the Competitive Analysis and Structure Source Instrument for Depository Institutions (CASSIDI), which enables regulators and the public to perform HHI analyses for each banking market, as defined by the Federal Reserve Board.⁶¹ Banking markets are updated from time to time in CASSIDI. The proposed rule would define "relevant geographic market" as the banking market(s) of the acquiring institution and the institution to be acquired, as defined by the Federal Reserve Board at the time of a merger filing. If a relevant banking market has not been defined by the Federal Reserve Board, the relevant geographic market would consist of all counties in which both the acquiring institution and the institution to be acquired have branch locations, as adjusted to reflect factors

than two percent of its total assets, the thrift institution's deposits will not be weighted at 100 percent.

⁵⁹ See Governor Michelle Bowman, "The New Landscape for Banking Competition" at the 2022 Community Banking Research Conference (Sept. 28, 2022), p. 4, available at: <https://www.federalreserve.gov/newsevents/speech/files/bowman20220928a.pdf> [hereinafter, "Gov. Bowman Speech"].

⁶⁰ See Federal Reserve Board, *How do the Federal Reserve and the U.S. Department of Justice, Antitrust Division, analyze the competitive effects of mergers and acquisitions under the Bank Holding Company Act, the Bank Merger Act and the Home Owners Loan Act?*, Q. 14, available at <https://www.federalreserve.gov/bankinforeg/competitive-effects-mergers-acquisitions-faqs.htm> (last accessed Aug. 19, 2026).

⁶¹ See <https://cassidi.stlouisfed.org>.

that influence how customers in the market seek and obtain banking products and services.

The FDIC recognizes that the U.S. banking sector and the financial services industry more broadly are highly competitive. Decades ago, when the BMA was first passed, banks were heavily restricted in their ability to compete in different geographic regions due to branching, interstate banking, and other legal and regulatory restrictions. Furthermore, technology has made it much easier for banks and nonbanks to offer products and services nationwide. Banks also now compete with a wider array of nonbank competitors who offer bank-like products. As such, the FDIC is making certain adjustments to how it calculates its initial HHI screen, and is seeking comment on whether further changes are warranted regarding how the FDIC analyzes the competition statutory factor.

Thrift institutions historically were not viewed as equivalent competitors of banks because they were unable to offer the same range of banking products and services as those provided by commercial banks. Thrift institutions were once focused on savings deposit accounts, and their lending activities were limited by statute to residential lending.⁶² Deregulation relaxed many of the original restrictions that were placed on thrift institutions. For example, thrift institutions can now offer a broader range of banking products and services, including commercial lending. However, commercial lending remains limited by statute and regulation.⁶³ Banks do not have similar restrictions on their commercial lending activities, but banks and thrift institutions still engage in virtually the same activities.⁶⁴

Credit unions also historically have not been viewed as equivalent competitors of banks because they are limited by statutory restrictions on both their customer bases⁶⁵ and commercial lending activities.⁶⁶ Banks do not have similar restrictions on their customer bases or commercial lending activities and, as such, have historically been able to provide a full range of services to a broader portion of the population in a relevant geographic market. Despite the restrictions placed on credit unions, credit unions and community banks

tend to provide similar products and services within a relevant geographic market, including customer accounts and consumer and small business lending.⁶⁷ Furthermore, similar to thrifts, legal and regulatory restrictions on credit unions have eased over time, resulting in the differences between banks and credit unions shrinking.⁶⁸ In this way, credit unions have evolved into a more equivalent competitor in a similar way to how thrift institutions evolved.

In addition to thrifts and credit unions, other types of nonbank financial institutions have emerged over multiple decades that increasingly compete with banks. This includes fintechs and other nonbank entities that gather deposits from customers and place such deposits at banks. The FDIC is not formally proposing a methodology by which it would incorporate deposits gathered by these types of entities. These deposits are currently included in the HHI calculation on account of the bank with which such deposits are placed. However, the FDIC recognizes that this approach may not optimally reflect the competitive landscape and thus is inviting comment on whether and how to incorporate such considerations into the FDIC's HHI methodology.

Recent updates to CASSIDI make more data readily available to regulators and the public, resulting in additional tools for regulators to leverage when evaluating the competitive effects of a potential merger transaction under new § 333.5(c). This data, if appropriately utilized, enables regulators to more accurately assess competition from other competitors in a relevant geographic market. For example, the regulator-facing version of CASSIDI contains data on credit union shares. The National Credit Union Administration (NCUA) does not collect data at the branch level for credit union shares. Instead, data on total credit union shares is derived from credit unions' Call Reports, which credit unions submit to the NCUA quarterly. Because branch-level shares data is not available for credit unions, for regulators, CASSIDI divides a credit union's total shares equally among its branches as reported in its NCUA Call Reports. Regulators can modify total share amounts to reflect a representative portion of the credit union's shares in the relevant banking market, as discussed further below.

⁶² Public Law 73–43, 48 Stat. 123.

⁶³ 12 U.S.C. 1464; 12 CFR part 32.

⁶⁴ Kwan, S., *Bank Charters vs. Thrift Charters*, Fed. Res. Bank of San Francisco (Apr. 24, 1998), available at <https://www.frbsf.org/research-and-insights/publications/economic-letter/1998/04/bank-charters-vs-thrift-charters/>.

⁶⁵ 12 U.S.C. 1759(b); Gov. Bowman Speech, p. 7.

⁶⁶ See 12 U.S.C. 1757a.

⁶⁷ *Introduction to Bank Regulation: Credit Unions and Community Banks*, Congressional Research Service (Dec. 14, 2018), available at congress.gov/crs_external_products/IF/HTML/IF11048.html.

⁶⁸ See, e.g., Public Law 105–219, 112 Stat. 913; Public Law 115–174, 132 Stat. 1296, Sec. 105.

Similarly, the regulator-facing version of CASSIDI accurately reflects the particular branch that any centrally booked deposits are booked at, but these numbers are not representative of the bank or thrift institution's deposit activity within a relevant banking market because deposits from the bank or thrift institution's branches may be booked at a central location. However, regulators can now modify the total deposits of an institution with centrally booked deposits to reflect a representative portion of the institution's data, as discussed further below. Regulators can also add additional institutions to the HHI analysis in a relevant banking market. This could allow regulators to include online-only banks that do not have a physical geographic presence in a relevant banking market or other nonbank competitors, such as fintechs, as discussed further below.

The proposed rule would include an approach that utilizes regulators' new capabilities in CASSIDI to incorporate the shares of credit unions in the FDIC's initial HHI screen, and the FDIC invites comment on potential approaches to incorporate the deposits of other competitors. Under the proposed rule, the FDIC would continue to include in its initial HHI screen all deposits of a bank's branch or branches that are located in a relevant geographic market. The FDIC would apply the same approach for deposits of thrift institutions. The FDIC would also incorporate in its initial HHI screen all shares of a credit union located in a relevant geographic market if all of the credit union's branches are located in the relevant geographic market. Credit unions that serve the same geographic footprint as one or more of the relevant geographic markets, or an area that is smaller than, but entirely within the bounds of one or more of the relevant geographic markets would receive this treatment.

The FDIC would incorporate in its initial HHI screen a representative portion of the shares of a credit union where some but not all of the branches of the credit union are located in one or more of the relevant geographic markets. The FDIC would use a representative portion of the credit union's shares as an estimate for the credit union's share amount in the relevant geographic market(s). The representative portion of shares would be calculated by dividing the credit union's total shares by its total number of branches and multiplying that number by the number of the credit union's branches that are located in a relevant geographic market, as determined by its most recent NCUA

Call Report data reflected in the regulator-facing version of CASSIDI. For example, if a credit union had \$4,000,000 in total shares and 20 total branches, each branch would be allocated \$200,000 in shares. If the credit union had 4 branches in a relevant geographic market, then \$800,000 would be assigned to the relevant geographic market as the representative portion of shares.

Similarly, the FDIC would incorporate into its initial HHI screen a representative portion of the centrally booked deposits of banks and thrift institutions. The FDIC would use a representative portion of the institution's centrally booked deposits as an estimate of the institution's deposit share in the relevant geographic market(s). Because centrally booked deposits are associated with depositors who may be living anywhere in the country, the incorporation of centrally booked deposits into the HHI screen does not require the location of a branch in a relevant geographic market in order to be included in the HHI screen. The representative portion of deposits would be calculated by taking the total population of the relevant geographic market(s), as determined by the most recent U.S. Census data, dividing that number by the total U.S. population, as determined by the most recent U.S. Census data, and multiplying that number by the total centrally booked deposits of the bank. For example, as of the 2025 U.S. Census, if the population of a relevant geographic market was 707,600 people, and the total U.S. population was 341,784,857, the relevant geographic market would represent approximately 0.21 percent of the U.S. population. Multiplying that 0.21 percent by the institution's total centrally booked deposits would yield the representative share of deposits for the relevant geographic market. For example, if an institution had \$2,000,000,000 in centrally booked deposits multiplied by that 0.21 percent, then \$4,130,765 would be assigned to the relevant geographic market as the representative share of centrally booked deposits. As an alternative method, the FDIC could adopt the same approach it is proposing for credit unions and equally apportion centrally booked deposits across all the branches of the institution. In some cases, this may better proxy for the bank's geographic footprint; however, in other cases, such as a bank with a nationwide footprint but very few branches, such an alternative would likely be a far worse proxy for the bank's geographic

footprint. The FDIC seeks comment on this alternative.

The FDIC acknowledges that the public-facing version of CASSIDI currently does not offer the same expanded data or other features as the regulator-facing version of CASSIDI. The public-facing version of CASSIDI currently allows an applicant to conduct a pro forma HHI analysis that captures competition from other banks and thrift institutions in the relevant banking market(s). It does not provide data on credit union shares. Nor does it allow applicants to conduct modified analyses, for example, to incorporate only a representative portion of centrally booked deposits or the deposits of other competitors, for example, online-only banks. Applicants should still complete and may rely on a pro forma HHI analysis in CASSIDI as a baseline representation of the competitive effects of a merger transaction in the relevant geographic market(s). However, applicants should view the pro forma HHI analysis as a ceiling because the FDIC's initial HHI screen would have the effect of reducing concentration in a relevant geographic market because it would also incorporate additional categories of deposits, as described above.

To approximate the FDIC's initial HHI screen more closely, an applicant could also obtain data on credit union shares from Call Reports that are publicly available on the NCUA's website and calculate the FDIC's initial HHI screen using the methodology discussed above. The FDIC recognizes that the Summary of Deposits (SOD)⁶⁹ data is imprecise and often does not reflect the geographic location of customers, particularly with respect to banks with very few or no branches. The FDIC is also aware that not all banks may use the same methodology to assign deposits to particular branches. The FDIC is seeking comment on whether banks should be required to report deposit data based on customer addresses or some other metric so that the SOD data more accurately reflects the geographic locations of customers.

Additionally, the FDIC recognizes that the competitive landscape varies for different types of deposits. For example, banks may compete in local markets for retail and small business deposits, while brokered certificates of deposit are sold in a national market. The FDIC is seeking comment on whether the HHI

⁶⁹ The SOD is the annual survey of branch office deposits as of June 30 for all FDIC-insured institutions, including insured U.S. branches of foreign banks. All institutions with branch offices are required to submit the survey; institutions with only a main office are exempt.

analysis should focus on a subset of deposits, such as retail and small business deposits, to better reflect competition within geographic markets.

Question 97: Is the FDIC's approach to considering the competition statutory factor appropriate? Are there other approaches the FDIC should consider that would better reflect the existing competitive landscape?

Question 98: Is the proposed approach for delineating the relevant geographic market(s) for the FDIC's initial HHI screen appropriate and sufficiently clear? Please explain.

Question 99: Should the FDIC consider other approaches for delineating the relevant geographic market(s) for its initial HHI screen? Please explain.

Question 100: Is the proposed methodology for the FDIC's incorporation of credit union shares in its initial HHI screen appropriately tailored? Why or why not? Should the FDIC consider a credit union's field of membership designation for purposes of incorporating a credit union into the initial HHI analysis? If so, why, and to what extent?

Question 101: Is the proposed methodology for the FDIC's incorporation of thrift institution deposits in its initial HHI screen appropriately tailored? Why or why not?

Question 102: Is the proposed methodology for the FDIC's incorporation of centrally booked deposits in its initial HHI screen appropriately tailored? Why or why not?

Question 103: Would it be appropriate for the FDIC to incorporate deposits gathered by nonbank competitors in its initial HHI screen, separate from the IDIs with whom the deposits are placed? If so, how should the deposits be incorporated?

Question 104: As an alternative approach, should the FDIC consider applying a "scaler" to a relevant geographic market to account for deposits gathered by online banks and fintechs? For example, the FDIC could construct a proxy, hypothetical institution to represent the presence of banks with nationwide online lending platforms, fintechs, and other nonbank competitors, and attribute a portion of the hypothetical institution's deposits to a relevant geographic market. The FDIC would need to develop a methodology to estimate the total deposits in this case. The FDIC seeks comment on these and other alternative approaches for incorporating such deposits into the HHI analysis.

Question 105: Should the FDIC collect different or additional data related to the reporting of deposits? For example,

should deposits be reported based on customers' address? Are there other metrics the FDIC should consider?

Question 106: Should the FDIC consider limiting the calculation of deposits of banks and thrift institutions and shares of credit unions in the FDIC's initial HHI screen to retail and small business deposits, premised on an assumption that such deposits are more likely to be local deposits? Why or why not? Alternatively, are there specific types of deposits that the FDIC should consider excluding from the calculation of deposits in the initial HHI screen because they are part of a national market, such as certain types of brokered deposits?

c. Safe Harbor for Transactions Falling Within Specified HHI Thresholds (§ 333.5(c)(3))

The proposed rule would establish a safe harbor for merger transactions that fall within specific HHI thresholds, absent objection from the Attorney General, at new § 333.5(c)(3). As discussed in greater detail below, the safe harbor is intended to enable potential applicants to rely on a simple, definitive metric for determining how the FDIC would evaluate the competitive effects of a merger transaction. In the FDIC's experience, many merger transactions would fall within the proposed safe harbor. The proposed rule is intended to streamline the initial analysis for such transactions to reduce cost and burden for applicants and the FDIC. The safe harbor is not intended to deter or prohibit merger transactions that do not qualify for the safe harbor. Under new § 333.5(c)(4), the FDIC would also consider other factors in evaluating the competition statutory factor when a merger transaction does not satisfy the HHI safe harbor.

New § 333.5(c)(3) would establish that, absent objection from the Attorney General, the FDIC would not deny a merger filing on competition grounds where: (1) the HHI, as calculated by the FDIC, in each relevant geographic market is 1,800 points or less after consummation of the merger transaction; (2) if the HHI, as calculated by the FDIC, is more than 1,800 in a relevant geographic market after consummation of the merger transaction, the increase is less than 200 points from the HHI in the relevant geographic market prior to the merger transaction; or (3) the transaction is a corporate reorganization.

The FDIC is seeking comment on whether to establish a separate HHI-based safe harbor for merger transactions involving rural areas. Most rural banking markets are highly

concentrated based on traditional metrics such as HHI, resulting in "stuck" markets where the merger of two small local banks could appear to present competition concerns using traditional HHI metrics.⁷⁰ To establish a separate HHI-based safe harbor for rural areas, the FDIC would first establish a definition of "rural area." The FDIC could define "rural area" as a geographical area not within a metropolitan statistical area, as established by the Office of Management and Budget. The rural area safe harbor could be available when either the acquiring institution or the institution to be acquired is a small institution, as defined at § 327.8(e), with a main office located in rural area whose customer base is primarily located in a rural area.

The FDIC emphasizes that an HHI-based safe harbor is not intended to establish a bar to any merger transactions that fall outside the contemplated safe harbors. The FDIC recognizes that the FDIC's initial HHI screen may not be sufficiently tailored for a specific merger transaction, the potential parties, and the surrounding community. As noted further below, the FDIC would conduct additional analysis with respect to the competition factor for transactions that do not satisfy the safe harbor.

Finally, nothing in the proposed rule is intended to obligate applicants to rely on CASSIDI to conduct market competition analysis. The FDIC intends to provide the initial HHI screen concept and safe harbor as standard metrics that all parties can consider freely and easily. It is the FDIC's experience that most applicants already rely on this data. The proposed rule is intended to permit this usage but is not intended to require it. Applicants may continue to furnish their own market competition analysis for the FDIC's consideration.

The Interagency BMA Application requires submission of information regarding the effects of the merger transaction on existing competition in the relevant geographic market(s) where the applicant and the target institution operate.⁷¹ Each responsible agency provides different instructions to complete the competitive analysis in a supplement to the Interagency BMA Application. The FDIC requires an

⁷⁰ See Andrew P. Meyer, *Market Concentration and Its Impact on Community Banks*, Federal Reserve Bank of St. Louis (Apr. 12, 2018), available at <https://www.stlouisfed.org/publications/regional-economist/first-quarter-2018/concentration-community-banks>.

⁷¹ See Interagency BMA Application, Q. 16, available at <https://www.fdic.gov/formsdocuments/f6220-01.pdf>.

applicant to delineate the relevant geographic market in the FDIC supplement to the Interagency BMA Application (FDIC Supplement).⁷² Specifically, the FDIC Supplement notes that the relevant geographic market includes the areas in which the offices to be acquired are located and from which those offices derive the predominant portion of their loans, deposits, or other business. The FDIC Supplement also notes the relevant geographic market includes the areas where existing and potential customers impacted by the merger transaction may practically turn for alternative sources of banking services. New § 333.5(c) enables applicants to rely on established standards for delineating the relevant geographic market and the effect of the merger transaction on competition in the relevant market when submitting a merger filing. The FDIC intends to update the FDIC Supplement to remove references to the SOP and to cite to § 333.5(c). The FDIC also intends to make conforming changes to align the FDIC Supplement with the proposed rule, particularly § 333.5.

Question 107: Is the safe harbor for transactions falling within specified HHI thresholds sufficiently tailored to the current U.S. banking market? Why or why not?

Question 108: Should the FDIC adopt different HHI thresholds for the safe harbor? If yes, please explain.

Question 109: Should the FDIC adopt a separate HHI threshold for the safe harbor for merger transactions in rural areas? Why or why not? If yes, how should the FDIC delineate qualifying for the rural area safe harbor; what would be an appropriate HHI threshold and why; and how should the FDIC define "rural area?"

Question 110: Should the FDIC characterize this section as a presumption instead of a safe harbor? If yes, please explain.

Question 111: Should the FDIC revise the FDIC Supplement? Why or why not? If yes, what should be revised and how?

d. Additional Considerations for Merger Transactions That Exceed the Safe Harbor (§ 333.5(c)(4))

The proposed rule would incorporate additional considerations that the FDIC takes into account for merger transactions that exceed the HHI safe harbor at new § 333.5(c)(4). If the initial HHI screen for a merger transaction exceeds the safe harbor thresholds in new § 333.5(c)(3), the FDIC would consider other factors related to the

impact of the transaction on competition in its market concentration analysis, including alternative geographic market definitions, the extent to which the initial HHI screen accurately reflects the competitive effects of the merger transaction, and any procompetitive effects of the merger transaction, including those that are in the public interest. This new § 333.5(c)(4) would enable applicants to submit additional evidence and/or considerations for the FDIC's review to mitigate HHIs that exceed the safe harbor thresholds.

The FDIC has historically considered mitigating factors, including alternative geographic markets and the extent to which the initial HHI screen accurately reflects the competitive effects of the merger transaction, to offset concentrated HHI results. For example, in the FDIC's experience, the relevant banking market presented in CASSIDI may not always appropriately account for the nuances associated with a specific transaction, the relevant parties, or the banking needs of a particular community. For this reason, the FDIC has historically considered whether the boundaries of a specific CASSIDI market should be expanded to consider, for example, whether members of the community are willing and able to cross a geographic feature, e.g., a mountain or river, to access banking services. This consideration has proven particularly relevant for merger transactions in rural areas. The proposed rule would introduce additional transparency into the FDIC's consideration of mitigating factors in its competitive analysis.

Analysis of the procompetitive effects of a merger transaction to offset the anticompetitive effects of such transaction is consistent with the BMA and the practice of other regulators.⁷³ The BMA allows the FDIC to find that the anticompetitive effects of a merger transaction are "clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served."⁷⁴ A "procompetitive effect," in essence, would be a public interest or benefit that offsets any anticompetitive effects of a merger transaction. The FDIC would consider any procompetitive effect in the community or communities to be served by the resulting institution that are proffered by an applicant. For

example, the FDIC would consider any improvements in the general availability and accessibility of banking products and services, quantity or quality of banking products and services, and pricing of banking products and services. However, any such procompetitive effect should be verifiable, or at the very least not speculative, to be credited as a mitigating factor in the FDIC's competitive analysis. Any such procompetitive effect should also be merger-specific, meaning that the procompetitive effect would be unlikely to be achieved without the merger. This is consistent with the approach of other regulators.⁷⁵

Additionally, in considering the procompetitive effects of a merger transaction, the FDIC would give particular emphasis to procompetitive effects associated with merger transactions in rural areas. The FDIC notes that there may be unique and significant public interests and benefits associated with merger transactions in rural areas that warrant additional weight, particularly when compared to the traditionally high HHI concentrations associated with rural area merger transactions. For example, the combination of two local institutions may create a stronger competitor to national banks with a physical or online presence in the community.

Question 112: Should the FDIC codify the specific factors that would be considered when evaluating a merger transaction involving a rural area? Why or why not?

Question 113: Should the FDIC provide more specificity regarding the analysis of transactions that do not satisfy the safe harbor? If so, how?

Question 114: Are there other factors that should be considered when evaluating a merger transaction involving a rural area? If yes, please explain what they are and how they should be considered.

4. Financial and Managerial Resources and Future Prospects (§ 333.5(d))

The BMA requires the responsible agency to take into consideration the financial and managerial resources and future prospects of the existing and proposed institutions (financial, managerial, and future prospects statutory factor) when evaluating a merger filing. The proposed rule would

⁷³ See, e.g., 12 U.S.C. 1828(c)(5)(B); 2023 Merger Guidelines, Rebuttal Evidence Showing That No Substantial Lessening of Competition Is Threatened by the Merger, DOJ Antitrust Division, available at <https://www.justice.gov/atr/merger-guidelines/rebuttal-evidence>.

⁷⁴ 12 U.S.C. 1828(c)(5)(B).

⁷⁵ 2023 Merger Guidelines, Rebuttal Evidence Showing That No Substantial Lessening of Competition Is Threatened by the Merger, DOJ Antitrust Division, available at <https://www.justice.gov/atr/merger-guidelines/rebuttal-evidence>.

⁷² FDIC Supplement, Part I, available at <https://www.fdic.gov/formsdocuments/f6220-01.pdf>.

modify and codify certain elements of the FDIC's approach for considering each component of this statutory factor at new § 333.5(d).

a. Financial Resources (§ 333.5(d)(1))

When evaluating the financial resources of the institutions as part of its consideration of the financial, managerial, and future prospects statutory factor, the FDIC considers the institutions' capital, funding and liquidity, and key financial metrics. As discussed below, the proposed rule would codify further detail on the FDIC's review of this component of the statutory factor at new § 333.5(d)(1).

i. Capital (§ 333.5(d)(1)(i))

Under new § 333.5(d)(1)(i), the FDIC would consider the regulatory capital levels of the applicant at both the IDI-level and on a consolidated basis. The proposed rule would include a review of the availability of additional capital or resources to support consummation of the merger transaction and the subsequent integration of the institutions while continuing to satisfy all minimum regulatory capital and buffer requirements. The FDIC believes that available capital resources should be considered not only within the context of the initial consummation of a merger transaction, but also on a routine basis going forward after the parties have integrated. Integration can be a capital-intensive process, with costs often exceeding initial projections. Accordingly, the FDIC would consider capital adequacy at multiple points in time when evaluating the financial, managerial, and future prospects statutory factor.

ii. Funding and Liquidity (§ 333.5(d)(1)(ii))

Similarly, new § 333.5(d)(1)(ii) would require the FDIC to evaluate whether the applicant has adequate liquidity and funding sources to support the merger transaction in the ordinary course. This evaluation would consider the liquidity position of the resulting institution, not only upon consummation, but also during and for purposes of integration. Whether an applicant has sufficient funding and liquidity to support consummation and integration would be part of the consideration of the statutory factor. The FDIC would also consider whether the applicant would need to access contingency funding to support unforeseen circumstances as determined under scenario testing. In the FDIC's experience, funding and liquidity testing under multiple scenarios is important to ensure that an applicant has sufficient financial resources.

iii. Key Financials (§ 333.5(d)(1)(iii))

Under new § 333.5(d)(1)(iii), the FDIC would consider the historical financial performance of the applicant using additional financial metrics typically referenced by market participants to evaluate the financial strength of a banking organization. Such metrics may include Net Interest Margin, Return on Assets, or Z-Score. The FDIC has found these metrics provide helpful insight into the financial resources of the parties when reviewing merger filings. Accordingly, the proposed rule would codify the FDIC's practice of reviewing such metrics when evaluating the statutory factors.

Question 115: Are there other metrics that the FDIC should consider when evaluating the financial resources of the existing and proposed institutions? If yes, please explain.

Question 116: Should the FDIC adopt a presumption or safe harbor for finding favorably on the financial resources of the institutions involved in the merger transaction in certain instances? Why or why not? If yes, what would be an appropriate presumption or safe harbor?

b. Managerial Resources (§ 333.5(d)(2))

i. Qualifications and Experience (§ 333.5(d)(2)(i))

As part of its consideration of the financial, managerial, and future prospects statutory factor, the FDIC must take into consideration the managerial resources of the existing and proposed institutions. New § 333.5(d)(2)(i) would provide that the FDIC would consider management's relevant qualifications and experience to operate the resulting institution when evaluating this statutory factor. The FDIC has found that prior experience and positive outcomes in prior merger transactions involving an IDI may increase the likelihood of successful merger consummation and integration. Accordingly, such experience and outcomes may receive favorable consideration by the FDIC. However, lack of relevant experience with merger transactions involving an IDI would not by itself be viewed negatively in evaluating this statutory factor. The FDIC completes a tailored review of management's prior experience within the context of the specific transaction. Under the proposed rule, the FDIC would provide greater weight to the operation of the resulting institution than it would to deficiencies at the institution to be acquired, if the acquiring institution has proposed appropriate remediation plans.

ii. Supervisory History (§ 333.5(d)(2)(ii))

Under the proposed rule, prior supervisory ratings and the resulting institution's managements' responsiveness to supervisory concerns would be taken into consideration when the FDIC evaluates the managerial resources of the existing and proposed institutions. As part of this review, the FDIC would consider the reasons for particular supervisory criticisms or ratings concerning management and management's remediation of supervisory concerns as mitigating factors. The FDIC also would consider the extent to which the reasons for particular supervisory criticisms or ratings bear on the ability of management to successfully integrate the institution to be acquired and operate the resulting institution.

iii. UFIRS Ratings

When evaluating the managerial resources of the existing and proposed institutions under new § 333.5(d)(2), the FDIC would take into account the acquiring institution's UFIRS rating. If the acquiring institution has received a UFIRS composite rating of 1 or 2 as a result of its most recent Federal or State examination and on the management component of its rating, there is a very high probability the FDIC would find favorably on this component of the statutory factor. The FDIC also expects that the agency can find favorably on this component of the statutory factor for 3-rated institutions, depending on the reasoning for the 3 rating and other considerations relevant to managerial resources. A favorable finding would be significantly less likely if the acquiring institution received a 4 or 5 rating as a result of the most recent Federal or State examination, but a favorable finding could still be possible, depending on the existence and quality of a remediation plan and/or other mitigating circumstances.

Question 117: Are there other metrics the FDIC should consider when evaluating the managerial resources of the existing and proposed institutions? If yes, please explain.

Question 118: Should the proposed rule codify in the regulatory text that the FDIC will find favorably with respect to managerial resources if an institution receives certain ratings? If so, which ratings? Alternatively, should the regulatory text include a presumption or safe harbor? Why or why not?

c. Future Prospects (§ 333.5(d)(3))

New § 333.5(d)(3) would require the FDIC to consider the following when evaluating the institutions' future

prospects under the financial, managerial, and future prospects statutory factor: (1) business plan, (2) pro formas, and (3) integration plan. First, the FDIC would consider the relevant business, integration, and strategic plans to evaluate whether the plans are appropriate for the resulting institution's risk profile. Second, the FDIC would consider the pro forma balance sheet of the resulting institution under various scenarios. As discussed above, the FDIC believes testing should be conducted under multiple scenarios, as it provides important insight into the viability of the resulting institution under the range of conditions in which it may reasonably operate. Third, the FDIC would consider the sufficiency of the integration plan in demonstrating that the applicant has the ability to efficiently integrate the assets, systems, and personnel acquired under a range of scenarios. Finally, the FDIC may also take into consideration scenario test results or other information relevant to the resulting institution's future prospects.

Question 119: Are there other metrics that the FDIC should consider when evaluating the future prospects of the existing and proposed institutions? If yes, please explain.

5. Convenience and Needs of the Community (§ 333.5(e))

The BMA requires each responsible agency to consider the convenience and needs of the community to be served (convenience and needs statutory factor) when evaluating a merger transaction. The proposed rule would modify and codify the FDIC's approach for considering the convenience and needs statutory factor at new § 333.5(e).

a. Supervisory Records (§ 333.5(e)(1))

Under the proposed rule, the FDIC would continue to consider the supervisory record of both the applicant and the institution being acquired for compliance with applicable statutes and regulations, including the CRA. The FDIC would also review the supervisory record for fair banking considerations by considering, for mergers in which the resulting institution has more than \$50 billion in assets, whether the acquiring or target institutions have treated existing or potential customers less favorably than other existing or potential customers based on political, social, cultural, or religious considerations rather than individualized, objective, and risk-based analysis. This additional review would respond to concerns expressed in Executive Order 14331, Guaranteeing

Fair Banking for All Americans,⁷⁶ and would help deter and combat politicized or unlawful debanking activities.

If the acquiring institution has received a rating of 1 or 2 on its most recent consumer compliance examination and received a satisfactory or outstanding on its most recent CRA examination, there is a very high probability the FDIC would find favorably on the convenience and needs statutory factor, assuming there were no fair banking concerns. The FDIC also expects that the agency would generally find favorably on the convenience and needs statutory factor for acquiring institutions that have received a 3 rating on its most recent consumer compliance examination and received a satisfactory or outstanding on its most recent CRA examination, depending on the reasoning for the 3 rating and other considerations relevant to fair banking and the convenience and needs of the community. A 4 or 5 rating on the acquiring institution's most recent consumer compliance examination would not necessarily be a barrier to finding favorably on the convenience and needs statutory factor, but a favorable finding would be less likely in the absence of appropriate remediation plans and/or other mitigating circumstances.

The FDIC would continue to consider the applicant's plans to remediate any unresolved deficiencies identified in its supervisory record or in the supervisory record of the institution being acquired, including any plans to address fair banking concerns. The FDIC's review would focus on unresolved deficiencies identified in the institution's most recent CRA or consumer compliance examination and any unresolved deficiencies when the institution being acquired is rated: (1) Needs to Improve or Substantial Noncompliance in its most recent CRA examination; or (2) a 3 or lower in its most recent consumer compliance examination.

b. Changes to Branches, Products, and Services (§ 333.5(e)(2))

The proposed rule would require the FDIC to consider whether the merger transaction would result in any changes to branches, products, and services offered in the community to be served. Specifically, the proposed rule would provide that the FDIC would consider the extent to which the resulting institution would offer products or services to a broader or smaller customer base and any impact on prices. If the resulting institution is expected to

offer a broader set of products and services, its products and services to a broader market, or products and services at lower prices (if, for example, a result of economies of scale), this would support a favorable finding. Conversely, any reduction in products and services offered in the case of a merger transaction between an IDI and a credit union would be viewed negatively in the analysis of the convenience and needs factor.

Question 120: Are there other considerations the FDIC should include in the agency's evaluation of the convenience and needs statutory factor? Would more specificity be helpful? If yes, please explain.

Question 121: Should the FDIC adopt a different standard when evaluating whether an IDI has engaged in fair banking? If yes, please explain.

6. Record of Combatting Money Laundering Activities (§ 333.5(f))

The BMA requires each responsible agency to take into consideration the effectiveness of any IDI involved in the merger transaction in combatting money laundering activities, including in overseas branches (AML statutory factor), when evaluating a merger transaction. The proposed rule would codify this statutory factor at new § 333.5(f).

When evaluating the effectiveness of the IDIs in combatting money laundering, the FDIC would expect each IDI, including the resulting institution, to have a Bank Secrecy Act (BSA)/anti-money laundering (AML) program commensurate with the volume and risk reflected in the IDI's enterprise-wide business model. The FDIC would also consider each IDI's prior compliance with Federal and State AML laws. If an IDI involved in a merger transaction is not directly supervised by the FDIC, the FDIC would generally rely on the primary Federal regulator's supervisory information when evaluating the IDI's effectiveness in combating money laundering. Prior deficiencies may not necessarily preclude a favorable finding on the AML statutory factor if the FDIC finds sufficient mitigating factors exist. For example, sufficient mitigating factors may include material, demonstrated progress toward implementing a satisfactory BSA/AML program that addresses the underlying issues or concerns (including with respect to any required "look back" reviews), or validation that the acquiring institution's satisfactory BSA/AML program will address the less than satisfactory record of the institution being acquired.

⁷⁶ 90 FR 38925 (Aug. 12, 2025).

Question 122: Should the FDIC adopt a different approach for evaluating the AML statutory factor? Why or why not?

7. Financial Stability (§ 333.5(g))

The Dodd-Frank Wall Street Reform and Consumer Protection Act amended the BMA to require the responsible agency to take into consideration the risk to the stability of the U.S. banking or financial system (financial stability statutory factor) when evaluating a merger filing.⁷⁷ In evaluating the likely impact of a merger transaction on the stability of the U.S. banking or financial system, the FDIC has considered quantitative and qualitative metrics, each of which aims to assess whether the resulting institution's systemic footprint would be such that its failure or financial distress would compromise the overall stability of the U.S. banking or financial system. The proposed rule would modify and codify certain elements of the FDIC's approach for considering the financial stability statutory factor at new § 333.5(g).

a. Financial Stability Safe Harbor (§ 333.5(g)(1))

The proposed rule would establish a safe harbor for concluding that a merger transaction does not present a financial stability concern at new § 333.5(g)(1). Under the proposed rule, the FDIC would conclude that a merger transaction would not raise a financial stability concern if: (1) the resulting institution would not be: (A) a subsidiary of a global systemically important bank holding company, (B) a Category II FDIC-supervised institution, (C) a Category III FDIC-supervised institution, or (D) a Category IV banking organization;⁷⁸ (2) the institution to be acquired is an IDI with total consolidated assets of less than \$20 billion as reported in the IDI's Call Report for the quarter immediately preceding the filing; (3) the merger transaction is a corporate reorganization in which: (A) all institutions involved in the transaction are organized under the laws of the United States; (B) all institutions involved in the transaction have been affiliates for longer than 12 months; and (C) the total consolidated assets of the institution to be acquired are less than \$20 billion; or (4) the merger transaction is a *de minimis* merger transaction. Each proposed prong of the financial stability safe

harbor is based on the FDIC's supervisory experience.

The first prong of the financial stability safe harbor would evaluate the size of the resulting institution within the context of the risk-based categories established by the Federal Reserve Board and the FDIC for determining the applicability of regulatory capital and liquidity requirements.⁷⁹ Under the proposed rule, if the resulting institution would not satisfy, at a minimum, the definition of a Category IV banking organization, then the FDIC would conclude that the merger transaction would not present risk to the stability of the U.S. banking or financial system.

The second prong of the financial stability safe harbor would evaluate the size of the institution to be acquired. Under the proposed rule, the FDIC would conclude that a merger transaction would not present a risk to the stability of the U.S. banking or financial system if the institution to be acquired is an IDI with less than \$20 billion, as reported in the institution's Call Report for the quarter immediately preceding the filing. The FDIC is seeking comment on whether this is the appropriate asset threshold to preemptively conclude that acquisitions of institutions below such threshold do not have a material impact on risks to the stability of the U.S. banking or financial system, regardless of the size and complexity of the acquiring institution. The FDIC has also proposed limiting this prong of the safe harbor to targets that are IDIs, which would limit the prong to a contained universe of entities with activities that are banking and financial in nature. The FDIC is seeking comments on whether this prong of the safe harbor should be expanded to apply to non-IDIs as well. Finally, the FDIC is proposing total consolidated assets as the metric, which would provide a bright line test for the safe harbor. The FDIC recognizes that there may be other relevant metrics, such as off-balance sheet exposures or total payments activity. The FDIC also seeks comments on whether other metrics should be considered.

The third prong of the financial stability safe harbor would capture certain corporate reorganizations. Corporate reorganizations involve transactions among affiliates. In the FDIC's experience, such transactions rarely implicate financial stability risks, and to the extent they do, the impact is often positive in improving resolvability by simplifying corporate structures. The third prong of the safe harbor would

specifically apply to corporate reorganizations in which (1) the merging parties are all based in the United States, (2) the entities involved have been affiliates for longer than twelve months, and (3) the institution or institutions to be acquired have total consolidated assets of less than \$20 billion. Entities that are based outside of the United States may present financial stability risks due to the complexities of cross border operations. The safe harbor is limited to entities that have been affiliated for longer than twelve months to help ensure it applies to genuine corporate reorganizations, as opposed to step-type transactions that may be designed to take advantage of the safe harbor. The asset threshold would effectively apply the second prong to domestic affiliated non-IDIs. The FDIC seeks comment on whether this asset threshold is appropriate. The FDIC also seeks comment on whether the proposed rule should distinguish banks with a single point of entry resolution strategy, in which case consolidation within the broader banking organization may be less likely to increase financial stability risks and more likely to mitigate such risks.

The fourth prong of the financial stability safe harbor would apply to *de minimis* merger transactions, including acquisitions of very small institutions and certain types of operating subsidiaries. Such transactions do not present a risk to the stability of the U.S. banking or financial system, given the institutions being acquired are very small or do not expose the IDI to additional legal or financial risk.

Question 123: Should the FDIC adopt a financial stability safe harbor? Why or why not?

Question 124: Is the proposed rule's financial stability safe harbor appropriate? Why or why not? Would different criteria be more appropriate? If yes, please provide.

Question 125: Is \$20 billion the appropriate asset threshold for the second prong of the safe harbor? If not, what asset threshold would be appropriate? Should the second prong be limited only to IDIs? If not why? Should the FDIC consider additional metrics by which to judge which institutions in addition to total consolidated assets? If so, which ones?

Question 126: Is \$20 billion the appropriate asset threshold for the third prong of the safe harbor? If not, what asset threshold would be appropriate? Should the FDIC consider additional metrics by which to judge corporate reorganizations?

Question 127: Should the FDIC distinguish banking organizations with

⁷⁷ See sec. 604(f), Public Law 111–203, 124 Stat. 1376.

⁷⁸ For purposes of the proposed rule, the FDIC is relying on definitions established by the Federal Reserve Board. The FDIC may elect to adopt these definitions in whole or in part at a later date.

⁷⁹ See 84 FR 59230 (Nov. 1, 2019).

a single point of entry resolution strategy from other institutions in applying the safe harbor? If so, how?

b. Merger Transactions That Do Not Meet the Safe Harbor of no Financial Stability Concern (§ 333.5(g)(2))

If a merger transaction would not satisfy the financial stability safe harbor in new § 333.5(g)(1), then the FDIC would conduct a balancing test to evaluate the financial stability statutory factor, as outlined at new § 333.5(g)(2). Under the proposed rule, the FDIC would take the following elements into consideration as part of the balancing test: (1) the systemic importance of the resulting institution, (2) a comparison of the applicant before and after the merger transaction, and (3) the extent to which the merger transaction would support financial stability. When conducting the balancing test, the FDIC would evaluate each metric individually and in the aggregate.

Under the first prong of the financial stability balancing test, the FDIC would evaluate the systemic importance of the resulting institution utilizing the five categories in the Federal Reserve Board's systemic indicator score.⁸⁰ Specifically, the FDIC would evaluate the following five categories as applied to the resulting institution: (1) size, (2) substitutability, (3) interconnectedness, (4) complexity, and (5) cross-jurisdictional activity. When evaluating the resulting institution's interconnectedness, the FDIC would consider the institution's expected interconnectedness with other financial system participants, which would include consideration of intra-financial system assets, intra-financial system liabilities, and outstanding securities. When evaluating the resulting institution's substitutability, the FDIC would consider the availability of substitute providers for any critical products and services offered by the institution. When evaluating the resulting institution's complexity, the FDIC would consider the complexity of the institution's activities, assets, and liabilities. When evaluating the resulting institution's cross-jurisdictional activity, the FDIC would consider the institution's expected cross-jurisdictional claims and liabilities.

The second prong of the proposed rule's financial stability balancing test would require the FDIC to consider the applicant before and after the merger transaction, based on the factors mentioned in connection with the first prong, to assess the potential impact of

the merger transaction on the overall stability of the U.S. banking or financial system. If the FDIC found that the applicant's change in size was relatively limited, then this could weigh in favor of finding favorably on the financial stability statutory factor. The FDIC notes that this prong would still be balanced with the first and third prongs. Thus, for example, if two regional banks of equal size merged, resulting in a materially larger institution, this would not necessarily by itself raise financial stability concerns, depending on the specific facts and circumstances.

Under the third prong of the financial stability balancing test, the FDIC would consider the extent to which the merger transaction would support the stability of the United States banking and financial system, including if the institution being acquired is an institution at risk of failure. For example, if the merger transaction would prevent an FDIC-insured institution from failing, but create a new systemically important IDI, the balancing test may weigh in favor of finding favorably on the financial stability statutory factor. A merger transaction that involves a combination of a large institution that is financially strong and a large institution that is financially weak may be highly beneficial for financial stability, by reducing the likelihood of a failure of a large institution, despite the creation of a much larger combined institution. The FDIC generally expects that the third prong would only be considered to the extent that the transaction supports the stability of the United States banking and financial system, whereas the absence of such a benefit would not be viewed negatively in light of the overall analysis.

Question 128: Should the FDIC adopt a balancing test for evaluating whether a merger transaction satisfies the financial stability statutory factor? Why or why not?

Question 129: Is the proposed rule's balancing test for evaluating the financial stability statutory factor appropriate? Why or why not? Would another test be more appropriate? If yes, please provide details regarding an alternative test.

J. Indexing of Thresholds (§ 314.1)

The FDIC proposes to index the dollar amounts in subpart D and the thresholds for the financial stability safe harbor at new § 333.5(g)(1). The proposed rule would update § 314.1(c) to include the baseline dollar thresholds in the proposed rule. As noted by the FDIC previously, the use of thresholds allows the FDIC to differentiate and

tailor regulatory requirements based on an institution's size, risk profile, and level of complexity.⁸¹ However, static dollar-based thresholds can lead to unintended policy consequences if threshold levels are not periodically updated or indexed to inflation. For example, smaller and mid-size institutions can become subject to asset-based requirements originally intended for relatively larger institutions solely as a result of growth in price levels, thereby increasing burden for reasons unrelated to changes in their inflation-adjusted size or risk profile. For this reason, the proposed rule would provide for indexing of the baseline dollar thresholds in the proposed rule. This is consistent with the FDIC's agency-wide initiative to index dollar values in the FDIC Rules and Regulations to ensure the FDIC's regulatory expectations are appropriately tailored.

The thresholds would also be measured from baseline dates under the proposed rule. The baseline date would be the effective date of the proposed rule. The first adjustment for dollar amounts listed in paragraph (c)(1), which are thresholds already subject to § 314.1, would be effective on October 1, 2027, and the first adjustment for dollar amounts listed in paragraph (c)(2), which would include thresholds added by the proposed rule, would be effective on October 1, 2029. Thereafter, adjustments would be effective on October 1 following each consecutive two-year period ending on August 30 since the last adjustment. Biennial adjustments of this nature would be calculated by multiplying the threshold value by one plus the cumulative percent change in the non-seasonally adjusted Index. If the cumulative percent change of the non-seasonally adjusted Index increased by 8 percent or more over the 12-month period ending on August 30 since the last adjustment, the thresholds would be adjusted by multiplying the threshold value by one plus the cumulative percent change in the non-seasonally adjusted Index.

Question 130: Should the proposed rule index the dollar amounts and thresholds in the proposed rule? Why or why not? Should the FDIC consider alternate approaches for indexing the thresholds?

V. Expected Effects

As previously discussed, the objectives of the proposed rule are to provide greater clarity and certainty to applicants, modernize how the agency evaluates the statutory factors, and

⁸⁰ See 12 CFR 217.404.

⁸¹ See 90 FR 55789, 55790 (Dec. 4, 2025).

improve the speed and certainty of, and reduce the regulatory burden associated with, the FDIC's review of merger transactions under the BMA. This section evaluates the expected economic effects of the proposed rule using relevant supervisory and financial data as of the quarter ending on December 31, 2025. If adopted, the proposed rule would apply to (1) all merger transactions between an IDI and a noninsured institution; (2) all merger transactions where an FDIC-supervised institution is the resulting institution; and (3) all significant asset transfers, as defined in the proposed rule. As of the quarter ending on December 31, 2025, the FDIC insured 4,347 institutions and supervised 2,745 institutions.⁸²

In the period from January 1, 2016, to December 31, 2025, the FDIC received 1,935 merger filings. Of those merger filings, 1,604 were to acquire a whole institution, and 331 were to acquire part of an institution, such as an acquisition of an insured branch or a business line that involved an assumption of deposits such that it triggered application of the BMA.⁸³

Rapid and Expedited Processing

The proposed rule would adopt new rapid and expedited processing procedures and expand existing expedited processing procedures for eligible depository institutions, thus reducing processing timelines and filing requirements for many merger transactions. The proposed rule would also implement deadlines throughout the filing process, which the FDIC expects to reduce costs and have other, non-quantifiable benefits, including increased certainty and transparency as well as enabling applicants to consummate merger transactions more quickly.

The proposed rule would establish rapid processing procedures for *de minimis* merger transactions satisfying the requirements of new § 303.64(c). In the period from January 1, 2016, to December 31, 2025, the FDIC received 484 merger filings that may have qualified as *de minimis* merger transactions subject to the rapid processing procedures under § 303.64(c).⁸⁴ Of those transactions, 257 were corporate reorganizations with an average processing time of 80 days, and 227 were other types of merger transactions with an average processing time of 84 days.⁸⁵ For internal reporting purposes, some merger transactions

(such as certain transactions that involve holding company mergers) that would otherwise be classified as merger transactions, are classified as corporate reorganizations. The number of true corporate reorganizations is likely lower, as are the associated processing times. Under the proposed rule, *de minimis* merger filings containing all the information required under § 303.64(c)(2) would generally be approved within five business days of receipt by the FDIC, or, for those transactions requiring a competitive factors report, within five business days of receipt of the report by the FDIC.⁸⁶ For *de minimis* merger transactions that are corporate reorganizations, and thus do not require a competitive factors report, the proposed rule would reduce processing time for eligible transactions by 75 days, on average, but that number may be lower. Such corporate reorganizations would also be authorized for immediate consummation. For other types of *de minimis* merger transactions that do require a competitive factors report, the proposed rule would reduce processing times by a minimum of 49 days, on average, depending upon when the FDIC receives the competitive factors report. If the Attorney General took the full 30 days to return the competitive factors report, 49 days would be the average; however, given the nature of *de minimis* transactions, the FDIC's experience is that the report typically is provided within an average of 12 days. While the FDIC does not have the information or data necessary to quantify this benefit, the FDIC expects that the reduction in processing time under the proposed rule would reduce costs associated with *de minimis* merger transactions.

De minimis merger transactions would also be subject to less onerous letter filing procedures. The FDIC recognizes that some potential applicants may have been dissuaded from engaging in small, routine merger transactions by the regulatory burden and cost associated with a merger filing,

so the benefits for applicants and the public may be more than the FDIC is able to estimate based on available information and data. The FDIC estimates that the new rapid processing procedures for *de minimis* merger transactions would save applicants at least an estimated \$3,500 in costs associated with a merger filing (while recognizing that in many cases savings could be substantially higher, for example, if an applicant previously needed to retain outside counsel in connection with the *de minimis* merger filing and no longer needs to do so as a result of the less onerous letter filing procedure under the proposed rule). The proposed letter filing procedures would also reduce other regulatory burdens and the processing time associated with such merger filings, which would likely lead to additional savings.

The proposed rule also would establish expedited processing for corporate reorganizations satisfying the requirements of new § 303.64(d) that are not *de minimis* merger transactions. In the period from January 1, 2016, to December 31, 2025, the FDIC received 437 merger filings that would qualify as corporate reorganizations subject to the expedited processing procedures under § 303.64(d).⁸⁷ Of those merger filings, 305 were processed under current expedited processing procedures, but as discussed, that number may be lower. The FDIC thus expects the proposed rule to expand the number of merger filings processed under expedited processing procedures for corporate reorganizations.

In the period from January 1, 2016, to December 31, 2025, the average processing time for corporate reorganizations that would be eligible for expedited processing procedures under § 303.64(d) was 69 days, but as discussed, the processing time is likely shorter.⁸⁸ By contrast, the proposed rule would generally require the FDIC to act within 30 days of receiving a substantially complete merger filing, thus reducing the processing timeline by a minimum of 39 days on average for similar corporate reorganizations (if the FDIC took the full thirty days in all cases). Such corporate reorganizations also would be authorized for immediate consummation upon FDIC approval of the merger filing.⁸⁹ Although the FDIC

⁸⁶ New § 303.64(c)(1) provides that a substantially complete letter filing for a *de minimis* merger transaction submitted under Subpart D shall, unless the Attorney General objects to the transaction on competitive grounds within the timeframe permitted in section 18(c)(4) of the FDI Act (12 U.S.C. 1828(c)(4)), be deemed approved on the date that is the latest of: (i) 5 business days after the date of the FDIC's receipt of a substantially complete letter filing; or (ii) if the transaction is not a corporate reorganization, 5 business days after (A) receipt of a competitive factors report confirming that the Attorney General does not object to the transaction on competition grounds; or (B) the expiration of the timeframe permitted in section 18(c)(4) of the FDI Act (12 U.S.C. 1828(c)(4)) if no competitive factors report has been received.

⁸⁷ FDIC supervisory data.

⁸⁸ *Id.*

⁸⁹ New § 303.64(d)(2) provides that for corporate reorganization filings submitted under new § 303.64(d)(1), the FDIC shall take action on a filing by the date that is the latest of: (i) 30 days after the date of the FDIC's receipt of a substantially

Continued

⁸² FDIC Call Report Data, Dec. 31, 2025.

⁸³ FDIC supervisory data.

⁸⁴ *Id.*

⁸⁵ FDIC supervisory data.

does not have the information or data necessary to quantify this benefit, the FDIC expects that applicants would benefit from reduced regulatory burden, processing time, and cost. Furthermore, applicants would have greater certainty on processing timelines to better gauge key dates to facilitate the consummation of their transactions.

The proposed rule would expand expedited processing for eligible depository institutions engaging in merger transactions that are not also corporate reorganizations or *de minimis* merger transactions and that satisfy the requirements of new § 303.64(e). In the period from January 1, 2016, to December 31, 2025, the FDIC received 685 merger filings that would qualify as merger transactions subject to the expedited processing procedures established under § 303.64(e).⁹⁰ Of those merger filings, 459 would have qualified for expedited processing under the current rule, with an average processing time of 54 days. The proposed rule would also increase the maximum total assets eligibility criteria for this category of expedited processing, thus increasing the number of transactions that would qualify by 221. The processing time for those transactions was 109 days, on average. By contrast, the proposed rule would generally require the FDIC to act within 45 days of receiving a substantially complete merger filing.⁹¹ Although the 45 day timeframe for this category of expedited processing remains the same under the proposed rule, the proposed rule would require the FDIC to take action on a merger filing within the applicable processing

time,⁹² meaning the proposed rule would impose more discipline on the FDIC's processing timeframes and therefore reduce the average processing time for this category of expedited processing by a minimum of 9 days for transactions that would have qualified for expedited processing under the current rule and 64 days for transactions that would not have qualified for expedited processing under the current rule (if the FDIC took the full 45 days in all cases). While the FDIC does not have the data or information necessary to quantify the effects of this aspect of the proposed rule, it expects that the increase in the maximum asset eligibility criteria for this category of expedited processing and the associated reduction in processing times would be beneficial to applicants.

Standard Processing

The proposed rule would establish new tailored timeframes for standard processing. One category of standard processing for qualifying merger transactions under new § 303.64(f) would be subject to a 90-day processing timeframe, with the option for a one-time extension of 90 days, for a potential total processing timeframe of 180 days.⁹³ In the period from January 1, 2016, to December 31, 2025, the FDIC received 301 merger filings that would have qualified for standard processing under § 303.64(f).⁹⁴ These filings had an average processing time of 112 days. By contrast, under the proposed rule, the FDIC anticipates that extensions would be rare, and therefore the vast majority of merger filings under this category of standard processing would benefit from an average reduction in processing time of 22 days (if the FDIC took the full 90 days in every case).

The second category of standard processing in new § 303.64(g) would capture all other merger transactions not subject to rapid processing, expedited processing, or 90-day standard

processing.⁹⁵ Such transactions would be subject to a 150-day processing timeframe, with the option for a one-time extension of 120 days, for a potential total processing timeframe of 270 days. In the period from January 1, 2016, to December 31, 2025, the FDIC received 4 merger filings that would have qualified for standard processing under new § 303.64(g). These filings had an average processing timeframe of 345 days. By contrast, under the proposed rule, the FDIC anticipates that extensions would be rare, and therefore the vast majority of merger filings under this category of standard processing would benefit from an average reduction in processing time of 192 days. While the FDIC does not have the data or information necessary to quantify the effects of this aspect of the proposed rule, it expects that the new tailored timeframes for standard processing would be beneficial to applicants.

Substantially Complete Determination

Under the proposed rule, if a merger filing was submitted that was incomplete, the FDIC would notify the applicant within 21 days of receipt and provide a written explanation of the information needed to render the merger filing substantially complete. The FDIC would have the ability to return the merger filing as incomplete. Based on a representative sampling of merger filings, the FDIC has determined that a merger filing was substantially complete within 30 days, on average. The proposed rule would therefore improve the FDIC's merger review framework by reducing the number of days that it takes the FDIC to determine whether a merger filing is substantially complete by 7 days, at a minimum (if the FDIC takes the full 21 days in every case). The proposed rule would also provide the FDIC with needed flexibility to return merger filings (and all filings under part 303) as incomplete. The FDIC does not have the necessary data to quantify the benefits of this aspect of the proposed rule, but the FDIC expects that it will improve the speed of the FDIC's merger review framework, reduce regulatory burden associated with multiple Additional Information Requests, and provide transparency and certainty to applicants. Moreover, the FDIC anticipates that it would be easier for applicants to gauge key dates to facilitate the consummation of their transactions.

complete filing; or (ii) For an interstate merger transaction subject to the provisions of section 44 of the FDI Act (12 U.S.C. 1831u), 5 business days after the FDIC receives confirmation from the host State (as defined in § 303.41(e)) that the applicant has both complied with the filing requirements of the host State and submitted a copy of the filing to the host State bank's supervisor.

⁹⁰ FDIC supervisory data.

⁹¹ New § 303.64(e)(2) provides that for applicable merger filings submitted under new § 303.64(e)(1), the FDIC shall take action on a filing by the date that is the latest of: (i) 45 days after the date of the FDIC's receipt of a substantially complete filing; (ii) 10 days after the date of the last notice publication required under § 303.65 of Subpart D; (iii) 5 business days after (A) receipt of a competitive factors report confirming that the Attorney General does not object to the transaction on competition grounds; or (B) the expiration of the time frame permitted in section 18(c)(4) of the FDI Act (12 U.S.C. 1828(c)(4)) if no competitive factors report has been received; or (iv) For an interstate merger transaction subject to the provisions of section 44 of the FDI Act (12 U.S.C. 1831u), 5 business days after the FDIC receives confirmation from the host State (as defined in § 303.41(e)) that the applicant has both complied with the filing requirements of the host State and submitted a copy of the filing to the host State's bank supervisor.

⁹² New § 303.64(a)(1) provides that the FDIC shall render a decision on a substantially complete filing within the applicable processing timelines in this subpart and shall issue written notice of its decision.

⁹³ New § 303.64(f) provides that for merger filings not processed pursuant to rapid or expedited processing procedures and that meet the criteria of new § 303.64(f)(1), the FDIC shall take action on a filing within 90 days after receipt of a substantially complete filing if (i) the resulting institution will have less than \$50 billion in assets, (ii) authority to act on the filing is not reserved to the FDIC's Board of Directors, and (iii) consummation of the merger transaction is not dependent upon action by another Federal regulator.

⁹⁴ This number reflects the inclusion of merger filings that may be dependent upon action by another Federal regulator.

⁹⁵ New § 303.64(g) provides that for merger filings subject to standard processing that do not satisfy the aforementioned criteria or otherwise qualify for rapid or expedited processing, the FDIC shall take action within 150 days of receipt of a substantially complete filing.

Public Notice and Comment

The proposed rule would also reduce the number of publications required to satisfy the requirements of the BMA for merger transactions that are not also corporate reorganizations from three to two and only in the location of the bank(s) or savings association(s) involved in the merger transaction. For corporate reorganizations, the number of publications required to satisfy the requirements of the BMA would be further reduced to one. The FDIC expects these reductions to the number of required publications to reduce regulatory burden and costs associated with merger filings. Furthermore, the proposed rule would reduce the public comment period for corporate reorganizations that are not *de minimis* merger transactions from 30 days to 15 days and eliminate the public comment period for *de minimis* merger transactions. The FDIC does not have the information necessary to quantify the benefits of these changes but believes that the reduction in regulatory burden is likely to be meaningful, with minimal impact on the public's awareness of pending transactions.

Mergers in Substance

The proposed rule would define "merger in substance" and clarify that mergers in substance are subject to merger filing and processing requirements. As noted above, the proposed definition of merger in substance is generally consistent with the FDIC's longstanding practice of applying the BMA to certain transactions that are substantively and economically equivalent to a merger transaction, while at the same time embedding substantially more transparency and predictability into such determinations. The proposed rule would provide additional certainty regarding the types of transactions the FDIC considers to be mergers in substance and ensure consistency in the FDIC's treatment of such transactions. Improved certainty and consistency regarding mergers in substance would reduce both (1) the likelihood that the FDIC requires merger filings for transactions that should not be subject to the BMA, and (2) the costs incurred by prospective applicants in order to analyze whether a transaction is in fact a merger in substance, thus necessitating a merger filing. The FDIC does not have the information necessary to estimate the number of transactions that would be affected by this aspect of the proposed rule.

Significant Asset Transfers

The proposed rule would require an FDIC-supervised institution to notify the FDIC and obtain the FDIC's non-objection before engaging in a significant asset transfer. A "significant asset transfer" would be defined as a transaction that is not a merger transaction but that is a single transaction or a part of a series of transactions with the same counterparty or one or more affiliates of the same counterparty that would increase the size of the acquiring FDIC-supervised institution's assets by 25 percent or more over a rolling 12-month period. Although the FDIC does not currently collect data on significant asset transfers, the FDIC identified 27 filings received from January 1, 2016, to December 31, 2025 in which an acquiring institution's assets would have increased by at least 25 percent and uses this as a proxy estimate for the expected number of significant asset transfer filings under the proposed rule.⁹⁶ The FDIC estimates that the proposed notice and non-objection procedures for significant asset transfers would cost filers a minimum of \$1,100 per filing (while recognizing that in many cases this cost could be substantially higher). However, for any significant asset transfers that would require a merger filing (such as a merger in substance) under the FDIC's current regulations, the proposed rule would substantially reduce filing costs. By contrast, the cost to submit a merger filing is estimated at a minimum of \$4,500, so a notice filing produces a cost savings when compared to a more comprehensive merger filing.

Statutory Factors

As described above, in new § 333.5, the proposed rule modifies and codifies how the FDIC would review merger filings within the context of the applicable statutory factors under the BMA. Although the FDIC lacks the data necessary to quantify the impacts of new § 333.5, based on its supervisory experience processing mergers under the existing regulations and the SOP, the FDIC believes the provisions of new § 333.5 would modernize how the agency evaluates and resolves the statutory factors. The FDIC expects that potential applicants and the broader public will benefit from a clearer, more predictable approach to the statutory factors that more closely aligns with market realities. For example, the proposed analysis of the competition

factor would more closely reflect the industry's competitive landscape.

Indexing of Thresholds

The proposed rule would index the dollar amounts in the proposed rule. The indexing provision would preserve the level of thresholds set forth in the proposed rule in real terms, thereby avoiding the undesirable and unintended outcome where the asset threshold changes due solely to inflation rather than actual changes in an institution's size, risk profile, or level of complexity.

VI. Alternatives Considered

The FDIC considered amending its current SOP on Bank Merger Transactions instead of amending subpart D. However, the FDIC determined that its objectives of improving certainty in the processing of merger filings and reducing regulatory burden associated with processing merger transactions would be better achieved through codifying key aspects of the SOP as a regulation through a formal notice and comment rulemaking that considers feedback from all stakeholders.

The FDIC will submit the proposed revisions to these information collections to OMB for review under section 3507(d) of the PRA⁹⁷ and 5 CFR 1320.11 of the OMB's implementing regulations.

Title of Information Collection:
Interagency Bank Merger Application.
OMB Number: 3064-0015.

Affected Public: Insured Depository Institutions.

VII. Regulatory Analysis

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.⁹⁸ However, an initial regulatory flexibility analysis is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to \$850 million.⁹⁹

⁹⁷ 5 U.S.C. 801(a)(1).

⁹⁸ 5 U.S.C. 601 *et seq.*

⁹⁹ The SBA defines a small banking organization as having \$850 million or less in assets, where an organization's "assets are determined by averaging

⁹⁶ FDIC supervisory data.

Generally, the FDIC considers a significant economic impact to be a quantified effect in excess of 5 percent of total annual salaries and benefits or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of one or more of these thresholds typically represent significant economic impacts for FDIC-supervised institutions. For the reasons provided below, the FDIC certifies that the proposed rule would not have a significant economic impact on a substantial number of small banking organizations. Accordingly, a regulatory flexibility analysis is not required.

As discussed in Section IV, the proposed rule introduces certain procedural changes and clarifies how the FDIC reviews merger transactions under the statutory factors. The proposed rule expands expedited processing for merger transactions, codifies the considerations that the FDIC takes into account in its review under the statutory factors, and indexes thresholds. These proposed changes are intended to promote greater transparency and predictability and are expected to reduce processing timelines, reduce regulatory burden, and produce other non-quantifiable benefits, such as increased certainty and clarity for institutions planning transactions.

As of the quarter ending December 31, 2025, the FDIC supervised 2,745 depository institutions. Of these, 2,011 were “small entities” as defined by RFA.¹⁰⁰ In the last ten calendar years ending December 31, 2025, the FDIC received 1,935 merger filings, of which 841 filings were from 644 small entities. For a detailed analysis of the potential costs and benefits for affected entities, including small entities, please review Section V. The following information includes quantitative effects on small

entities associated with the proposed rule.

The proposed rule would establish expedited processing for corporate reorganizations that do not qualify as *de minimis* merger transactions. Under the proposed rule, the FDIC would take action on a corporate reorganization filing by the later of 30 days after receipt of a substantially complete filing, or, for interstate merger transactions, 5 days after the FDIC received confirmation from the host State that the applicant has both complied with the filing requirements of the host State and submitted a copy of the filing to the host State’s bank supervisor. Also, corporate reorganizations would be authorized for immediate consummation upon written receipt of the FDIC’s approval under the proposed rule.

Over the last ten calendar years ending December 31, 2025, the FDIC received 194 corporate reorganization merger filings from small entities. The FDIC took 65 days, on average, to process these filings. This aspect of the proposed rule would benefit prospective small entity applicants by reducing the processing time by 35 days, on average.¹⁰¹ While the FDIC does not have the information to quantify this benefit, it could be material for some small entity applicants.

Additionally, the proposed rule would establish a streamlined filing process for *de minimis* transactions. Generally, merger transactions that are not part of a series of acquisitions, would not result in the IDI being less than “well-capitalized” upon consummation, where the amount of assets acquired is less than five percent of the assets of the acquiring IDI and, for transactions that are not corporate reorganizations, also less than an adjusted threshold (currently \$133.9 million), would be eligible for rapid processing under the proposed rule. Small entities submitted 138 merger filings over the last ten calendar years ending December 31, 2025, that may have qualified for streamlined treatment under the proposed rule’s *de minimis* merger transaction thresholds. The FDIC took 93 days on average to process these filings. Under the proposed rule, such

filings could see reductions in processing time of 88 days, on average.¹⁰² While the FDIC does not have the information to quantify the benefits described above, they could be material for some small entity applicants.

The FDIC does not have the information to quantify all of the benefits of the proposed rule on small entities described above. For purposes of this analysis, the FDIC assumes that every small entity that filed a merger filing over the last ten calendar years would have been significantly impacted by the proposed rule. As mentioned above, the FDIC received merger filings from 644 small entities over the previous ten years. Thus, by assumption, the proposed rule would significantly impact 64 small entities annually, on average. This represents only 3 percent of small entities supervised by the FDIC and the FDIC does not consider 3 percent of small entities to represent a “substantial number” of small entities.

Based on the preceding statement of factual basis, the FDIC certifies that the proposed rule would not have a significant impact on a substantial number of small entities. The FDIC welcomes comments on all aspects of this analysis.

Question: Are there any effects on small entities the FDIC has not identified?

B. The Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA),¹⁰³ the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The FDIC has reviewed the proposed rule and determined that it revises certain information collection requests under OMB Control No. 3064–0015.

Title of Information Collection:
Interagency Bank Merger Application.

the assets reported on its four quarterly financial statements for the preceding year.” See 13 CFR 121.201 (as amended by 87 FR 69118, effective Dec. 19, 2022). In its determination, the “SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.” See 13 CFR 121.103. Following these regulations, the FDIC uses an IDI’s affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the IDI is “small” for the purposes of RFA.

¹⁰⁰ The SBA defines a small banking organization as having \$850 million or less in assets, where “a financial institution’s assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See 13 CFR 121.201 (as amended by 87 FR 69118, effective Dec. 19, 2022). “SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.” See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity’s affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the FDIC-supervised institution is “small” for the purposes of RFA.

¹⁰¹ New § 303.64(d)(2) provides that for corporate reorganization filings submitted under new § 303.64(d)(1), the FDIC shall take action on a filing by the date that is the latest of: (i) 30 days after the date of the FDIC’s receipt of a substantially complete filing; or (ii) For an interstate merger transaction subject to the provisions of section 44 of the FDI Act (12 U.S.C. 1831u), 5 business days after the FDIC receives confirmation from the host State (as defined in § 303.41(e)) that the applicant has both complied with the filing requirements of the host State and submitted a copy of the filing to the host State bank’s supervisor.

¹⁰² New § 303.64(c)(1) provides that a substantially complete letter filing for a *de minimis* merger transaction submitted under Subpart D shall, unless the Attorney General objects to the transaction on competitive grounds within the timeframe permitted in section 18(c)(4) of the FDI Act (12 U.S.C. 1828(c)(4)), be deemed approved on the date that is the latest of: (i) 5 business days after the date of the FDIC’s receipt of a substantially complete letter filing; or (ii) if the transaction is not a corporate reorganization, 5 business days after (A) receipt of a competitive factors report confirming that the Attorney General does not object to the transaction on competition grounds; or (B) the expiration of the timeframe permitted in section 18(c)(4) of the FDI Act (12 U.S.C. 1828(c)(4)) if no competitive factors report has been received.

¹⁰³ 44 U.S.C. 3501 *et seq.*

OMB Number: 3064–0015.

Affected Public: IDIs.

Current Actions: The proposed rule would tailor the merger filing content and processing requirements in 12 CFR part 303, subpart D (subpart D) to reduce burden and processing times for certain merger transactions, such as corporate reorganizations and *de minimis* merger transactions. As a result of those changes, the FDIC estimates a total annual burden of 4,184 hours, a decrease of 1,400 hours from the currently approved information collection.

C. Plain Language

Section 722 of the Gramm-Leach Bliley Act¹⁰⁴ requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC invites your comments on how to make the proposed rule easier to understand, including the following:

Question: Has the FDIC organized the material to suit your needs? If not, how could the proposed rule be more clearly stated?

Question: Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?

Question: Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?

Question: Would a different format (grouping and order of sections, use of headings or paragraphs) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?

Question: What else could the FDIC do to make the proposed rule easier to understand?

D. Reigle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Reigle Community Development and Regulatory Improvement Act of 1994 (RCDRIA),¹⁰⁵ in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on IDIs, each Federal banking agency shall consider, consistent with principles of safety and soundness and the public interest, any administrative burdens that such regulations would place on affected depository institutions, including small

depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of the RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form.¹⁰⁶ The FDIC invites comments that will further inform its consideration of the RCDRIA.

E. Executive Order 12866

Executive Order 12866, titled “Regulatory Planning and Review,” as amended, requires the Office of Information and Regulatory Affairs (OIRA), OMB to determine whether a proposed rule is a “significant regulatory action” prior to the disclosure of the proposed rule to the public. If OIRA finds the proposed rule to be a “significant regulatory action,” Executive Order 12866 requires the agency to conduct a cost-benefit analysis of the proposed rule. Executive Order 12866 defines “significant regulatory action” to mean a regulatory action that is likely to result in a rule that may (1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in Executive Order 12866.

OIRA has deemed that this proposed rule is an economically significant regulatory action under section 3(f)(1) of Executive Order 12866 and, therefore, is subject to review under Executive Order 12866. Accordingly, the proposed rule was submitted to OIRA for review.

F. Executive Order 14192

Executive Order 14192, titled “Unleashing Prosperity through Deregulation,” requires that an agency, unless prohibited by law, identify at least 10 existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation

with total costs greater than zero. Executive Order 14192 further requires that new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. This proposed rule, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

G. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023¹⁰⁷ requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet.

The FDIC proposes to reform its approach to merger transactions under the Bank Merger Act (BMA). Reforms would include: accounting for credit unions and centrally booked deposits in the initial competitive effects analysis; establishing a letter filing process with “deemed approval” for *de minimis* merger transactions; tailoring other merger filing requirements to reduce burden and processing times based on the size and risk profile of a merger transaction and the attributes of the acquiring and resulting institution; limiting the FDIC’s discretion to remove a filing from expedited processing; and codifying the FDIC’s reformed approach to evaluating the BMA statutory factors.

The proposed rule and the required summary can be found at <https://www.fdic.gov/federal-register-publications>.

List of Subjects in 12 CFR Parts 303, 314, 333

Administrative practice and procedure, Bank deposit insurance, Bank merger, Banks, banking, Branching, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons stated in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR parts 303, 314, and 333 as follows:

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

PART 303—FILING PROCEDURES

■ 1. The authority citation for part 303 continues to read as follows:

Authority: 12 U.S.C. 378, 1464, 1813, 1815, 1817, 1818, 1819(a) (Seventh and

¹⁰⁴ Sec. 722, Public Law 106–102, 113 Stat. 1338 (12 U.S.C. 4809).

¹⁰⁵ 12 U.S.C. 4802(a).

¹⁰⁶ 12 U.S.C. 4802(b).

¹⁰⁷ 12 U.S.C. 553(b)(4).

Tenth), 1820, 1823, 1828, 1829, 1831a, 1831e, 1831o, 1831p–1, 1831w, 1835a, 1843(l), 3104, 3105, 3108, 3207, 5414, 5415, and 15 U.S.C. 1601–1607.

§ 303.7 [Amended]

■ 2. Amend § 303.7 by revising paragraph (a) to read as follows:

(a) The public must be provided with prior notice of a filing to engage in a merger transaction, initiate a change of control transaction, or request deposit insurance. The public may comment on, during the relevant comment period, filings to initiate a change of control transaction, request deposit insurance, or engage in merger transactions identified in § 303.65(e). In order to fully apprise the public of the opportunity to comment, an applicant shall publish a public notice in a newspaper of general circulation. For specific publication requirements, consult subparts B (Deposit Insurance), D (Merger Transactions), and E (Change in Bank Control) of this part.

* * * * *

§ 303.8 [Amended]

■ 3. Amend § 303.8 by revising paragraph (a) to read as follows:

(a) *General.* For filings subject to a public notice requirement, any person may inspect or request a copy of the non-confidential portions of a filing (the public file) until 180 days following final disposition of a filing. Following the 180-day period, the public file shall be made available in accordance with § 303.8(c). The public file generally consists of portions of the filing, supporting data, supplementary information, and comments submitted by interested persons (if any) to the extent that the documents have not been afforded confidential treatment. To view or request photocopies of the public file, an oral or written request should be submitted to the appropriate FDIC office. The public file shall be provided to a requestor not more than one business day after preparation of the file is complete. The FDIC may impose a fee for photocopying in accordance with § 309.5(f) of this chapter at the rates the FDIC publishes annually in the **Federal Register**.

* * * * *

§ 303.11 [Amended]

■ 4. Amend § 303.11 by:

- a. Revising paragraph (c)(2)(i) and (ii);
- b. Adding paragraph (c)(5); and
- c. Revising and replacing paragraph (e).

The revisions and additions read as follows:

§ 303.11 Decisions.

* * * * *

(c) * * *

(1) * * *

(2) *Removal of filing from expedited processing.* The FDIC may remove a filing from expedited processing at any time prior to final disposition if:

(i) For filings subject to public notice under § 303.7, an adverse comment is received that is supported by the supervisory record or other available information and warrants additional investigation or review;

(ii) For filings subject to evaluation of CRA performance under § 303.5, a CRA protest is received that raises a significant CRA concern, is supported by the supervisory record or other available information, and warrants additional investigation or review;

* * * * *

(5) The FDIC expects the removal of a filing from expedited processing to be rare. The filing of an adverse comment or CRA protest shall not automatically remove a filing from expedited processing. Rather, the FDIC shall determine if it is necessary to remove a filing pursuant to paragraph (c)(2) of this section because the allegations are sufficiently severe to impact the FDIC's analysis of the statutory factors.

* * * * *

(e) *Return of filing.* A filing shall contain all information set forth in the applicable subpart of this part. To the extent necessary to evaluate a filing, the FDIC may require an applicant to provide additional information. If the filing does not contain all information set forth in the applicable subpart of this part, or information requested by the FDIC is not provided within the time period specified by the agency, the FDIC may return the filing and shall provide written notification to the applicant and any interested parties that submitted comments to the FDIC that the filing has been returned to the applicant and the FDIC has not rendered a decision on the filing.

* * * * *

§ 303.60 [Amended]

■ 5. Amend § 303.60 by revising the introductory paragraph to read as follows:

§ 303.60 Scope.

This subpart sets forth the filing requirements and procedures for transactions subject to FDIC approval under the Bank Merger Act, section 18(c) of the FDI Act (12 U.S.C. 1828(c)). The FDIC also takes into account the requirements and considerations set forth in § 333.5 of this chapter when evaluating the relevant statutory factors under the Bank Merger Act.

* * * * *

§ 303.61 [Amended]

■ 6. Amend § 303.61 by:

■ a. Revising paragraphs (a) through (d); and

■ b. Adding paragraphs (e) through (l).

The revisions and additions read as follows:

§ 303.61 Definitions.

(a) *Centrally booked deposits* means deposits that are recorded at a central office and not attributed to a branch based on the location of the depositor.

(b) *Corporate reorganization* means a merger transaction that involves solely an insured depository institution and one or more affiliates of the insured depository institution. A transaction satisfies the definition of a corporate reorganization if the affiliation between the insured depository institution and the affiliate(s) exists at the time of filing. A transaction does not satisfy the definition of a corporate reorganization if the affiliation occurs by means of a related contemporaneous transaction involving the control parties of the insured depository institution and the other institution(s).

(c) *De minimis merger transaction* means a transaction in which—

(1) The transaction is either:

(i) A merger transaction in which the amount of assets acquired by the insured depository institution is less than both (A) the adjusted lower threshold under section 7A(a)(2)(B)(i) of the Clayton Act (15 U.S.C. 18a(a)(2)(B)(i)) and (B) 5 percent of the assets of the acquiring insured depository institution; or

(ii) A corporate reorganization in which (A) an insured depository institution acquires one or more operating subsidiaries; and (B) the legal and financial risk that the insured depository institution is exposed to is substantially identical before and after the transaction;

(2) All institutions involved in the transaction, to the extent applicable:

(i) Received an FDIC-assigned composite rating of 3 or better under the Uniform Financial Institutions Rating System (UFIRS) as a result of its most recent Federal or State examination;

(ii) Received a satisfactory or better Community Reinvestment Act (CRA) rating from its primary Federal regulator at its most recent examination, if the depository institution is subject to examination under part 345 of this chapter;

(iii) Received a compliance rating of 1, 2, or 3 from its primary Federal regulator at its most recent examination;

(iv) Is well-capitalized as defined in the appropriate capital regulation and guidance of the institution's primary Federal regulator; and

(v) Is not subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding, or other administrative agreement with its primary Federal regulator or chartering authority; and

(3) The resulting institution will be “well-capitalized” pursuant to subpart H of part 324 of this chapter (12 CFR part 324), 12 CFR part 3, or 12 CFR part 217, as applicable, immediately following the merger transaction.

(d) *Interim institution* means a State- or Federally-chartered depository institution that does not operate independently but exists solely as a vehicle to accomplish a merger transaction.

(e) *Interim merger transaction* means a merger transaction (other than a purchase and assumption transaction) between an operating depository institution and a newly formed depository institution or interim institution.

(f) *Interstate merger transaction* means any merger transaction that results in a State nonmember bank operating a branch in a State that is not its home State or in which it does not currently operate a branch.

(g) *Merger in substance* means any merger transaction or series of merger transactions over a rolling 12-month period in which an insured depository institution directly or indirectly acquires all or substantially all, meaning 80 percent or more, of the assets of another insured depository institution, noninsured bank, or other institution.

(h) *Merger transaction* means a transaction in which an insured depository institution:

- (1) Merges or consolidates with any other insured depository institution;
- (2) Either directly or indirectly acquires the assets of any other insured depository institution in a manner that would constitute a merger in substance;
- (3) Assumes liability to pay any deposits made in any other insured depository institution;
- (4) Merges or consolidates with any noninsured institution, including in a manner that would constitute a merger in substance;
- (5) Assumes liability to pay any deposits made in, or similar liabilities of, any noninsured bank or institution; or

(6) Transfers assets to any noninsured bank or institution in consideration of the assumption of liabilities for any portion of the deposits made in the insured depository institution.

(i) *Operating subsidiary* has the same meaning as in the regulations of the

Board of Governors of the Federal Reserve System at 12 CFR 223.3(aa).

(j) *Significant asset transfer* means a transaction or series of transactions with the same counterparty or one or more affiliates of the same counterparty that is not a merger transaction but that increases the size of the acquiring FDIC-supervised institution’s assets by 25 percent or more over a rolling 12-month period. The term “significant asset transfer” does not include a change in the assets of an FDIC-supervised institution that is otherwise subject to FDIC approval or filing requirements.

(k) *Substantially complete* means the FDIC has received information sufficient to evaluate and make a determination on the statutory factors in section 18(c) of the FDI Act (12 U.S.C. 1828(c)), as described in § 333.5, and confirm the applicant has complied with its obligations under applicable law.

(l) *Relevant geographic market* means the relevant banking market(s) of the acquiring institution and the institution to be acquired as defined by the Board of Governors of the Federal Reserve System at the time a filing is submitted. If a relevant banking market has not been defined by the Board of Governors of the Federal Reserve System, the relevant geographic market shall consist of each county in which both the acquiring institution and the institution to be acquired have branch locations, as adjusted to reflect factors that influence how customers in the market seek and obtain banking products and services.

* * * * *

§ 303.62 [Amended]

■ 7. Amend § 303.62 by revising and republishing paragraphs (a) and (b) to read as follows:

§ 303.62 Transactions requiring prior approval.

(a) *Merger transactions.* The following transactions, which include a merger in substance, require the prior written approval of the FDIC under this subpart:

- (1) Any merger transaction in which the resulting institution would be an FDIC-supervised institution; and
- (2) Any merger transaction that involves a bank or institution that is not insured by the FDIC.

(b) *Related regulations.* Transactions covered by this subpart also may be subject to other restrictions, regulations, or filing requirements, including the following:

- (1) *Interstate merger transactions.* Interstate merger transactions are subject to the restrictions and requirements of section 44 of the FDI Act (12 U.S.C. 1831u). In the case of a merger transaction that consists of the

acquisition by an out-of-State bank of a branch without acquisition of the bank, the branch is treated for section 44 purposes as a bank whose home State is the State in which the branch is located.

(2) *Deposit insurance for interim institutions.* Procedures for applying for deposit insurance for interim institutions are set forth in § 303.24.

(i) *State interim institutions.* An application for deposit insurance shall be required in connection with a merger transaction between a State interim institution and an insured depository institution if the related merger filing is being acted upon by a Federal banking agency other than the FDIC. State interim institutions are not insured by operation of law. Therefore, FDIC action is needed to either grant deposit insurance to the State interim institution or to act on the merger filing of a noninsured State interim institution with an insured depository institution under the Bank Merger Act.

(ii) *Federal interim institutions.* Where the resulting institution is FDIC-supervised and FDIC action is required under the Bank Merger Act, an additional deposit insurance application is unnecessary. An application for deposit insurance shall not be required in connection with a merger transaction (other than a purchase and assumption transaction) involving a Federal interim institution and an insured institution, even if the resulting institution is to operate under the charter of the Federal interim institution. Federal interim institutions that do not open for business are insured by operation of law pursuant to section 5(a)(2) of the FDI Act (12 U.S.C. 1815(a)(2)). Therefore, the merger of a Federal interim institution with another insured depository institution is not subject to FDIC approval if the Federal interim institution has not been and will not be open for business.

(3) *Branch closings.* Branch closings in connection with a merger transaction shall comply with the notice requirements of section 42 of the FDI Act (12 U.S.C. 1831r–1), including requirements for notice to customers.

(4) *Undercapitalized institutions.* Filings for a merger transaction by applicants subject to section 38 of the FDI Act (12 U.S.C. 1831o) shall provide the information required by § 303.204. Filings pursuant to sections 38 and 18(c) of the FDI Act (12 U.S.C. 1831o and 1828(c)) may be filed concurrently or as a single filing.

(5) *Certification of assumption of deposit liability.* Whenever all of the deposit liabilities of an insured depository institution are assumed by one or more insured depository

institutions by merger, consolidation, other statutory assumption, or by contract, the transferring insured depository institution, or its legal successor, shall provide an accurate written certification to the FDIC that its deposit liabilities have been assumed, in accordance with 12 CFR part 307.

* * * * *

§ 303.63 [Amended]

■ 8. Amend § 303.63 by revising and republishing paragraphs (a) through (c) to read as follows:

§ 303.63 Filing procedures.

(a) *General.* Filings required under this subpart shall be submitted to the appropriate FDIC office. The appropriate forms and instructions may be obtained on the FDIC website or requested from any FDIC regional office.

(b) *Submission requirements.* Filings shall be accompanied by copies of all agreements or proposed agreements relating to the merger transaction. The FDIC may request additional information as necessary to reach a decision on the filing. An applicant may voluntarily submit additional information for consideration under the provisions of § 333.5.

(c) *Interim merger transactions.* Filings for approval of interim merger transactions and any related deposit insurance applications shall be made by submitting the forms and other documents required by paragraphs (a) and (b) of this section and such other information as necessary for the FDIC to reach a decision on the request for deposit insurance.

* * * * *

§ 303.64 [Amended]

■ 9. Amend § 303.64 by:

■ a. Revising and republishing paragraphs (a) through (c); and

■ b. Adding paragraphs (d) through (h).
The revision and additions read as follows:

§ 303.64 Processing.

(a) *Filing decisions.*

(1) *Timeliness.* The FDIC shall render a decision on a substantially complete filing within the applicable processing timelines in this subpart and shall issue written notice of its decision.

(2) *Immediate consummation.* Corporate reorganizations shall be authorized for immediate consummation on receipt of the FDIC's written approval.

(b) *Substantially complete filings.*

(1) If a filing is submitted that is not substantially complete, the FDIC shall, within 21 days after receipt of the submission, notify the applicant and

provide a written explanation regarding the information needed to render the filing substantially complete.

(2) If the FDIC does not provide notice that a filing is not substantially complete within 21 days after receipt of the submission, the filing shall be deemed substantially complete as of the date of receipt.

(3) If an applicant fails to provide the information necessary to render the filing substantially complete within 30 days after receipt of notice from the FDIC, then the FDIC may return the filing to the applicant as incomplete without rendering a decision on the filing. An applicant may subsequently resubmit a filing that is returned.

(c) *Rapid processing for de minimis merger transactions.*

(1) *General.* A substantially complete letter filing for a *de minimis* merger transaction submitted under this subpart shall, unless the Attorney General objects to the transaction on competitive grounds within the timeframe permitted in section 18(c)(4) of the FDI Act (12 U.S.C. 1828(c)(4)), be deemed approved on the date that is the latest of:

(i) 5 business days after the date of the FDIC's receipt of a substantially complete letter filing; or

(ii) If the transaction is not a corporate reorganization, 5 business days after (A) receipt of a competitive factors report confirming that the Attorney General does not object to the transaction on competition grounds; (B) the expiration of the timeframe permitted in section 18(c)(4) of the FDI Act (12 U.S.C. 1828(c)(4)) if no competitive factors report has been received; or (C) the end of the time period set forth in a request by the Attorney General for additional time to analyze competitive concerns.

(2) *Letter filing content.* A letter filing containing all the information in this paragraph (c)(2) shall be deemed substantially complete. The letter filing shall include the following information or indicate why such information is inapplicable to the transaction:

(i) Copies of the following documents: (A) draft and, when available, executed merger or transaction agreement(s), including any amendments; (B) any board of directors' resolutions related to the transaction; and (C) charter, articles of association, and related governance documents for any interim institution (if applicable);

(ii) Financial information as of the end of the most recent quarter for the acquiring institution and the institution being acquired and pro forma financial information for the resulting institution, including balance sheets and regulatory capital schedules; and

(iii) Confirmation of the public notice publication consistent with § 303.65, including a statement containing the name and address of the newspaper of general circulation in which the notice was published and date(s) of publication.

(d) *Expedited processing for a corporate reorganization that is not a de minimis merger transaction.*

(1) *General.* A filing for a corporate reorganization that is not a *de minimis* merger transaction submitted under this subpart and which meets the additional criteria in paragraph (d)(3) of this section shall receive the expedited processing described in this paragraph (d), unless the applicant is notified in writing to the contrary and provided with a basis for that decision. The FDIC may remove a filing made under this paragraph (d) from expedited processing for any of the reasons set forth in § 303.11(c)(2).

(2) *Timing.* For corporate reorganization filings submitted under paragraph (d)(1) of this section, the FDIC shall take action on a filing by the date that is the latest of:

(i) 30 days after the date of the FDIC's receipt of a substantially complete filing; or

(ii) For an interstate merger transaction subject to the provisions of section 44 of the FDI Act (12 U.S.C. 1831u), 5 business days after the FDIC receives confirmation from the host State (as defined in § 303.41(e)) that the applicant has both complied with the filing requirements of the host State and submitted a copy of the filing to the host State bank's supervisor.

(3) *Criteria.* The FDIC shall process a filing using expedited procedures for a corporate reorganization in this paragraph (d) if:

(i) Immediately following the merger transaction, the resulting institution will be "well-capitalized" pursuant to subpart H of part 324 of this chapter (12 CFR part 324), 12 CFR part 3, or 12 CFR part 217, as applicable; and

(ii)(A) All parties to the merger transaction received an FDIC-assigned composite rating of 3 or better under the UFIRS as a result of the most recent Federal or State examination, to the extent applicable; or

(B) The acquiring party is an eligible depository institution as defined in § 303.2(r) and the amount of the total assets to be acquired does not exceed an amount equal to 25 percent of the acquiring institution's total assets as reported on its Consolidated Report of Condition and Income (Call Report) for the quarter immediately preceding the filing.

(e) *Expedited processing for eligible depository institutions engaging in merger transactions that are not corporate reorganizations eligible for expedited processing under § 303.64(d) or de minimis merger transactions.*

(1) *General.* A filing under this subpart by an eligible depository institution as defined in § 303.2(r) and which meets the additional criteria in paragraph (e)(3) of this section shall receive the expedited processing described in this paragraph (e), unless the applicant is notified in writing to the contrary and provided with a basis for that decision. The FDIC may remove a filing made under this paragraph (e) from expedited processing for any of the reasons set forth in § 303.11(c)(2).

(2) *Timing.* For merger filings submitted under paragraph (e)(1) of this section, the FDIC shall, unless the Attorney General objects to the transaction on competitive grounds within the timeframe permitted in section 18(c)(4) of the FDI Act (12 U.S.C. 1828(c)(4)), take action on a filing by the date that is the latest of:

(i) 45 days after the date of the FDIC's receipt of a substantially complete filing;

(ii) 10 days after the date of the last notice publication required under § 303.65 of this subpart;

(iii) 5 business days after (A) receipt of a competitive factors report confirming that the Attorney General does not object to the transaction on competition grounds; or (B) the expiration of the time frame permitted in section 18(c)(4) of the FDI Act (12 U.S.C. 1828(c)(4)) if no competitive factors report has been received; or

(iv) For an interstate merger transaction subject to the provisions of section 44 of the FDI Act (12 U.S.C. 1831u), 5 business days after the FDIC receives confirmation from the host State (as defined in § 303.41(e)) that the applicant has both complied with the filing requirements of the host State and submitted a copy of the filing to the host State's bank supervisor.

(3) *Criteria.* The FDIC shall process a filing using expedited procedures in this paragraph (e) if:

(i) Immediately following the merger transaction, the resulting institution will be "well-capitalized" pursuant to subpart H of part 324 of this chapter (12 CFR part 324), 12 CFR part 3, or 12 CFR part 217, as applicable; and

(ii)(A) All parties to the merger transaction are, to the extent applicable, eligible depository institutions as defined in § 303.2(r); or

(B) The acquiring party is an eligible depository institution as defined in § 303.2(r) and the amount of the total

assets to be acquired does not exceed an amount equal to 25 percent of the acquiring institution's total assets as reported in its Consolidated Report of Condition and Income (Call Report) for the quarter immediately preceding the filing.

(f) *Standard processing for qualifying merger transactions.* For merger filings not processed pursuant to rapid or expedited processing procedures and that meet the criteria of paragraph (f)(1), the standard processing procedures in this paragraph (f) shall apply.

(1) *Action taken within 90 days.* The FDIC shall take action on a filing within 90 days after receipt of a substantially complete filing if (i) the resulting institution will have less than \$50 billion in assets, (ii) authority to act on the filing is not reserved to the FDIC's Board of Directors, and (iii) consummation of the merger transaction is not dependent upon action by another Federal regulator.

(2) *One-time 90-day extension.* The FDIC may extend the 90-day timeframe, if necessary, due to extenuating circumstances, to complete its review of a substantially complete filing under this paragraph (f), with notice to the applicant describing the extenuating circumstances with specificity, for a maximum of 90 days. The FDIC shall take action on all filings that satisfy the criteria of this paragraph (f) within a maximum of 180 days.

(g) *Standard processing for all other merger transactions.* For merger filings subject to standard processing that do not satisfy the criteria in paragraph (f) of this section or otherwise qualify for rapid or expedited processing, the standard processing procedures in this paragraph (g) shall apply.

(1) *Action taken within 150 days.* The FDIC shall take action on a filing within 150 days of receipt of a substantially complete filing.

(2) *One-time extension for 120 days.* The FDIC may extend the 150-day timeframe, if necessary, due to extenuating circumstances, to complete its review of a substantially complete filing under this paragraph (g), with notice to the applicant describing the extenuating circumstances with specificity, for a maximum of 120 days. The FDIC shall take action on all filings subject to standard processing under this paragraph (g) within a maximum of 270 days.

(h) *Standard processing for State savings associations.* The FDIC shall take action on a filing by a State savings association to acquire or be acquired by another insured depository institution by the earlier of—

(1) 60 days after the date of the FDIC's receipt of a substantially complete filing, subject to the FDIC's discretion to extend such period by an additional 30 days if any material information submitted is substantially inaccurate or incomplete; or

(2) the date by which the FDIC is required to take action under paragraphs (c), (d), or (e) of this section, if the transaction is eligible for rapid or expedited processing under such paragraphs.

* * * * *

§ 303.65 [Amended]

■ 10. Amend § 303.65 by:

■ a. Revising and republishing paragraph (a);

■ b. Redesignating paragraphs (b), (c), and (d) to paragraphs (c), (d), and (e) respectively;

■ c. Adding new paragraph (b); and

■ d. Revising and republishing redesignated paragraphs (c) through (e).

The revisions and additions read as follows:

§ 303.65 Public notice requirements.

(a) *General.* Except as provided in paragraphs (b) and (c) of this section, an applicant that has submitted a filing for approval of a merger transaction that is not also a corporate reorganization shall publish notice of the transaction on at least two occasions in a newspaper of general circulation in the community or communities where the main offices of the banks or savings associations are located or, if there is no such newspaper in the community, then in a newspaper of general circulation published nearest thereto.

(1) *First publication.* The first publication of the notice shall be as close as practicable to the date on which the filing is submitted to the FDIC, but no more than 5 days prior to the filing date.

(2) *Second publication.* The last publication of the notice shall be on the 20th day after the first publication or, if published in a newspaper that does not publish on the 20th day, on the newspaper's publication date that is closest to the 20th day.

(b) *Corporate reorganizations.* An applicant that has submitted a filing for approval of a corporate reorganization shall publish notice of the transaction on at least one occasion in a newspaper of general circulation in the community where the main office of the bank or savings association is located or, if there is no such newspaper in the community, then in the newspaper of general circulation published nearest thereto as close as practicable to the date on which the filing is submitted to

the FDIC, but no more than 5 days prior to the filing date.

(c) *Exceptions.*

(1) *Emergency requiring expeditious action.* If the FDIC determines that an emergency exists requiring expeditious action, notice shall be published once. The notice shall be published as soon as possible after the FDIC notifies the applicant of such determination.

(2) *Probable failure.* If the FDIC determines that it must act immediately to prevent the probable failure of one of the institutions involved in a merger transaction, publication is not required.

(d) *Content of notice.*

(1) *General.* The notice shall conform to the public notice requirements set forth in § 303.7.

(2) *Branches.*

(i) If it is contemplated that the resulting institution will continue to operate all offices and branches, the following statement shall be included in the notice required in § 303.7(b):

It is contemplated that all offices of the above-named institutions will continue to be operated.

(ii) If it is contemplated that the resulting institution will not operate all of the offices and branches, the following statement shall be included in the notice required in § 303.7(b):

The following offices will not be operated: [insert identity and location of each office that will not be operated].

(e) *Public comments.*

(1) *General.* In general, comments regarding filings submitted under § 303.64(e) through (h) must be received by the appropriate FDIC office within 30 days after the first publication of the notice, unless the comment period has been extended or reopened in accordance with § 303.9(b)(2).

(2) *Emergencies.* If the FDIC has determined that an emergency exists requiring expeditious action, comments must be received by the appropriate FDIC office within 10 days after the single publication.

(3) *Corporate reorganizations.* For corporate reorganizations that are not also *de minimis* merger transactions under § 303.64(c), comments must be received by the appropriate FDIC office within 15 days after publication.

* * * * *

§ 303.66 [Added]

■ 11. Add new § 303.66 to read as follows:

§ 303.66 Significant asset transfers.

(a) *Notice and processing procedures.* The notice and processing procedures in this paragraph (a) shall apply to significant asset transfers.

(1) *Notice.* An FDIC-supervised institution shall provide written notice

of a significant asset transfer to the FDIC; and

(2) *Processing.*

(i) *Action taken within 30 days.* The FDIC shall issue a written decision to the applicant of a notice of significant asset transfer within 30 days of receipt. If the FDIC does not issue a written decision or otherwise notify the applicant of an extension in accordance with paragraph (a)(ii) within 30 days of receipt, the notice shall be deemed approved.

(ii) *One time extension of 60 days.* The FDIC may extend the 30-day timeframe, if necessary, for a maximum of 60 days due to extenuating circumstances, to complete its review of a notice under this paragraph (a). The FDIC shall provide the applicant written notice of the extension and describe in the notice the extenuating circumstances with specificity. The FDIC shall issue a written decision on all notices under this paragraph (a) within a maximum of 90 days. If the FDIC does not issue a written decision on a notice subject to an extension within 90 days, the notice shall be deemed approved.

(b) *Consideration of significant asset transfers.*

(1) In determining whether to issue a non-objection to a filing under paragraph (a), the FDIC shall consider the following factors:

(i) The capital level of the resulting institution following the significant asset transfer;

(ii) The conformity of the significant asset transfer to applicable law, regulation, and supervisory policy;

(iii) The purpose of the significant asset transfer; and

(iv) The impact of the significant asset transfer on the safety and soundness of the institution(s) involved in the transaction.

(2) The FDIC may issue an objection if it determines the significant asset transfer will have a negative impact on one or more of the factors in paragraph (b)(1) that cannot be appropriately mitigated by the institutions involved in the transaction.

(c) *Exceptions to rules of general applicability.* Sections 303.7, 303.9, and 303.10 do not apply with respect to filings under this section.

§ 303.67 [Added]

■ 12. Add new § 303.67 to read as follows:

§ 303.67 Severability.

If any provision of this subpart or its application to any person or to certain circumstances is held to be invalid, the remainder of the regulations in this

subpart and their application remain in force.

PART 314—INDEXING OF SPECIFIED REGULATORY THRESHOLDS

■ 1. The authority citation for part 314 continues to read as follows:

Authority : 12 U.S.C. 378, 1464, 1813, 1815, 1817, 1818, 1819, 1819(a) (Seventh and Tenth), 1820, 1821(p), 1823, 1828, 1829, 1831a, 1831e, 1831m, 1831o, 1831p–1, 1831w, 1835a, 1843(l), 3103, 3104, 3105, 3108, 3109, 3207, 5385(h), 5389, 5390(s)(3), 5390(b)(1)(C), 5390(a)(7)(D), 5381(b), 5390(r), 5390(a)(16)(D), 5414, 5415, and 15 U.S.C. 78j–1, 78l(i), 78m, 78n, 78p, 78w, U.S.C. 1601–1607, 5412, 5414, 5415, 7241, 7242, 7243, 7244, 7261, 7262, 7264, and 7265; Pub. L. No. 111–203, section 939A, 124 Stat. 1376, 1887 (July 21, 2010) (codified 15 U.S.C. 78o–7 note).

§ 314.1 [Amended]

■ 2. Amend § 314.1 by revising and republishing paragraphs (a) through (c) to read as follows:

§ 314.1 Threshold indexing.

(a) *Methodology.* The dollar thresholds specified in paragraph (c) of this section shall be adjusted by multiplying the baseline threshold values specified in paragraph (c) of this section by one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured from the baseline dates specified in paragraph (c), as applicable, as further described in paragraph (b) of this section, and shall be rounded in accordance with paragraph (d) of this section.

(b) *Frequency.*

(1) *In general—biennial adjustments.* Except as otherwise provided in paragraph (b)(2), (b)(3), or (b)(4) of this section, the adjustments described in paragraph (a) of this section shall be effective on October 1 following each consecutive two-year period ending August 30, using the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers as of August 30 of that year.

(2) *First adjustments after baseline dates.*

(i) The first adjustment described in paragraph (a) of this section shall, with respect to the thresholds specified in paragraph (c)(1), be effective on October 1, 2027, and shall be made using one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers through August 30, 2027.

(ii) The first adjustment described in paragraph (a) of this section shall, with respect to the thresholds specified in

paragraph (c)(2), be effective on October 1, 2029, and shall be made using one plus the cumulative percent change in the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers through August 30, 2029.

(3) *Periods of high inflation—annual adjustments.* If the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the 12-month period ending August 30 following the year in which the most recent adjustment was made exceeds 8 percent, then the dollar thresholds shall be adjusted in accordance with paragraph (a) of this section using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers, measured over the 12-month period ending August 30 with an effective date of October 1 following the year in which the most recent adjustment was made.

(4) *Periods of negative inflation—no adjustments.* Notwithstanding paragraph (b)(1) or (b)(2) of this section, if an adjustment of dollar thresholds using the cumulative percent change of the non-seasonally adjusted Consumer Price Index for Urban Wage Earners and Clerical Workers from the applicable baseline date, or the most recent adjustment, as applicable, would not result in an increase from the current dollar thresholds, no adjustment will be made pursuant to paragraph (a) of this section.

(c) *Specified Thresholds.*

(1) The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section relative to the baseline threshold values as a baseline date of January 1, 2026, specified in paragraphs (i) through (xxxi) of this section:

(i) Section 303.227(a)(2) of this chapter, baseline threshold value \$3,500;

(ii) Section 303.227(b)(3)(i) of this chapter, baseline threshold value \$1,225;

(iii) Section 335.801(d) of this chapter, baseline threshold value \$10,000,000;

(iv) Section 340.2(h)(1) of this chapter, baseline threshold value \$100,000;

(v) Section 340.2(h)(2) of this chapter, baseline threshold value \$100,000;

(vi) Section 340.2(h)(3) of this chapter, baseline threshold value \$100,000;

(vii) Section 340.2(h)(4) of this chapter, baseline threshold value \$100,000;

(viii) Section 347.111(a)(1) of this chapter, baseline threshold value \$120,000,000;

(ix) Section 347.111(b)(1) of this chapter, baseline threshold value \$60,000,000;

(x) Section 363.1(a) of this chapter, baseline threshold value \$1,000,000,000;

(xi) Section 363.2(b)(3) of this chapter, baseline threshold value \$5,000,000,000;

(xii) Section 363.3(b) of this chapter, baseline threshold value \$5,000,000,000;

(xiii) Section 363.4(a)(2) of this chapter, baseline threshold value \$5,000,000,000;

(xiv) Section 363.4(c)(3) of this chapter, baseline threshold value \$5,000,000,000;

(xv) Section 363.5(a)(1) of this chapter, baseline threshold value \$5,000,000,000;

(xvi) Both thresholds in § 363.5(a)(2) of this chapter, baseline threshold values of \$1,000,000,000 or more but less than \$5,000,000,000;

(xvii) Section 363.5(b) of this chapter, baseline threshold value \$5,000,000,000;

(xviii) Both thresholds in paragraph (8)(A) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(xix) Paragraph (10) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(xx) Paragraph (18)A of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(xxi) All three thresholds in paragraph (27) of appendix A of part 363 of this chapter, with the first baseline threshold value being \$5,000,000,000 or more and the second and third baseline threshold values being \$1,000,000,000 or more but less than \$5,000,000,000;

(xxii) Paragraph (30)(b) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(xxiii) Both thresholds in paragraph (30)(c) of appendix A of part 363 of this chapter, baseline threshold value \$1,000,000,000 or more but less than \$5,000,000,000;

(xxiv) Paragraph (35)(a) of appendix A of part 363 of this chapter, baseline threshold value \$1,000,000,000;

(xxv) Paragraph (35)(b) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(xxvi) Paragraph (35)(c) of appendix A of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(xxvii) Paragraph 2(b) of appendix B of part 363 of this chapter, baseline threshold value \$5,000,000,000;

(xxviii) § 380.13(b)(6)(i) of this chapter, baseline threshold value \$100,000;

(xxix) § 380.13(b)(6)(ii) of this chapter, baseline threshold value \$100,000;

(xxx) § 380.13(b)(6)(iii) of this chapter, baseline threshold value \$100,000; and

(xxxi) § 380.13(b)(6)(iv) of this chapter, baseline threshold value \$100,000.

(2) The thresholds in the following sections shall be adjusted in accordance with paragraph (a) of this section relative to the baseline threshold values as a baseline date of [EFFECTIVE DATE OF FINAL RULE], specified in paragraphs (i) through (iv) of this section:

(i) Section 303.64(f)(1) of this chapter, baseline threshold value \$50 billion;

(ii) Section 333.5(e)(1)(ii) of this chapter, baseline threshold value \$50 billion;

(iii) Section 333.5(g)(1)(ii) of this chapter, baseline threshold value \$20 billion; and

(iv) Section 333.5(g)(1)(iii)(C) of this chapter, baseline threshold value \$20 billion.

* * * * *

PART 333—EXTENSION OF CORPORATE POWERS

■ 1. The authority citation for part 333 continues to read as follows:

Authority: 12 U.S.C. 1816; 1817(i); 1818; 1819(a) (Seventh, Eighth, and Tenth), 1828, 1828(m), 1831p–1(c), 5414, and 5415.

§ 333.5 [Added]

■ 2. Add new § 333.5 to read as follows:

§ 333.5 Bank Merger Act transactions.

(a) *Scope.* This section applies to merger transactions subject to FDIC approval under the Bank Merger Act, section 18(c) of the FDI Act (12 U.S.C. 1828(c)). It supplements the procedural and other requirements for such transactions in subpart D of part 303 of this chapter. The definitions in § 303.61 apply to this section.

(b) *General.*

(1) *Factors considered.* Consistent with the statutory factors under the Bank Merger Act, when reviewing a merger filing, the FDIC shall take into consideration the impact on competition, the financial and managerial resources and future prospects of the existing and proposed institutions, the convenience and needs of the community to be served, the risk to the stability of the U.S. banking or financial system, and the effectiveness of the parties in combatting money laundering activities.

(2) *Tailored review.* The FDIC shall conduct a tailored review of a merger filing as appropriate to the facts and circumstances, including consideration

of the structure, scale, and materiality of the merger transaction.

(3) *Remediation plans.* The FDIC shall consider the applicant's plans to timely remediate any previously unresolved deficiencies identified in the supervisory record of the acquiring institution, institution being acquired, or resulting institution. Effective remediation plans may result in a favorable finding on a statutory factor despite identified weaknesses.

(4) *Focus on resulting institution.* Consistent with the Bank Merger Act, the FDIC shall take into account the acquiring institution, institution being acquired, and resulting institution in its review of the statutory factors, with emphasis on the resulting institution and the cumulative benefits and impact of the merger transaction.

(c) *Competition.*

(1) *Generally.* The FDIC shall not approve:

(i) Any merger transaction which would result in a monopoly, or which would be in the furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States; or

(ii) Any other merger transaction whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the merger transaction are clearly outweighed in the public interest by the probable effect of the merger transaction in meeting the convenience and needs of the community to be served.

(2) *Initial Herfindahl-Hirschman Index (HHI) screen.* The FDIC shall conduct an initial HHI screen to assess the potential competitive effect of the merger transaction. In conducting the initial HHI screen, the FDIC shall consider the deposits of all banks and thrift institutions and the shares of all credit unions in a relevant geographic market, as described in paragraphs (i) through (iv) of this paragraph (c)(2).

(i) *Banks.* The FDIC shall include in the initial HHI screen the entirety of the deposits of a bank branch located in a relevant geographic market.

(ii) *Credit unions.*

(A) The FDIC shall include in the initial HHI screen the entirety of the shares of a credit union located in a relevant geographic market where all branches of the credit union are located in the relevant geographic market.

(B)(1) The FDIC shall include in the initial HHI screen a representative portion of shares of a credit union

located in a relevant geographic market where some but not all branches of the credit union are located in the relevant geographic market.

(2) For purposes of this paragraph (B), the FDIC shall calculate the representative portion of shares by dividing the credit union's total shares by its total number of branches and multiplying that quotient by the number of the credit union's branches located in a relevant geographic market.

(iii) *Thrift institutions.* The FDIC shall include in the initial HHI screen the entirety of the deposits of a thrift institution branch located in a relevant geographic market.

(iv) *Banks and thrift institutions with centrally booked deposits.* The FDIC shall include in the initial HHI screen a representative portion of the centrally booked deposits of a bank or thrift institution. For purposes of this paragraph (C), the FDIC shall calculate the representative portion of deposits by dividing the total population of a relevant geographic market by the total U.S. population and multiplying that quotient by the total amount of centrally booked deposits of the bank or thrift institution. For purposes of this paragraph (C), the total population of a relevant geographic market shall be determined using census tract data.

(3) *Safe harbor for transactions falling within specified HHI thresholds.* The FDIC shall not, on competition grounds, deny:

(i) Absent objection from the Attorney General, a merger filing where: (i) the initial HHI screen in paragraph (c)(2) is 1,800 points or less in each relevant geographic market after consummation of the merger transaction; or (ii) if the initial HHI screen in paragraph (c)(2) is more than 1,800 in a relevant geographic market after consummation of the merger transaction, the increase is less than 200 points from the HHI prior to the merger transaction; or

(ii) A corporate reorganization.

(4) *Additional considerations for merger transactions that exceed the safe harbor.* To the extent that the initial HHI screen in paragraph (c)(2) exceeds the safe harbor thresholds in paragraph (c), the FDIC shall consider other factors related to the impact of the transaction on competition, including alternative geographic market definitions, the extent to which the initial HHI screen accurately reflects the competitive effects of the merger transaction, and any procompetitive effects of the merger transaction, including those that are in the public interest, in its analysis of the competition factor.

(d) *Financial and managerial resources and future prospects.*

(1) *Financial resources.* The FDIC shall consider the following:

(i) *Capital.* The regulatory capital levels of the applicant at both the insured depository institution level and on a consolidated basis, including the availability of additional capital or resources to support consummation of the merger transaction and subsequent integration of the institutions while satisfying all minimum regulatory capital and buffer requirements.

(ii) *Funding and liquidity.* (A) Whether the applicant has adequate liquidity and funding sources to support the merger transaction in the ordinary course, and (B) whether the applicant will need to access contingency funding to support unforeseen circumstances as determined under scenario testing.

(iii) *Key financials.* The historical financial performance of the applicant using additional financial metrics typically referenced by market participants to evaluate the financial strength of a banking organization.

(2) *Managerial resources.* The FDIC shall consider the following:

(i) *Qualifications and experience.* Management's relevant qualifications and experience to operate the resulting institution.

(ii) *Supervisory history.* Prior supervisory ratings and, to the extent applicable, the responsiveness of the resulting institution's management to supervisory concerns.

(3) *Future prospects.* The FDIC shall consider the following:

(i) *Business plan.* Whether the relevant business, integration, and strategic plans are appropriate for the resulting institution's risk profile.

(ii) *Pro formas.* The pro forma balance sheet of the resulting institution under various scenarios.

(iii) *Integration plan.* Whether the integration plan sufficiently demonstrates the applicant's ability to efficiently integrate the assets, systems, and personnel acquired under a range of scenarios.

(iv) *Other.* Scenario test results or other information relevant to the resulting institution's future prospects.

(e) *Convenience and needs of the community.* The FDIC shall consider:

(1) *Supervisory records.* The supervisory records of the applicant and the institution being acquired for:

(i) *Compliance.* Compliance with applicable statutes and regulations, including the Community Reinvestment Act (CRA); and

(ii) *Fair banking.* When the resulting institution has total assets of more than \$50 billion, treatment by the applicant or the institution being acquired of existing or potential customers less

favorably than other existing or potential customers based on political, social, cultural, or religious considerations and not on an individualized, objective, and risk-based analysis.

(2) *Changes to branches, products and services.* Whether the merger transaction will result in any changes to branches, products, and services offered in the community to be served, including but not limited to:

(i) The extent to which the resulting institution would offer products or services to a broader (or smaller) customer base and/or at lower (or higher) prices; and

(ii) Any reduction in products and services offered in the case of a merger transaction between an insured depository institution and a credit union.

(f) *Record of combatting money laundering activities.* The FDIC shall take into consideration the effectiveness of any insured depository institution involved in the merger transaction in combatting money laundering activities, including in overseas branches.

(g) *Financial stability.*

(1) *Financial stability safe harbor.* A merger transaction does not raise financial stability concerns if:

(i) The resulting institution would not be:

(A) A subsidiary of a global systemically important BHC, as defined in 12 CFR 252.5(b);

(B) A Category II FDIC-supervised institution, as defined in 12 CFR 324.2;

(C) A Category III FDIC-supervised institution, also as defined in 12 CFR 324.2; or

(D) A Category IV banking organization, as defined in 12 CFR 252.5(e);

(ii) The institution to be acquired is an insured depository institution with total consolidated assets of less than \$20 billion, as reported in the institution's Call Report for the quarter immediately preceding the filing;

(iii) The merger transaction is a corporate reorganization in which:

(A) All institutions involved in the transaction are organized under the laws of the United States;

(B) All institutions involved in the transaction have been affiliates for longer than 12 months; and

(C) The total consolidated assets of the institution to be acquired are less than \$20 billion; or

(iv) The merger transaction is a *de minimis* merger transaction, as defined at § 303.61(c).

(2) *Merger transactions that do not meet the safe harbor of no financial stability concern.* If a merger transaction does not satisfy the safe harbor in paragraph (g)(1), the FDIC shall evaluate

the transaction's impact on financial stability by conducting a balancing test, taking the following elements into consideration:

(A) The systemic importance of the resulting institution, based on consideration of: (i) the size of the institution, (ii) the availability of substitute providers for any critical products and services offered by the resulting institution, (iii) the degree of interconnectedness of the resulting institution with the U.S. banking system, (iv) the extent to which the resulting institution contributes to the complexity of the financial system, and (v) the extent of cross-border activities of the resulting institution;

(B) A comparison of the applicant before and after the merger transaction, based on the factors listed in paragraph (g)(2)(A); and

(C) The extent to which the merger transaction would support financial stability, including if the institution being acquired is an institution at risk of failure.

Federal Deposit Insurance Corporation.

By order of the Board of Directors.

Dated at Washington, DC, on September 17, 2026.

Hanoi Veras,

Executive Secretary

[FR Doc. 2026-19308 Filed 9-21-26; 8:45 am]

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 660

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 38; 2027–28 Biennial Specifications and Management Measures; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 660

[Docket No. 260916–0002]

RIN 0648–BO46

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Pacific Coast Groundfish Fishery Management Plan; Amendment 38; 2027–28 Biennial Specifications and Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: This rule proposes 2027–28 harvest specifications and management measures for groundfish caught in the U.S. exclusive economic zone seaward of Washington, Oregon, and California, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act or MSA) and the Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP). This rule also includes proposed regulations to implement amendment 38 to the Groundfish FMP, which would remove rebuilding plan requirements for yelloweye rockfish and California quillback rockfish. Lastly, this rule includes proposed regulations to modify select fishery closures that apply to both groundfish and Pacific halibut.

DATES: Comments must be received no later than October 22, 2026.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2026-1354>. You may submit your comments on the exempted fishing permit (EFP) applications (described in section III, I) and the proposed rule, identified by NOAA–NMFS–2026–1354, by the following method:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2026–1354 in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments. The EFP applications will be available under Supporting Documents through the same link.

Instructions: Comments must be submitted by the above method to

ensure that the comments are received, documented, and considered by NMFS. 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. All comments received are a part of the public record and NMFS will post them for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Please specify whether the comments provided are associated with the proposed rule or EFP applications.

Electronic Access

This rule is accessible via the internet at the Office of the Federal Register website at <https://www.federalregister.gov/>. The draft Analysis, which includes an Environmental Assessment (EA) that addresses the National Environmental Policy Act (NEPA), as well as analyses that address Presidential Executive Order (E.O.) 12866, the Regulatory Flexibility Act (RFA), and the statutory requirements of the Magnuson-Stevens Act is accessible via NMFS West Coast Region website at <https://www.fisheries.noaa.gov/region/west-coast>. The current Stock Assessment and Fishery Evaluation (SAFE) report for Pacific Coast groundfish, as well as the SAFE reports for previous years, are available from the Pacific Fishery Management Council’s (Council) website at <https://www.pcouncil.org/stock-assessments-star-reports-stat-reports-rebuilding-analyses-terms-of-reference/>. The SAFE will be updated to reflect any relevant changes from this action by the publication of the final rule. Any in-text citation referencing an “Agenda Item” refers to Council briefing book materials, which are available at <https://www.pcouncil.org> (click the “+” icon next to “Council meetings” and then select the specific briefing book you wish to access). Any in-text citation referencing a peer-reviewed stock assessment is available on the Council’s website at <https://www.pcouncil.org/stock-assessments-star-reports-stat-reports-rebuilding-analyses-terms-of-reference/groundfish-stock-assessment-documents/>. Last, the Council Analytical Document prepared to support the Council’s final action is currently available as Agenda Item E.6 Attachment 2 in the June 2026 briefing book (see <https://www.pcouncil.org>).

This document will be updated to reflect the Council’s final action by the publication of the final rule.

FOR FURTHER INFORMATION CONTACT: Lynn Massey, Fishery Management Specialist, at 562–900–2060 or lynn.massey@noaa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

The Pacific Coast groundfish fishery in the U.S. exclusive economic zone (EEZ) seaward of Washington, Oregon, and California is managed under the Groundfish FMP. The Council developed the Groundfish FMP pursuant to the MSA (16 U.S.C. 1801 *et seq.*). The Secretary of Commerce approved the Groundfish FMP and implemented the provisions of the plan through Federal regulations at 50 CFR part 660, subparts C through G. The Groundfish FMP currently manages more than 90 species of roundfish, flatfish, rockfish, sharks, and skates.

Chapter 5 of the Groundfish FMP requires the Council to assess the biological, social, and economic conditions of the Pacific Coast groundfish fishery and use this information to develop harvest specifications and management measures at least biennially. This proposed rule is based on the Council’s final recommendations for harvest specifications and management measures for the 2027–28 biennium made at its April and June 2026 meetings.

The Council deemed the proposed regulations necessary and appropriate to implement these actions in a July 30, 2026, letter from Council Executive Director, Merrick Burden, to Regional Administrator Jennifer Quan. Under the MSA, NMFS is required to publish proposed rules for comment after preliminarily determining whether they are consistent with applicable law. We are seeking public comment on the proposed regulations in this action and whether they are consistent with the Groundfish FMP, the MSA and its National Standards, and other applicable law.

NMFS published a Notice of Availability (NOA) to announce the proposed amendment 38 to the Groundfish FMP (referred to interchangeably as “the amendment”) on July 21, 2026 (91 FR 45764). The NOA requests public review and comment on proposed changes to the Groundfish FMP document and the draft Analysis prepared for the action (see **ADDRESSES**). Public comments are being solicited on the amendment through September 19, 2026, which is

the end of the comment period for the NOA. Public comments on the amendment must be received by the end of the comment period on the amendment, as published in the NOA, to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on the amendment, whether specifically directed to the amendment, or the proposed rule, will be considered in the approval/disapproval decision. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

A. Specification and Management Measure Development Process

In 2025, NOAA's Northwest Fisheries Science Center (NWFSC) conducted benchmark stock assessments for chilipepper rockfish (coastwide), California quillback rockfish (south of 42° North latitude (N lat.)), rougheye/blackspotted rockfish (coastwide), sablefish (coastwide), and yellowtail rockfish (north of 40°10' N lat.). The NWFSC also conducted update assessments for widow rockfish (coastwide) and yelloweye rockfish (coastwide). Additionally, the NWFSC conducted catch-only projections for black rockfish (Oregon), bocaccio (coastwide), canary rockfish (coastwide), darkblotched rockfish (coastwide), petrale sole (coastwide), and shortspine thornyhead (coastwide). The NWFSC did not update any assessments for the remaining stocks managed under the FMP, so harvest specifications for these stocks are based on assessments from previous years. The full stock assessments used to set catch limits for this biennium are available on the Council's website (see Electronic Access under **ADDRESSES**).

The Council's stock assessment review panel (STAR panel) reviewed the benchmark stock assessments for technical merit, and to determine that each stock assessment document was sufficiently complete. The Council's Scientific and Statistical Committee (SSC) reviewed all of the stock assessments and STAR panel reports and made its recommendations to the Council on the best scientific information available (BSIA) for the 2027–28 biennium (Agenda Item G.3, September 2025 meeting; Agenda Item F.2, November 2025 meeting; Agenda Item D.2, March 2026 meeting).

The Council considered the new stock assessments, stock assessment updates, catch-only projections, public comments, recommendations from the

SSC, and advice from its advisory bodies over the course of six Council meetings during development of its recommendations for the 2027–28 harvest specifications and management measures. At each Council meeting between June 2025 and June 2026, the Council made a series of decisions and recommendations that were, in some cases, refined after further analysis and discussion. Agenda Item E.8, Supplemental Attachment 1, June 2025 describes the Council's meeting schedule for developing the 2027–28 biennial harvest specifications. Additionally, detailed information, including the supporting documentation the Council considered at each meeting, is available at the Council's website at <https://www.pcouncil.org>.

The 2027–28 biennial management cycle is the sixth cycle following Groundfish FMP amendment 24 (80 FR 12567, March 10, 2015), which established initial default harvest control rules for the fishery and was analyzed through an Environmental Impact Statement (EIS) (Final Environmental Impact Statement for Pacific Coast Groundfish Harvest Specifications and Management Measures for 2015–2016 and Biennial Periods Thereafter, and amendment 24 to the Groundfish FMP, published January 2015). The EIS described the ongoing implementation of the Groundfish FMP and the selection of the initial default harvest control rules. Under the amendment 24 framework, the harvest control rules used to determine the previous biennium's harvest specifications (*i.e.*, overfishing limits (OFLs), acceptable biological catches (ABCs), and annual catch limits (ACLs)) are applied as the default harvest control rule to determine the next biennium's harvest specifications after applying the BSIA. NMFS implements harvest specifications based on the harvest control rules used in the previous biennium unless the Council makes a recommendation, and NMFS concurs, to deviate from the default based on new scientific or other information. This rule therefore implements default harvest control rules, consistent with the harvest control rules implemented for the last biennium (*i.e.*, 2025–26), for most stocks, and discusses Council-recommended departures from the defaults. The draft Analysis supporting this action identifies the Council's preferred harvest control rules, management measures, and other management changes for the 2027–28 biennium and will be posted on the

NMFS West Coast Region web page (see Electronic Access under **ADDRESSES**).

II. Proposed Harvest Specifications

This proposed rule would set 2027–28 harvest specifications and management measures for the 90+ groundfish stocks or management units which currently have ACLs or ACL contributions to stock complexes managed under the Groundfish FMP, except for Pacific whiting. Pacific whiting harvest specifications are established annually through a separate bilateral process with Canada.

The proposed OFLs, ABCs, and ACLs are based on the best available biological and socioeconomic data, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The Groundfish FMP specifies a series of three stock categories for the purpose of setting maximum sustainable yield (MSY),¹ OFLs, ABCs, ACLs, and rebuilding standards. Category 1 represents the highest level of information quality available, while Category 3 represents the lowest. Category 1 stocks are the relatively few stocks for which the NWFSC can conduct a “data rich” quantitative stock assessment that incorporates catch-at-age, catch-at-length, or other data. The SSC can generally calculate OFLs and overfished/rebuilding thresholds for these stocks, as well as ABCs, based on the uncertainty of the biomass estimated within an assessment or the variance in biomass estimates between assessments. Category 2 stocks include a large number of stocks for which some biological indicators are available, yet status is based on a “data moderate” quantitative stock assessment. Category 3 stocks include minor stocks which are caught, but for which there is, at best, only information on landed biomass. For stocks in this category, there is limited data available for the SSC to quantitatively determine MSY, OFL, or an overfished threshold. Typically, catch-based methods (*e.g.*, depletion-based stock reduction analysis, depletion corrected average catch, and average catches) are used to determine the OFL for Category 3 stocks. A detailed description of each of these categories can be found in Section 4.2 of the Groundfish FMP.

A. Proposed OFLs for 2027 and 2028

The OFL serves as the maximum amount of fish that can be caught in a

¹ MSY is the largest long-term average catch that can be taken from a fish stock under prevailing environmental and fishery conditions, while preventing overfishing.

year without resulting in overfishing. Overfishing occurs when a stock's harvest rate, denoted as $F_{x\%}$, is set higher than the rate that produces the stock's MSY. The SSC derives OFLs for groundfish stocks with stock assessments by applying the harvest rate to the current estimated biomass (B). Harvest rates represent the rates of fishing mortality (F) that will reduce the female spawning potential ratio (SPR) to X percent of its unfished level. The Groundfish FMP defines SPR as the average fecundity of a recruit over its lifetime when the stock is fished divided by the average fecundity of a recruit over its lifetime when the stock is unfished. The SPR is based on the principle that a certain biomass of fish has to survive in order to spawn and replenish the stock at a sustainable level. As an example, a harvest rate of $F_{40\%}$ means the harvest rate that would fish 60 percent of the population, thereby reducing the stock to 40 percent of its unfished level (abbreviated as $B_{40\%}$). $F_{40\%}$ is more aggressive than $F_{45\%}$ or $F_{50\%}$ harvest rates because $F_{40\%}$ allows more fishing mortality on a stock (as it allows a harvest rate that would reduce the stock to 40 percent of its unfished level, while $F_{45\%}$ or $F_{50\%}$ would reduce the stock to 45 percent and 50 percent of its unfished level). The OFL set by the SSC does not explicitly account for scientific or management uncertainty; therefore, the SSC typically recommends an ABC that is lower than the OFL in order to account for scientific uncertainty, including the scientific uncertainty related to the assessment for a stock. Usually, the greater the amount of scientific uncertainty, the lower the ABC is set compared to the OFL.

For all species except widow rockfish, the Council maintained its policy of using a default harvest rate as a proxy for the fishing mortality rate that is expected to achieve MSY (F_{MSY}) for the 2027–28 biennium. The Council also maintained the same default harvest rate proxies as used in the 2025–26 biennium, based on the SSC's recommendations: $F_{30\%}$ for flatfish (meaning an SPR harvest rate that would reduce the spawning potential to 30 percent of its unfished level), $F_{50\%}$ for rockfish (including longspine and shortspine thornyheads), $F_{50\%}$ for elasmobranchs, and $F_{45\%}$ for other groundfish such as sablefish and lingcod. For widow rockfish, the Council adopted the SSC recommendation to use a different proxy, spawning biomass at 40 percent ($SB_{40\%}$), meaning an SPR harvest rate that would reduce the spawning stock

biomass to 40 percent of its unfished level. For unassessed stocks, the Council recommended using a historical catch-based approach (e.g., average catch, depletion-corrected average catch, or depletion-based stock reduction analysis) to set the OFL. See tables 1a and 2a to Part 660, subpart C in the proposed regulatory text supporting this rule for the proposed 2027–28 OFLs. The SAFE document for 2026 will include a detailed description of the scientific basis for all of the SSC-recommended OFLs proposed in this rule and will be available at the Council's website at <https://www.pcouncil.org>.

B. Proposed ABCs for 2027 and 2028

The ABC is the stock or stock complex's OFL reduced by an amount associated with scientific uncertainty. The SSC-recommended P star (P^*)-sigma (σ) approach determines the amount by which the OFL is reduced to account for this uncertainty. Under this approach, the SSC recommends a σ value. The σ value is generally based on the scientific uncertainty in the biomass estimates generated from stock assessments and is usually related to the stock category. After the SSC determines the appropriate σ value, the Council chooses a P^* based on its chosen level of risk aversion to address the consequences of the stock being elsewhere within the uncertainty represented by σ . A P^* of 0.5 equates to no additional reduction beyond the σ value reduction. The Groundfish FMP specifies that the upper limit of P^* will be 0.45, thus always ensuring at least some additional reduction beyond the σ value reduction. The P^* - σ approach is discussed in detail in the proposed and final rules for the 2011–12 biennial harvest specifications and management measures (75 FR 67810, November 3, 2010; 76 FR 27508, May 11, 2011) and the 2013–14 biennial harvest specifications and management measures (77 FR 67974, November 14, 2012; 78 FR 580, January 3, 2013).

For the 2027–28 biennium, the SSC quantified major sources of scientific uncertainty in the estimates of OFLs and generally recommended a σ value of 0.5 for Category 1 stocks, a σ value of 1.0 for Category 2 stocks, and a σ value of 2.0 for Category 3 stocks. The single exception was for California quillback rockfish; the SSC chose a σ value between one and two because, although there was enough data used in the assessment for California quillback rockfish to be a Category 1 stock, there remained enough uncertainty in the assessment results and sensitivity to model assumptions to warrant a larger

buffer between the OFL and ABC. For Category 2 and 3 stocks, there is greater scientific uncertainty in the OFL estimate because the assessments for these stocks are informed by less data or less informative data than the assessments for Category 1 stocks. Therefore, the scientific uncertainty buffer is generally greater than that recommended for stocks with data-rich stock assessments. Assuming the same P^* is applied, a larger σ value results in a larger reduction from the OFL. For 2027–28, the Council's ABC recommendations are consistent with the general policy of using the SSC-recommended σ values for each stock category, with the exception of those species that have either constant catch alternative harvest control rules (petrale sole, rougheye/blackspotted rockfish, shortspine thornyhead, and yellowtail rockfish north of 40°10' N lat.) or other types of alternative harvest control rules (widow rockfish).

For 2027–28, the Council maintained the P^* policies it established for the previous biennium for most stocks. The Council recommended using P^* values of 0.45 for all individually managed Category 1 stocks, except yelloweye rockfish. Combining the Category 1 σ value of 0.5 with the P^* value of 0.45 results in a reduction of 6.1 percent from the OFL when deriving the ABC. For Category 2 stocks, the Council's general policy was to apply a P^* of 0.40, with some exceptions. The Council recommended applying a P^* of 0.45 for big skate, English sole, lingcod north of 40°10' N lat., lingcod south of 40°10' N lat., longnose skate, Pacific ocean perch, shortspine thornyhead, blue rockfish in the Oregon blue/deacon/black rockfish complex, and all Category 2 stocks in the Nearshore Rockfish complexes, Other flatfish Complex, Shelf Rockfish complexes, and Slope Rockfish complexes. When combined with the σ values of 1.0 for Category 2, a P^* value of 0.45 corresponds to an 11.8 percent reduction from the OFL and a P^* value of 0.40 corresponds to a 22.4 percent reduction. For Category 3 stocks, the Council's general policy was to apply a P^* value of 0.45, except the Council recommended a P^* value of 0.40 for cowcod between 40°10' N lat. and 34°27' N lat., Pacific cod, starry flounder, and all stocks in the Other Flatfish Complex except rex sole, which was upgraded to a Category 2 stock with a P^* of 0.45. When combined with the σ values of 2.0 for Category 3, a P^* value of 0.45 corresponds to 22.2 percent reduction from the OFL and a P^* value of 0.40 corresponds to a 39.8 percent reduction. For three stocks, including

yellowtail rockfish north 40°10' N lat., petrale sole, and widow rockfish, the Council recommended the application of an alternative harvest control rule, to apply a reduced buffer (*i.e.*, the combination of the sigma and P^*) between the OFL and the ABC/ACL during a phase in period. See tables 1a and 2a to Part 660, subpart C in the proposed regulatory text supporting this rule for the proposed 2027–28 ABCs. The 2026 SAFE will be updated to include the full description of σ and P^* values by stock by the publication of the final rule and will be available at the Council's website at <https://www.pcouncil.org>.

C. Proposed ACLs for 2027 and 2028

The Council recommends ACLs for each groundfish stock or management unit in the Groundfish FMP. To determine the ACL for each stock, the Council will determine the best estimate of current stock abundance and its relation to the precautionary and overfished/rebuilding thresholds. Under the Groundfish FMP, the biomass level that produces MSY, or B_{MSY} , is defined as the precautionary threshold. When the biomass for an assessed Category 1 or 2 stock falls below B_{MSY} (*i.e.*, the precautionary threshold) but is above the overfishing/rebuilding threshold, it is considered to be in the precautionary zone. When a stock is in the precautionary zone, the ACL is set below the ABC using a harvest rate reduction, referred to as the “40–10 rule” or “40–10 adjustment”, to help the stock return to the B_{MSY} level, which is

the management target for groundfish stocks. The Groundfish FMP uses the 40–10 harvest control rule as the standard reduction for non-flatfish stocks with a B_{MSY} proxy of $B_{40\%}$ that are in the precautionary zone. The analogous harvest control rule with the standard reduction for assessed flatfish stocks is the 25–5 harvest control rule with a B_{MSY} proxy of $B_{25\%}$. The further the stock biomass is below the precautionary threshold, the greater the reduction in ACL relative to the ABC. If $B_{10\%}$ for a stock with a B_{MSY} proxy of $B_{40\%}$ is reached, or if $B_{5\%}$ for a stock with a B_{MSY} proxy of $B_{25\%}$ is reached, then ACL would be set at zero. If a stock biomass is larger than B_{MSY} , the ACL may be set equal to the ABC, or the ACL may be set below the ABC to address conservation objectives, socioeconomic concerns, management uncertainty, or other factors necessary to meet management objectives. The overfished/rebuilding threshold is 25 percent of the estimated unfished biomass level for non-flatfish stocks or 50 percent of B_{MSY} , if known. The overfishing/rebuilding threshold for flatfish stocks is 12.5 percent of the estimated unfished biomass level.

Under Groundfish FMP amendment 24, the Council set up the concept of default and alternative harvest control rules, which are policies meant to streamline the setting of ACLs each biennial cycle. Under amendment 24, the harvest control rules used to determine the previous biennium's harvest specifications (*i.e.*, OFLs, ABCs, and ACLs), are automatically applied to

the best scientific information available to determine the future biennium's harvest specifications. A complete description of the default harvest control rules used for setting ACLs in the 2015–16 biennium, as well as the policies for future biennia, is described in the proposed and final rule for the 2015–16 harvest specifications and management measures (80 FR 678, January 6, 2015) and Groundfish FMP amendment 24 (80 FR 12567, March 10, 2015).

Under the Groundfish FMP, harvest control rules are typically applied at the component species level for stock complexes to calculate ACLs. Resulting contribution values of each component species, or ACL contributions, are summed to equal the stock complex ACLs. For example, the ACL contribution of chilipepper rockfish north of 40°10' N lat contributes to the overall ACL for the Shelf Rockfish Complex for north of 40°10' N lat. Under the Groundfish FMP, the Council may recommend setting the ACL at a different level than what the default harvest control rules specify, as long as the ACL does not exceed the ABC and complies with the requirements of the MSA. For most of the stocks and stock complexes managed with harvest specifications for 2027–28, the Council chose to maintain the default harvest control rules from the previous biennial cycle. Table 1 presents a summary of the proposed changes to default harvest control rules for certain stocks for 2027–28. Each of these changes is discussed further below.

Table 1 -- Proposed Changes to Harvest Control Rules for the 2027-28 Biennium

Stock	Default Harvest Control Rule^a	Alternative Harvest Control Rule^a
Canary rockfish ^b	ABC > ACL, P* 0.45 (40-10 rule)	ABC = ACL, P* 0.45, no 40-10 adjustment
Chilipepper rockfish	ABC = ACL, P* 0.45	Constant ACL = 2,114 metric tons (mt)
Petrable sole	ABC = ACL, P* 0.45	Constant ABC = ACL 2,489 mt
Rougheye/blackspotted rockfish	ABC = ACL, P* 0.45	Constant ACL = 300 mt
Shortspine thornyhead ^b	ABC > ACL, P* 0.45 (40-10 rule)	Constant ABC = ACL 902 mt
Widow rockfish ^c	ABC = ACL, P* 0.45	SSC-recommended OFL – 1 mt
Yelloweye rockfish	ABC = ACL, P* 0.40 (SPR = 0.50)	Constant ACL = 85 mt
Yellowtail rockfish N of 40° N lat. ^d	ABC = ACL, P* 0.45	Phase-in

^a The Default Harvest Control Rules that were used to set the ACLs in 2025 and 2026. The Alternative Harvest Controls rules are the proposed changes for setting the ACLs in 2027 and 2028.

^b The 40-10 adjustment applies where a precautionary reduction is warranted, per the Groundfish FMP at Section 4.6.1. The 40-10 adjustment reduces the harvest rate to help the stock return to the maximum sustainable yield level.

^c The SSC recommended an OFL based on the yield associated with B_{40%} as a justifiable proxy for MSY, and thus the OFL given that the stock is estimated to be above the B_{40%} reference point.

^d A phase-in approach ramps down the ABC/ACL over the course of the biennium. Per the National Standard 1 guidelines (see 50 CFR 600.310(f)(2)(ii)(A)), Councils can develop and recommend to NMFS, ABC control rules that allow for changes in catch limits to be phased-in over time to help stabilize catch levels as stock assessments are updated.

Canary Rockfish

Canary rockfish is a Category 1 stock managed with coastwide harvest specifications. Canary rockfish are caught in all sectors, both commercial and recreational. The default harvest control rule from the prior biennium is ABC > ACL, via the 40–10 rule, P* 0.45. In 2023, the NWFSC conducted a full benchmark stock assessment (see Electronic Access under **ADDRESSES**), which estimated the stock at B_{35%}, and therefore below the management target of B_{40%}. This designated canary rockfish as in the precautionary zone (*i.e.*, below the management target of B_{40%}, but still above the overfished threshold of B_{25%}), which enacted the automatic application of the 40–10 adjustment to the harvest control rule used to set 2025–26 ACLs. This decreased the 2025 ACL from the 2024 ACL by 56 percent (1,296 mt to 571 mt), which consequently led to substantive reductions in sector allocations and

resulting fishery constraints across all sectors. These constraints were consistently reported by industry representatives throughout the 2025 fishing year, which led the Council to request a catch-only projection mid-biennium to investigate the potential to increase 2026 harvest specifications. In 2025, the NWFSC conducted a catch-only projection (see Electronic Access under **ADDRESSES**), which included more recent catch information, as well as options for changes to 2026 harvest specifications. The catch-only projection showed that there was a higher biomass of canary rockfish available for harvest than previously thought when the 2023 benchmark assessment was conducted. Therefore, NMFS implemented, in alignment with the Council's recommendation, a temporary emergency rule to increase 2026 canary rockfish harvest specifications and sector allocations in accordance with the 2025 catch-only

projection (91 FR 2714; January 22, 2026). The catch-only projection estimates the stock will be at B_{34%} at the start of 2027, indicating the stock will still be in the precautionary zone for the upcoming 2027–28 biennium, but above the B_{25%} overfished threshold.

Given the anticipation of ongoing fishery constraints in 2026 and beyond, NMFS is proposing, in alignment with the Council's recommendation, a less precautionary alternative harvest control rule for canary rockfish in the 2027–28 biennium: ABC = ACL, P* 0.45, without the application of the 40–10 rule. As presented in the catch-only projection and explained in the draft Analysis (see **ADDRESSES**), the stock is not expected to fall below the overfished threshold in the 10-year projection period from 2027 to 2036. Additionally, the alternative harvest control rule would increase the 2027 and 2028 ACLs by 37 mt and 41 mt as compared to the default harvest control

rule, which is expected to provide meaningful relief to the fishing industry.

Chilipepper Rockfish

Chilipepper rockfish is a Category 1 stock managed south of 40°10' N lat. with species-specific harvest specifications and north of 40°10' N lat. as a component stock in the northern Shelf Rockfish Complex. Harvest specifications are apportioned north (7 percent) and south (93 percent) of 40°10' N lat. based on average historical landings. Chilipepper rockfish is primarily caught in the commercial midwater trawl sector but has been increasingly targeted by the commercial non-trawl sector in recent years. The default harvest control rule from the prior biennium is $ABC = ACL, P^* 0.45$. In 2025, the NWFSC conducted a full benchmark stock assessment (see Electronic Access under **ADDRESSES**), which estimated the stock at $B_{83.2\%}$ in 2025, indicating the stock is healthy. Although ACLs could be substantively increased under the default harvest control rule for the upcoming biennium, the Council initially considered a more conservative alternative harvest control where the ACL would be set equal to 2,114 mt for both 2027 and 2028; 2,114 mt is a reference point from the stock assessment that represents a long-term average yield under the fishing rate that produces an SPR of 50 percent. An SPR of 50 percent is used in the Council's default harvest policy to set the OFL by applying the SPR to current and projected estimated biomass. The Council considered this more conservative approach to setting harvest specifications for chilipepper rockfish because the 10-year projection in the 2025 stock assessment displayed a steep decrease in harvest specifications in future biennia after 2027–28. Under the more conservative alternative harvest control rule, catch limits would remain more consistent over the 10-year projection. However, NMFS is proposing, in alignment with the Council's recommendation, to set harvest specifications according to the default harvest control rule, as new potential markets were identified in central California for chilipepper rockfish, and higher catch limits may enable those markets to be fulfilled. The default harvest control rule would increase the 2027 and 2028 ACLs by 1,020 mt and 904 mt respectively, as compared to the alternative harvest control rule.

Petracle Sole

Petracle sole is a Category 1 stock managed with coastwide harvest specifications. Petracle sole is primarily

caught in the commercial bottom trawl sector but has also been increasingly caught in the commercial and recreational non-trawl sectors due to locational shifts in effort from seasonal closures. In 2023, the NWFSC conducted a benchmark stock assessment (see Electronic Access under **ADDRESSES**) that estimated the stock at $B_{33.6\%}$ in 2023, which is above the management target of $B_{25\%}$ for flatfish species. Although this indicates the stock was healthy in the 2023–24 biennium, the stock assessment projected declining biomass in the future due to below-average recruitment in recent years, which led to a 28 percent decrease in the 2025 ACL compared to the 2024 ACL (3,285 mt to 2,354 mt). Similar to canary rockfish, this substantive ACL decrease led to consistent reports of fishing constraints from industry representatives and the Council's subsequent request for a mid-biennium catch-only projection to investigate the possibility of increasing 2026 harvest specifications. In 2025, the NWFSC conducted a catch-only projection for petracle sole (see Electronic Access under **ADDRESSES**), which included more recent catch information, as well as options for changes to 2026 harvest specifications. The catch-only projection showed that there was a higher biomass of petracle sole available for harvest than previously thought when the 2023 benchmark assessment was conducted. Therefore, NMFS implemented, in alignment with the Council's recommendation, a temporary emergency rule to increase petracle sole harvest specifications and allocations in accordance with the 2025 catch-only projection (91 FR 2714; January 22, 2026). The catch-only projection estimates the stock will be at $B_{26\%}$ at the start of 2027, indicating the stock will still be above the management target of $B_{25\%}$ for flatfish species.

Given the anticipation of ongoing fishery constraints in 2026, NMFS is proposing, in alignment with the Council's recommendation, a less precautionary alternative harvest control rule for petracle sole in the 2027–28 biennium: Constant $ABC = ACL$ 2,489 mt. This value is the same as the ACL implemented in the 2026 emergency rule (91 FR 2714; January 22, 2026). As presented in the catch-only projection and explained in the draft Analysis (see **ADDRESSES**), the stock is not expected to fall below the overfished threshold in the 10-year projection period from 2027 to 2036. Additionally, the alternative harvest control rule for petracle sole would

increase the ACLs by 40 mt in 2027 and 66 mt in 2028, relative to the default harvest control rule, which is expected to provide meaningful relief to the fishing industry.

Rougheye/Blackspotted Rockfish

Rougheye/blackspotted rockfish is a Category 2 stock managed north and south of 40°10' N lat. as a component stock in the Slope Rockfish complexes. Coastwide OFLs are apportioned north (98 percent) and south (2 percent) of 40°10' N lat. based on average landings during the 1985–2012 time period, and contribute tonnage to the respective harvest specifications of the stock complex assemblages. Rougheye/blackspotted rockfish are not targeted by any specific sector, but they are primarily retained as marketable bycatch in the midwater trawl sector. The default harvest control rule from the last biennium is $ABC = ACL, P^* 0.45$. In 2025, the NWFSC conducted a full benchmark stock assessment (see Electronic Access under **ADDRESSES**), which estimated the stock at $B_{87.2\%}$ in 2025, indicating the stock is healthy. Although ACLs could be substantively increased under the default harvest control rule for the upcoming biennium, the result of the 2025 stock assessment is notably different from the 2013 stock assessment (see Electronic Access under **ADDRESSES**), and the SSC noted that various sources of uncertainty in the 2025 stock assessment warrant a more risk averse approach to harvest (Agenda Item G.3.a Supplemental SSC Report 2, September 2025). Therefore, NMFS is proposing, in alignment with the Council's recommendation, a more conservative alternative harvest control rule where the ACL is set equal to 300 mt for both 2027 and 2028. 300 mt is the maximum mortality reported in the Groundfish Expanded Mortality Multi-year data report; thus, it is not anticipated to constrain the fishery. The alternative harvest control rule for rougheye/blackspotted rockfish reduces the ACLs by 544 mt in 2027 and 527 mt in 2028, relative to the default harvest control rule.

Shortspine Thornyhead

Shortspine thornyhead is a Category 2 stock managed with coastwide harvest specifications. Shortspine thornyhead is primarily caught in the commercial trawl sector but has been increasingly targeted by the commercial non-trawl sector in recent years. In 2023, the NWFSC conducted a length-based data moderate stock assessment (see Electronic Access under **ADDRESSES**) that estimated the stock at $B_{39.4\%}$ in 2023, and therefore below the

management target of 40 percent unfished biomass. This designated shortspine thornyhead as in the precautionary zone (*i.e.*, below the management target of $B_{40\%}$, but still above the overfished threshold of $B_{25\%}$), which enacted the automatic application under the FMP of the 40–10 adjustment to the harvest control rule used to set 2025–26 ACLs. This decreased the 2025 ACL from the 2024 ACL by 60 percent (2,030 mt to 815 mt), which led to substantive reductions in sector allocations and resulting fishery constraints in the trawl sector. Similar to canary rockfish and petrale sole, this substantive ACL decrease led to consistent reports of fishing constraints from industry representatives and the Council's subsequent request for a mid-biennium catch-only projection to investigate the possibility of increasing 2026 harvest specifications. In 2025, the NWFSC conducted a catch-only projection for shortspine thornyhead (see Electronic Access under **ADDRESSES**), which included more recent catch information, as well as options for changes to 2026 harvest specifications. The catch-only projection showed that there was a higher biomass of shortspine thornyhead available for harvest than previously thought when the 2023 length-based data moderate assessment was conducted. Therefore, NMFS implemented, in alignment with the Council's recommendation, a temporary emergency rule to increase shortspine thornyhead harvest specifications and allocations in accordance with the 2025 catch-only projection (91 FR 2714; January 22, 2026). The catch-only projection estimates the stock will be at $B_{39.3\%}$ at the start of 2027, indicating the stock will still be in the precautionary zone for the upcoming 2027–28 biennium, but above the $B_{25\%}$ overfished threshold.

Given the anticipation of ongoing fishery constraints in 2026, NMFS is proposing, in alignment with the Council's recommendation, a less precautionary alternative harvest control rule for shortspine thornyhead in the 2027–28 biennium: Constant $ABC = ACL$ 902 mt. This value is the same as the ACL implemented in the 2026 emergency rule (91 FR 2714; January 22, 2026). As presented in the catch-only projection and explained in the draft Analysis (see **ADDRESSES**), the stock is not expected to fall below the overfished threshold in the 10-year projection period from 2027 to 2036. Additionally, the alternative harvest control rule for shortspine thornyhead would increase the ACLs by 55 mt in

2027 and 46 mt in 2028, relative to the default harvest control rule, which is expected to provide meaningful relief to the fishing industry.

Widow Rockfish

Widow rockfish is a Category 1 stock managed with coastwide harvest specifications. Widow rockfish is primarily targeted by the midwater trawl sector but has been increasingly targeted by the commercial non-trawl sector in recent years. The default harvest control rule from the last biennium is $ABC = ACL$, $P^* 0.45$. In 2025, the NWFSC conducted an update assessment (see Electronic Access under **ADDRESSES**), which estimated the stock at $B_{50.1\%}$ in 2025. Although this indicates the stock was healthy in the last biennium, this result signals a substantive decrease in biomass since the last assessment, which was an update assessment conducted in 2019 (see Electronic Access under **ADDRESSES**). This would cause an approximate 59 percent decrease in the ACL from 2026 to 2027 under the default harvest control rule, which would significantly constrain the midwater trawl sector.

The Council explored a broad range of alternative harvest control rules during the development of the 2027–28 harvest specifications, the details of which are documented in the Council Analytical Document and draft Analysis (see **ADDRESSES**). To avoid expected economic harm to the fishing industry, NMFS is proposing, in alignment with the Council's recommendation, an alternative harvest control rule of: SSC-recommended OFL—1 mt. The SSC recommended an OFL based on the yield associated with $B_{40\%}$ as a justifiable proxy for MSY , and because the stock is estimated to be above the $B_{40\%}$ reference point. This approach is consistent with recent NOAA technical guidance (see Informational Report 4, March 2026 briefing book) related to specifying reference points identified in the MSA's National Standard 1 (NS1) and is expected to prevent overfishing, while allowing for long term optimum yield. The proposed ABC/ACL of 6,238 mt would be applied over the next 2 years, which is consistent with NS1 technical guidance for phase-in provisions. This would yield an ACL that is approximately 40 percent lower than the 2026 ACL (10,392 mt), but 26 percent higher than the 2027 ACL under the default harvest control rule (4,596 mt). The recommended ACL is expected to still constrain the midwater trawl sector, but to a lesser degree than the ACLs under the default harvest control rule.

Yelloweye Rockfish

Yelloweye rockfish is a Category 1 stock managed with coastwide harvest specifications. Yelloweye rockfish has been a prohibited species across all sectors since it was declared overfished and placed under a rebuilding plan in 2002. In May 2026, NMFS declared yelloweye rockfish rebuilt. The results of the 2025 stock assessment (see Electronic Access under **ADDRESSES**) indicate the stock is at 40.1 percent unfished biomass, which is above both the overfished threshold of $B_{25\%}$ and the management target of $B_{40\%}$. The default harvest control rule from the prior biennium, when the stock was still rebuilding, is $ABC = ACL$, $P^* 0.40$ ($SPR = 0.50$). Since the stock is now rebuilt, yelloweye rockfish is no longer required to be managed under a rebuilding plan, and new default harvest control rules for the rebuilt stock may be considered. However, given that the stock has just come out of rebuilding, the Council initially considered a more conservative alternative harvest control rule of: constant $ACL = 85$ mt. The 85 mt value is between the 2026 and 2027 ACLs under the default harvest control rule (56.6 mt and 113 mt, respectively), and was intended to provide some fishing opportunity in the coming biennium while still maintaining a precautionary reintroduction to harvest. However, NMFS is proposing, in alignment with the Council's recommendation, to set harvest specifications according to the default harvest control rule in order to provide additional fishing opportunities while maintaining an acceptable level of risk to the stock. The default harvest control rule would increase the 2027 and 2028 ACLs by 28 mt relative to the alternative harvest control rule.

Yellowtail Rockfish North of 40°10' N lat.

Yellowtail rockfish north of 40°10' N lat. is a Category 1 stock managed with its own harvest specifications separately from the stock of yellowtail rockfish south of 40°10' N lat. Yellowtail rockfish north of 40°10' N lat. is primarily targeted by the midwater trawl sector but has been increasingly targeted by the commercial non-trawl sector in recent years. The default harvest control rule from the last biennium is $ABC = ACL$, $P^* 0.45$. In 2025, the NWFSC conducted an update stock assessment (see Electronic Access under **ADDRESSES**), which estimated the stock at 62.6 percent unfished biomass in 2025. Although this indicates the stock is healthy in the current biennium, commercial catches have increased with the rebound of the midwater trawl

fishery, causing an approximate 22 percent decrease in the ACL from 2026 to 2027 under the default harvest control rule. This decrease is expected to constrain the midwater trawl sector both in terms of accessing yellowtail rockfish and targeting co-occurring species, such as widow rockfish.

Therefore, NMFS is proposing, in alignment with the Council's recommendation, an alternative harvest control rule that would implement a phase-in approach that would ramp down the ABC/ACL over the course of the biennium. For 2027, the ABC/ACL would be set at 5,050 mt (one mt below the OFL under the default harvest control rule). For 2028, the ABC/ACL would be set at 4,730 mt, which is a value in between the 2028 OFL under the default harvest control rule and the value that would have been the 2027 ABC/ACL, if not for the phase-in approach (4,723 mt). The alternative harvest control rule for yellowtail rockfish north of 40°10' N lat. increases the ACLs by 327 mt in 2027 and 190 mt

in 2028 relative to the default harvest control rule. These increases are expected to provide meaningful relief to the fishing industry.

D. Summary of ACL Changes From 2026 to 2027

Table 2 compares the ACLs for major stocks and stock complexes for 2026 and 2027 with harvest specifications set under the Council's recommended harvest control rules. Under this proposed rule, 14 of the 41 stocks/complexes shown in table 2 would have higher ACLs in 2027 than in 2026 (excludes increases for ACL contributions within stock complexes), and 24 stocks/complexes would have lower ACLs in 2027 than in 2026 (excludes decreases for ACL contributions within stock complexes). Three stocks/complexes (*i.e.*, Pacific cod, the Oregon cabezon/kelp greenling complex, and petrale sole) would have the same ACLs in 2027 as in 2026. The ACLs for two stocks (yelloweye rockfish and California quillback rockfish) would

increase by more than 100 percent as a result of their rebuilt stock status. In addition, the ACL contribution for rougheye/blackspotted rockfish within the slope north and south of 40°10' N lat. complexes would increase by over 300 percent. These increases are due to new information provided in their respective 2025 stock assessments (see Electronic Access under **ADDRESSES**). The ACLs for four stocks (English sole, sablefish north of 36° N lat., sablefish south of 36° N lat., and splitnose rockfish) would decrease by over 50 percent. The decreases for sablefish north of 36° N lat. and sablefish south of 36° N lat. are due to new information in their 2025 stock assessments (see Electronic Access under **ADDRESSES**). The decreases for English sole and splitnose rockfish are a result of the older age of their assessments, which over time, applies a larger buffer between the OFL and the ABC/ACL to account for increasing scientific uncertainty in the biomass estimates.

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Table 2 -- Current (2026) ACLs in metric tons (mt), and proposed ACLs for the 2027 fishing year under the recommended harvest control rules. Bold indicates a change in ACL greater than 50 percent.

Species/Stock	Area	2026 ACL (mt)	2027 ACL (mt)	% Difference
Arrowtooth Flounder	Coastwide	9,227	7,947	-13.9
Big Skate	Coastwide	1,188	1,155	-2.8
Black Rockfish	Washington	241	240	-0.4
Black Rockfish	California	236	249	5.5
Bocaccio	S of 40°10' N lat.	1,668	2,288	37.2
Cabazon	California	155	150	-3.2
California quillback rockfish	California	1.5	12	700.0
California Scorpionfish	California	238	233	-2.1
Canary Rockfish	Coastwide	626	643	2.7
Chilipepper	S of 40°10' N lat.	2,623	2,986	13.8
Cowcod	S of 40°10' N lat.	75	74	-1.3
Darkblotched Rockfish	Coastwide	732	773	5.6
Dover Sole	Coastwide	42,457	38,573	-9.1
English Sole	Coastwide	8,819	3,168	-64.1
Lingcod	N of 40°10' N lat.	3,534	3,482	-1.5
Lingcod	S of 40°10' N lat.	773	789	2.1
Longnose Skate	Coastwide	1,579	1,546	-2.1
Longspine Thornyhead	Coastwide			--
Longspine Thornyhead	N of 34°27' N lat.	1,957	1,878	-4.0
Longspine Thornyhead	S of 34°27' N lat.	618	593	-4.0
Pacific Cod	Coastwide	1,600	1,600	0.0
Pacific Ocean Perch	N of 40°10' N lat.	3,220	3,123	-3.0
Pacific Spiny Dogfish	Coastwide	1,318	1,278	-3.0
Petrale Sole	Coastwide	2,489	2,489	0.0
Sablefish	Coastwide			--
Sablefish	N of 36° N lat.	27,238	10,962	-59.8
Sablefish	S of 36° N lat.	7,460	3,002	-59.8
Shortspine Thornyhead	Coastwide	897	902	0.6

Splitnose	S of 40°10' N lat.	1,469	620	-57.8
Starry Flounder	Coastwide	392	393	0.3
Widow Rockfish	Coastwide	10,392	6,238	-40.0
Yelloweye Rockfish	Coastwide	56.6	113	99.6
Yellowtail Rockfish	N of 40°10' N lat.	6,023	5,050	-16.2
Complexes				
Blue/Deacon/Black Rockfish	Oregon	428	448	4.7
Cabazon/Kelp Greenling	Washington	15	14	-6.7
Cabazon/Kelp Greenling	Oregon	174	174	0.0
Nearshore Rockfish North	N of 40°10' N. lat.	86	85	-1.2
Nearshore Rockfish South	S of 40°10' N. lat.	931	928	-0.3
Other Fish	Coastwide	223	223	0.0
Other Flatfish	Coastwide	7,144	6,577	-7.9
Shelf Rockfish North	N of 40°10' N lat.	1,316	1,342	2.0
Chilipepper rockfish		199	225	13.1
Shelf Rockfish South	S of 40°10' N lat.	1,455	1,456	0.1
Slope Rockfish North	N of 40°10' N lat.	1,460	1,089	-25.4
Rougheye/blackspotted Rockfish		183	294	60.7
Slope Rockfish South	S of 40°10' N lat.	690	688	-0.3
Rougheye/blackspotted Rockfish		4	6	50.0

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III. Proposed Management Measures

This section describes proposed management measures used to further allocate the ACLs to the various components of the fishery (*i.e.*, biennial fishery harvest guidelines (HGs) and set-asides) and management measures to control fishing. Management measures for the commercial fishery serve to modify fishing behavior during the fishing year to ensure catch does not exceed the ACL, and include trip and cumulative landing limits, time/area closures, size limits, and gear restrictions. Management measures for the recreational fisheries include bag limits, size limits, gear restrictions, fish dressing requirements, and time/area closures.

A. Deductions From the ACLs

Before making allocations to the primary commercial and recreational components of groundfish fisheries, the Council recommends “off-the-top deductions,” or deductions from the ACLs to account for anticipated mortality for certain types of activities, including: (1) harvest in Pacific Coast treaty Indian Tribal fisheries; (2) harvest in scientific research activities; (3) harvest in non-groundfish fisheries (incidental catch); and (4) harvest that occurs under EFPs. All off-the-top deductions proposed for individual stocks or stock complexes will be published in the 2026 SAFE as opposed to the Federal regulations, as off-the-top deductions are bycatch estimates and not formal catch limits. The details of the EFPs are discussed below in section III, I of this proposed rule.

Pacific Coast Tribal Fisheries

The Quileute Tribe, Quinault Indian Nation, Makah Indian Tribe, and Hoh Indian Tribe (collectively, “the Pacific Coast Tribes”) implement management measures for Tribal fisheries both independently as sovereign governments and cooperatively with the management measures in the Federal regulations. The Pacific Coast Tribes work through the Council process to maintain groundfish set-asides, HGs, and allocations pursuant to treaty fishing rights and as co-managers of the resource. The Pacific Coast Tribes may adjust their Tribal fishery management measures inseason to stay within the Tribal set-asides and allocations and within the estimated impacts to overfished stocks. Table 3 provides the Tribal harvest set-asides and allocations proposed for the 2027–28 biennium for groundfish species other than Pacific

whiting, which is allocated through a separate annual specifications process with Canada. These targets are consistent with the 2026 targets, with the exception of canary rockfish

(decrease to 35 mt), petrale sole (decreased to 290 mt), sablefish north of 36° N lat. (decreased to 1,096 mt in 2027 and 1,186 mt in 2028), shortspine thornyhead (decrease to 40 mt), widow

rockfish (decreased to 100 mt), and yelloweye rockfish (increased to 8 mt).
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Table 3 -- Proposed Tribal Harvest Set-Asides and Allocations for the 2027-28 Biennium Compared to Those in Place in 2025

Stock/Species	Off the Top Deduction	
	2025 (mt)	2027-2028 (mt)
Arrowtooth Flounder	2,041	2,041
Big Skate	15	15
Black Rockfish (WA)	18	18
Cabezon/Kelp Greenling (WA)	2	2
Canary Rockfish	50	35
Darkblotched Rockfish	5	5
Dover Sole	1,497	1,497
English Sole	200	200
Lingcod N. of 40°10' N. lat.	250	250
Longnose Skate	220	220
Nearshore Rockfish North	1.5	1.5
Other Flatfish	60	60
Pacific cod	500	500
Pacific Ocean Perch	130	130
Pacific Spiny Dogfish	275	275
Petrable Sole	350	290
Sablefish N. of 36° N lat ^{a/}	2,869	1,096 (2027) 1,186 (2028)
Shelf Rockfish North	30	30
Slope Rockfish North	36	36
Starry flounder	2	2
Thornyheads (shortspine, longspine)	50, 30	40, 30
Widow rockfish	200	100
Yellowtail rockfish	1,000	1,000
Yelloweye rockfish	5	12

^{a/} Sablefish is allocated according to amendment 6 of the Groundfish FMP and 50 CFR 660.50(f)(2).

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The Pacific Coast Tribes proposed trip limit management in Tribal fisheries for

2027-28 for several stocks, including several rockfish stocks and stock complexes. This rule proposes the trip

limits for Tribal fisheries, as provided to the Council at its April 2026 meeting in Supplemental Tribal Report 1, Agenda

Item C.7 (see proposed regulatory changes for § 660.50).

Scientific Research

NMFS is proposing, in alignment with the Council's recommendation, the below amounts in table 4 to accommodate mortality from research activities for the 2027–28 biennium. Research activities include the NWFSC's West Coast Bottom Trawl survey, the NWFSC's Southern California Hook-and-Line survey, and the International Pacific Halibut Commission (IPHC) longline surveys, as well as other Federal and state research projects. In previous harvest specification cycles, the Council established research set-asides equal to

the long-term maximum or historical average (beginning in 2003) for all species except yelloweye rockfish and cowcod, for which custom methodologies were designed for setting research set-asides. However, many of these long-term maximums or averages are not reflective of recent mortality trends in scientific research activities. Therefore, for the 2027–28 biennium, 41 of the 42 stocks or stock complexes that have research set-asides would instead be set equal to their 5-year median mortality. Using the median allows for the estimate to be less influenced by higher, often anomalous years that are unlikely to occur again due to the ephemeral nature of some research projects. The research set-aside for

yelloweye rockfish would continue to be the custom value of 2.9 mt, which is based on anticipated needs from known research projects (see Agenda Item F.8.a Supplemental GMT Report 1, November 2025). The research set-aside for petrale sole would be the status quo value from 2025, which is 24.1 mt. Petrale sole is a highly attained stock, and the 2025 ACL was estimated to be exceeded by 15 mt in 2025. Maintaining the set aside of 24.1 mt, as opposed to the 5-year median mortality of 15.7 mt, is anticipated to decrease the risk of exceeding the ACL again (see Agenda Item F.8.a Supplemental GMT Report 1, November 2025). The amounts in table 4 will be published in the SAFE.

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Table 4 -- Proposed Research Set-Asides for the 2027-28 Biennium

Stock/Species	Management Area	2027	2028
Arrowtooth flounder	Coastwide	8.0	8.0
Big skate	Coastwide	2.6	2.6
Black rockfish (WA)	Washington	0.6	0.6
Black rockfish (CA)	California	0.0	0.0
Bocaccio	S of 40°10' N lat.	2.7	2.7
Cabazon (CA)	S of 42° N lat.	0.0	0.0
California scorpionfish	S of 34°27' N lat.	0.1	0.1
Canary rockfish	Coastwide	4.4	4.4
Chilipepper	S of 40°10' N lat.	5.4	5.4
Cowcod	S of 40°10' N lat.	0.5	0.5
Darkblotched rockfish	Coastwide	2.5	2.5
Dover sole	Coastwide	44.6	44.6
English sole	Coastwide	4.8	4.8
Lingcod	N of 40°10' N lat.	6.7	6.7
Lingcod	S of 40°10' N lat.	0.8	0.8
Longnose skate	Coastwide	12.3	12.3
Longspine thornyhead	N of 34°27' N lat.	14.4	14.4
Longspine thornyhead	S of 34°27' N lat.	0.8	0.8
Pacific cod	Coastwide	0.1	0.1
Pacific ocean perch	N of 40°10' N lat.	3.8	3.8
Pacific Spiny dogfish	Coastwide	8.0	8.0
Petrable sole	Coastwide	24.1	24.1
Quillback rockfish	California	0.0	0.0
Sablefish	N of 36° N lat.	40.7	40.7
Sablefish	S of 36° N lat.	1.5	1.5
Shortspine thornyhead	Coastwide	9.3	9.3
Splitnose rockfish	S of 40°10' N lat.	4.1	4.1
Starry flounder	Coastwide	0.0	0.0
Widow rockfish	Coastwide	0.5	0.5
Yelloweye rockfish	Coastwide	2.9	2.9

Yellowtail rockfish	N of 40°10' N lat.	4.9	4.9
Complex	Management Area	2027	2028
Nearshore rockfish north	N of 40°10' N lat.	0.1	0.1
Nearshore rockfish south	S of 40°10' N lat.	0.5	0.5
Shelf rockfish north	N of 40°10' N lat.	8.9	8.9
Shelf rockfish south	S of 40°10' N lat.	9.4	9.4
Slope rockfish north	N of 40°10' N lat.	5.0	5.0
Slope rockfish south	S of 40°10' N lat.	1.3	1.3
Other fish	Coastwide	0.0	0.0
Other flatfish	Coastwide	18.6	18.6
Oregon black/blue/deacon rockfish	Oregon	0.0	0.0
Oregon cabezon/kelp greenling	Oregon	0.0	0.0
Washington cabezon/kelp greenling	Washington	0.0	0.0

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Incidental Open Access

NMFS is proposing, in alignment with the Council's recommendation, the below amounts in table 5 to accommodate mortality of groundfish taken incidentally in non-groundfish fisheries (*i.e.*, the groundfish incidental open access (IOA) fisheries). IOA comprises the non-tribal directed

commercial Pacific halibut, limited entry and open access California halibut, pink shrimp, and other incidental fisheries. Similar to research mortality, the Council has historically established IOA set-asides equal to the long-term maximum or historical average (beginning in 2003) for all species; however, for the 2027-28 biennium, the Council recommended establishing set-asides based on the new

5-year average mortality for all 43 stocks or stock complexes that have IOA set-asides. Using the average for IOA, as opposed to the median for research, allows the estimate to account for the possibility of large bycatch events occurring again in the future. The amounts in table 5 will be published in the SAFE.

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Table 5 -- Proposed Incidental Open Access Set-Asides for the 2027-28 Biennium

Stock/Species	Management Area	2027	2028
Arrowtooth flounder	Coastwide	18.9	18.9
Big skate	Coastwide	31.6	31.6
Black rockfish (WA)	Washington	0.0	0.0
Black rockfish (CA)	California	0.3	0.3
Bocaccio rockfish	S of 40°10' N lat.	0.6	0.6
Cabazon (CA)	S of 42° N lat.	0.6	0.6
California scorpionfish	S of 34°27' N lat.	0.6	0.6
Canary rockfish	Coastwide	2.1	2.1
Chilipepper rockfish	S of 40°10' N lat.	0.3	0.3
Cowcod	S of 40°10' N lat.	0.0	0.0
Darkblotched rockfish	Coastwide	13.7	13.7
Dover sole	Coastwide	4.9	4.9
English sole	Coastwide	7.2	7.2
Lingcod	N of 40°10' N lat.	12.1	12.1
Lingcod	S of 40°10' N lat.	1.4	1.4
Longnose skate	Coastwide	10.2	10.2
Longspine thornyhead	N of 34°27' N lat.	0.1	0.1
Longspine thornyhead	S of 34°27' N lat.	0.2	0.2
Pacific cod	Coastwide	0.0	0.0
Pacific ocean perch	N of 40°10' N lat.	2.0	2.0
Pacific Spiny dogfish	Coastwide	4.9	4.9
Pacific whiting	Coastwide	0.0	0.0
Petrale sole	Coastwide	3.2	3.2
Quillback rockfish	California	0.0	0.0
Sablefish	S of 36° N lat.	10.5	10.5
Shortspine thornyhead	Coastwide	3.4	3.4
Splitnose rockfish	S of 40°10' N lat.	0.0	0.0
Starry flounder	Coastwide	12.7	12.7
Widow rockfish	Coastwide	0.1	0.1
Yelloweye rockfish	Coastwide	1.4	1.4
Yellowtail rockfish	N of 40°10' N lat.	2.0	2.0
Complex	Management Area	2027	2028
Nearshore rockfish north	N of 40°10' N lat.	0.6	0.6

Nearshore rockfish south	S of 40°10' N lat.	1.4	1.4
Shelf rockfish north	N of 40°10' N lat.	9.7	9.7
Shelf rockfish south	S of 40°10' N lat.	4.0	4.0
Slope rockfish north	N of 40°10' N lat.	9.1	9.1
Slope rockfish south	S of 40°10' N lat.	0.2	0.2
Other fish	Coastwide	4.0	4.0
Other flatfish	Coastwide	46.9	46.9
Oregon black/blue/deacon rockfish	Oregon	0.5	0.5
Oregon cabezon/kelp greenling	Oregon	0.2	0.2
Washington cabezon/kelp greenling	Washington	0.0	0.0

BILLING CODE 3510-22-C**Exempted Fishing Permits**

Issuing EFPs is authorized by regulations implementing the MSA at 50 CFR 600.745, which state that EFPs may be used to authorize fishing activities that would otherwise be prohibited. The Council routinely considers EFP applications concurrently with the biennial harvest specifications and management process because expected catch under most EFP projects is accounted for via off-the-top deductions from ACLs. However, both EFP applications recommended by the Council for 2027–28 do not request off-the-top deductions from ACLs and plan to account for their catch via other methods. A detailed description of these EFP proposals is provided in section III, I of this preamble.

Recreational Sablefish Set-aside

The allocation framework for sablefish north of 36° N lat. was set up under amendment 6 to Groundfish FMP (57 FR 54001; November 16, 1992). This framework deducts a set-aside from the ACL to account for mortality in the recreational fisheries. The set-aside amount is usually based on the maximum historical value of sablefish caught in recreational fisheries. NMFS is proposing, in alignment with the Council's recommendation, increasing the recreational set-aside from 30 mt in

the 2025–26 biennium to 50 mt for the 2027–28 biennium. Although the set-aside was increased substantively from the 2023–24 biennium to the 2025–26 biennium, (from 6 mt to 30 mt), the 30 mt was estimated to be exceeded by 15 percent in 2025 (see table 7 of Agenda Item C.7.a Supplemental GMT Report 2, April 2026), primarily due to increased mortality in the Washington recreational fishery. This increased set-aside is not expected to constrain the commercial fishery in the 2027–28 biennium.

B. Annual Catch Targets

As defined at 50 CFR 660.11, an annual catch target (ACT) is a management target set below the ACL that may be used as an accountability measure in cases where there is uncertainty in inseason catch monitoring to ensure against exceeding an ACL. Since the ACT is a target and not a limit, a stock-specific ACT can be used in lieu of HGs or set strategically to accomplish other management objectives. Sector-specific ACTs can also be specified to accomplish management objectives. For the 2027–28 biennium, NMFS is proposing, in alignment with the Council's recommendation, ongoing ACTs for yelloweye rockfish in the non-trawl sectors (both commercial and recreational), copper rockfish in the recreational sector south of 34°27' N lat., and shortspine thornyhead in the

commercial non-trawl sector north of 34°27' N lat. Further, NMFS is proposing, in alignment with the Council's recommendation, new recreational sector ACTs for vermilion/sunset rockfish south of 40°10' N lat., California quillback rockfish, and lingcod south of 40°10' N lat. These ACTs can be found in the footnotes to tables 1a and 2a to part 660, subpart C in the regulatory text of this proposed rule.

Yelloweye Rockfish

Yelloweye rockfish is caught in all non-trawl groundfish fisheries, where more than 95 percent of its mortality occurs. Yelloweye rockfish was declared rebuilt in May 2026, and as such, limited retention is being proposed in the non-trawl commercial and recreational fishery sectors for the 2027–28 biennium to reduce regulatory discards. However, the update assessment for yelloweye rockfish indicated that the unfished biomass (40.1 percent) only narrowly surpasses the management target of 40 percent. Therefore, NMFS is proposing, in alignment with the Council's recommendation, to maintain the standard framework for setting yelloweye rockfish ACTs below their sector HGs to continue to provide a precautionary approach yelloweye rockfish harvest.

Table 6 -- Proposed 2027-28 non-trawl yelloweye rockfish HGs and ACTs for the sector and sub-sectors.

Sector	2027		2028	
	HG (mt)	ACT (mt)	HG (mt)	ACT (mt)
Non-Trawl Sector total	89.0	69.7	89.0	69.7
Non-nearshore / Nearshore (20.9%)	18.6	14.6	18.6	14.6
WA Rec (25.6%)	22.8	17.9	22.8	17.9
OR Rec (23.3%)	20.7	16.3	20.7	16.3
CA Rec (30.2%)	26.9	21.1	26.9	21.1

Copper Rockfish South of 34°27' N lat.

Copper rockfish south of 34°27' N lat. is primarily caught by the California recreational sector. The stock is typically subject to a recreational ACT equal to the “sub-ACL South” value specific to this area, as determined by the 2023 copper rockfish stock assessment (see Electronic Access under **ADDRESSES**). NMFS is proposing, in alignment with the Council’s recommendation, to continue setting recreational ACTs for copper rockfish south of 34°27' N lat. in accordance with this methodology. The proposed ACTs are 20.1 and 22 mt for 2027 and 2028, respectively.

Shortspine Thornyhead North of 34°27' N lat.

A new ACT for shortspine thornyhead north of 34°27' N lat. was implemented in the 2025–26 biennium when the management line at 34°27' N lat. was removed and shortspine thornyhead began being managed with coastwide harvest specifications. The non-trawl commercial ACT north of 34°27' N lat. is set at 25 percent of the coastwide non-trawl allocation. This ACT was designed to monitor catch where the most amount of effort is expected to occur. NMFS is proposing, in alignment with the Council’s recommendation, to continue setting an ACT for shortspine thornyhead north of 34°27' N lat. in accordance with the same methodology. The proposed ACT is 61.9 mt for 2027 and 2028.

New Recreational ACTs for California

NMFS is proposing, in alignment with the Council’s recommendation, new recreational ACTs for California quillback rockfish, lingcod south of 40°10' N lat., and vermilion/sunset rockfish south of 40°10' N lat. (see table 7 below). These three stocks are becoming more highly attained in the California recreational sector and, therefore, the Council recommended these ACTs to more closely monitor recreational fishery mortality and consider inseason management responses, if necessary. These ACTs, as well as potential inseason management responses that the Council could recommend if an ACT was exceeded, were analyzed in the Council Analytical Document (see **ADDRESSES**).

Table 7 -- New recreational ACTs for stocks off California. All units in metric tons.

Stock	2027 (mt)	2028 (mt)
California quillback rockfish	7.1	7.1
Lingcod south of 40°10' N lat.	387.1	391.3
Vermilion/sunset rockfish south of 40°10' N lat.	168.0	164.4

C. Biennial Fishery Allocations

The Council routinely recommends 2-year trawl and non-trawl allocations during the biennial specifications process for stocks without formal allocations (as defined in section 6.3.2 of the Groundfish FMP) or stocks where the long-term allocation is suspended because the stock is declared overfished. The 2-year trawl and non-trawl allocations, with the exception of sablefish north of 36° N lat., are based on the fishery HG. The fishery HG is the tonnage that remains after subtracting

the off-the-top deductions described in section III, A, entitled “Deductions from the ACLs,” in this preamble. The trawl and non-trawl allocations and recreational HGs are designed to accommodate anticipated mortality in each sector as well as variability and uncertainty in those mortality estimates. Additional information on the Council’s allocation framework and formal allocations can be found in section 6.3 of the Groundfish FMP and § 660.55 of the Federal regulations. Tables 8 and 9 below include both categories of

allocations, including formal allocations specified in the Groundfish FMP (*i.e.*, amendment 21 stocks/species) or biennial allocations that are not specified in the Groundfish FMP and only specified in the Federal regulations each biennium (*i.e.*, 2-year allocations). Table 10 below presents the proposed allocations for sablefish north of 36° N lat. All allocations are detailed in the harvest specification tables appended to 50 CFR part 660, subpart C in the regulatory text of this proposed rule.

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Table 8 -- Proposed 2027 amendment 21 and biennial trawl/non-trawl allocation percentages (%) and allocation amounts in metric tons (mt)

Species/Stock & Complexes	Management Area	Allocation Type	Fishery HG or ACT	Trawl		Non-Trawl	
				%	mt	%	mt
Arrowtooth Flounder	Coastwide	A-21	5,879.5	95	5,585.5	5	294
Big Skate	Coastwide	Biennial	1,105.8	95	1,050.5	5	55.3
Bocaccio	S of 40°10' N lat.	Biennial	2,284.8	39	891.1	61	1,393.8
Canary Rockfish	Coastwide	Biennial	601.5	72.3	434.9	27.7	166.6
Chilipepper	S of 40°10' N lat.	A-21	2,980.6	75	2,235.5	25	745.2
Cowcod	S of 40°10' N lat.	Biennial	73.3	36	26.4	64	46.9
Darkblotched Rockfish	Coastwide	A-21	751.9	95	714.3	5	37.6
Dover Sole	Coastwide	A-21	37,026.2	95	35,174.9	5	1,851.3
English Sole	Coastwide	A-21	2,956	95	2,808.2	5	147.8
Lingcod	N of 40°10' N lat.	A-21	3,212.9	45	1,445.8	55	1,767.1
Lingcod	S of 40°10' N lat.	Biennial	786.8	40	314.7	60	472.1
Longnose Skate	Coastwide	Biennial	1,303.8	90	1,173.4	10	130.4
Longspine Thornyhead	N of 34°27' N lat.	A-21	1,833.9	95	1,742.2	5	91.7
Pacific Cod	Coastwide	A-21	1,099.9	95	1,044.9	5	55
Pacific Ocean Perch	N of 40°10' N lat.	A-21	2,987.6	95	2,838.2	5	149.4
Pacific Whiting	Coastwide	A-21		100		0	
Petrale Sole	Coastwide	Biennial	2,171.7		2,141.7		30
Sablefish	N of 36° N lat.	See Table 10					
Sablefish	S of 36° N lat.	A-21	2,990.3	42	1,255.9	58	1,734.4
Shortspine Thornyhead	Coastwide	Biennial	849.3	71	603	29	246.3
Splitnose	S of 40°10' N lat.	A-21	615.9	95	585.1	5	30.8
Starry Flounder	Coastwide	A-21	377.8	50	188.9	50	188.9
Widow Rockfish	Coastwide	Biennial	6,137.4	0	5,834.4	0	300
Yelloweye Rockfish	Coastwide	Biennial	96.6	8	7.7	92	88.9
Yellowtail Rockfish	N of 40°10' N lat.	A-21	4,043.1	88	3,557.9	12	485.2
Other Flatfish	Coastwide	A-21	6,451.7	90	5,806.5	10	645.2
Shelf Rockfish North	N of 40°10' N lat.	Biennial	1,293.3	60.2	778.6	39.8	514.7
Shelf Rockfish South	S of 40°10' N lat.	Biennial	1,443.1	12.2	176.1	87.8	1,267
Slope Rockfish North	N of 40°10' N lat.	A-21	1,039.4	81	841.9	19	197.5
Slope Rockfish South	S of 40°10' N lat.	Biennial	686.6	52.5	360.8	47.5	326

Table 9 -- Proposed 2028 amendment 21 and biennial trawl/non-trawl allocation percentages (%) and allocation amounts in metric tons (mt)

Species/Stock & Complexes	Management Area	Allocation Type	Fishery HG or ACT	Trawl		Non-Trawl	
				%	mt	%	mt
Arrowtooth Flounder	Coastwide	A-21	5,062.8	95	4,809.7	5	253.1
Big Skate	Coastwide	A-21	1,072.8	95	1,019.2	5	53.6
Bocaccio	S of 40°10' N lat.	Biennial	2,182.1	39	851	61	1,331.1
Canary Rockfish	Coastwide	Biennial	622.5	72.3	450.1	27.7	172.4
Chilipepper	S of 40°10' N lat.	Biennial	2,864.1	75	2,148.1	25	716
Cowcod	S of 40°10' N lat.	A-21	72	36	25.9	64	46.1
Darkblotched Rockfish	Coastwide	Biennial	733.2	95	696.6	5	36.7
Dover Sole	Coastwide	A-21	34,069.6	95	32,366.1	5	1,703.5
English Sole	Coastwide	A-21	2,956	95	2,808.2	5	147.8
Lingcod	N of 40°10' N lat.	A-21	3,170.1	45	1,426.6	55	1,743.6
Lingcod	S of 40°10' N lat.	A-21	793.8	40	317.5	60	476.2
Longnose Skate	Coastwide	Biennial	1,272.4	90	1,145.2	10	127.2
Longspine Thornyhead	N of 34°27' N lat.	Biennial	1,789.3	95	1,699.9	5	89.5
Pacific Cod	Coastwide	A-21	1,099.9	95	1,044.9	5	55
Pacific Ocean Perch	N of 40°10' N lat.	A-21	2,900.3	95	2,755.3	5	145
Pacific Whiting	Coastwide	A-21		100		0	
Petrale Sole	Coastwide	A-21	2,171.7	0	2,141.7	0	30
Sablefish	N of 36° N lat.		See Table 10				
Sablefish	S of 36° N lat.	A-21	3,235.1	42	1,358.8	58	1,876.4
Shortspine Thornyhead	Coastwide	Biennial	849.3	71	603	29	246.3
Splitnose	S of 40°10' N lat.	A-21	615.9	95	585.1	5	30.8
Starry Flounder	Coastwide	A-21	377.8	50	188.9	50	188.9
Widow Rockfish	Coastwide	Biennial	6,137.4	0	5,834.4	0	300
Yelloweye Rockfish	Coastwide	Biennial	96.7	8	7.7	92	89
Yellowtail Rockfish	N of 40°10' N lat.	A-21	3,723.1	88	3,276.3	12	446.8
Other Flatfish	Coastwide	A-21	6,067.7	90	5,460.9	10	606.8
Shelf Rockfish North	N of 40°10' N lat.	Biennial	1,284.1	60.2	773.3	39.8	511.2
Shelf Rockfish South	S of 40°10' N lat.	Biennial	1,439.8	12.2	175.7	87.8	1,264.1
Slope Rockfish North	N of 40°10' N lat.	A-21	1,036.2	81	839.3	19	196.9
Slope Rockfish South	S of 40°10' N lat.	Biennial	684	52.6	359.5	47.4	324.5

Table 10 -- Proposed 2027-2028 non-tribal sablefish north of 36° N. lat. commercial HGs and limited entry (LE) trawl and fixed gear (LEFG) and open access (OA) fishery allocations as percentages (%) and metric tons (mt)

Year	Non-tribal Commercial HG	LE Share		LE Trawl Share		LEFG Share		OA Share	
		%	mt	%	mt	%	mt	%	mt
2027	9,774.8	90.6	8,856	58	5,136	42	3,720	9.4	919
2028	10,579.6	90.6	9,585	58	5,559	42	4,026	9.4	995

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D. Harvest Guideline Sharing Agreements

For each biennium, the Council can consider HG sharing agreements for other stocks or stock complexes separate from the standard list of biennial allocations discussed in Section III, C of this preamble. These sharing agreements can be arrangements on how the HG is split between separate states, fishery sectors, or both. For the 2027–28 biennium, NMFS is proposing sharing agreements for: bocaccio south of 40°10' N lat., canary rockfish, cowcod, sablefish south of 36° N lat., the Slope Rockfish Complex south of 40°10' N lat., and blackgill rockfish. All proposed sharing agreements are maintained from the 2025–26 biennium, with the exception of the Slope Rockfish Complex south of 40°10' N lat. and blackgill rockfish. The Council is recommending a revised informal sharing agreement for blackgill rockfish (described below), based on shifting sector needs. See the Council Analytical Document (see **ADDRESSES**) for more information on how these HG sharing agreements were chosen. Informal HG sharing agreements are not managed by NMFS except in the case of a risk to the ACL. For this reason, informal HG sharing agreements are published in the SAFE each biennium (see Electronic Access under **ADDRESSES**).

Slope Rockfish Complex South of 40°10' N lat. and Informal Sharing Agreement for Blackgill Rockfish

During the 2021–22 biennial specifications cycle, the Council adopted a specialized allocation method intended to address differing sector needs for blackgill rockfish and the other slope rockfish species within the Slope Rockfish Complex south of 40°10' N lat. The non-trawl sector has historically landed a greater proportion of blackgill rockfish, while the trawl sector has relied more heavily on the other species within the Slope Rockfish Complex south of 40°10' N lat. In order to ensure a system that equitably apportioned these stocks to each sector,

the Council developed an informal sharing agreement that includes a unique method for calculating trawl and non-trawl sector allocations for blackgill rockfish and the other slope rockfish species in the Slope Rockfish Complex south of 40°10' N lat. (see Agenda Item H.8.a Supplemental GMT Report 2, November 2019). In summary, the methodology uses a series of proportional calculations to allocate more of the overall HG for the Slope Rockfish Complex south of 40°10' N lat. to the trawl sector, but specifically allocates a higher percentage of the blackgill rockfish HG contribution within the overall Slope Rockfish Complex south of 40°10' N lat. HG to the non-trawl sector.

Since the initial implementation of this allocation approach, non-trawl sector mortality for the Slope Rockfish Complex south of 40°10' N lat. has increased relative to the trawl sector. These changes likely reflect increased non-trawl access on the shelf for both recreational and commercial fisheries, along with a shift in trawl effort north of 40°10' N lat. (see Agenda Item F.7, Attachment 1, November 2025). Therefore, NMFS is proposing, in alignment with the Council's recommendation, a slightly modified informal sharing agreement where the same general methodology is applied, but the Slope Rockfish Complex south of 40°10' N lat. and blackgill rockfish allocations for each sector are calculated using a rolling 5-year average mortality by sector to update the proportions for blackgill rockfish and the other slope rockfish species in the Slope Rockfish Complex south of 40°10' N lat., as opposed to a constant percentage of their respective HG contributions. This slightly revised methodology is intended to better reflect the needs of each sector. Under this new methodology, the resulting blackgill rockfish allocations are 35 percent trawl and 65 percent non-trawl. The allocations for the other slope rockfish in the complex are 65 percent trawl and 35 percent non-trawl. The full suite of options considered by the Council for a

revised informal sharing agreement, as well as the step-by-step calculations under the proposed informal sharing agreement, are described in detail in the Council Analytical Document (see Electronic Access under **ADDRESSES**).

E. Modifications to Area-Based Management Measures

For the 2027–28 biennium, NMFS is proposing, in alignment with the Council's recommendations, three categories of modifications to area-based management measures, including changes to the 20 fathom (fm, 37 meters (m)) depth contour off Washington, the 150 fm (274 m) Rockfish Conservation Area (RCA) line around Lasuen Knoll off Southern California, and certain Yelloweye Rockfish Conservation Areas (YRCAs) off Oregon and California. RCAs are large area closures intended to reduce the catch of a rockfish stock or stock complex by restricting fishing activity at specific depths. The boundaries for most RCAs are defined by straight lines connecting a series of latitude and longitude coordinates that approximate depth contours. These sets of coordinates, or lines, are not gear or fishery specific, but can be used in combination to define a closed area. NMFS then implements fishing restrictions for a specific gear and/or fishery within each defined area. YRCAs are specialized RCA closures intended to protect yelloweye rockfish. YRCA boundaries are not depth-based; their coordinates are chosen based on areas of known yelloweye rockfish occurrence. Similar to depth-based RCAs, YRCAs can be applicable to specific gears or fishery sectors.

First, NMFS is proposing modifications to select waypoints on the 20 fm (37 m) depth contour off Washington. Specifically, NMFS is proposing to remove the first waypoint listed at § 660.71(b)(1) and replace it with two new waypoints. The specific latitude and longitude changes are included in the regulatory text of this proposed rule (see below under § 660.71 Latitude/longitude coordinates defining the 10-fm (18-m) through 40-fm (73-m)

depth contours). The purpose of these changes is to address confusion among fishermen and associated enforcement challenges around Duntze and Duncan Rock. Currently, anglers in the Washington recreational fishery are prohibited from fishing around Duntze Rock and Duncan Rock in June and July, due to a seasonal depth restriction that prohibits anglers from fishing for groundfish seaward of the 20 fm (37 m) depth contour. Since much of the area around these two rocks is shallower than 20 fm (37 m), enforcement officers often find fishermen targeting rockfish in these areas during the depth-based closure in June and July, unaware that they are not complying with the closure. The proposed waypoints would still approximate the 20 fm (37 m) depth contour, but their revised location would place Duntze Rock and Duncan Rock shoreward instead of seaward of the 20 fm (37 m) depth contour. Expanding access to this area for June and July is expected to increase access to yelloweye rockfish and canary rockfish. However, given that the area is very small, catch rates of those stocks are not anticipated to increase substantively and would be monitored inseason.

Second, NMFS is proposing to remove the 150 fm (274 m) depth contour around Lasuen Knoll off Southern California. Per the Non-Trawl RCA Boundaries tables at Table 2a (South) to Part 660, Subpart E and Table 3a (South) to Part 660, Subpart F, the Non-Trawl RCA in the area south of 34°27' N lat. extends from 100 fm (183 m) to 150 fm (274 m) around islands and banks. However, not all islands and banks have associated coordinates for these depth contours defined in Federal regulations, and therefore the Non-Trawl RCA closure is difficult to enforce around those particular islands and banks. Around Lasuen Knoll, there is a 150 fm (274 m) line, but not a 100 fm (183 m) line, which has led to confusion amongst fishermen and enforcement officials about whether this area is entirely closed or open inside of 100 fm (183 m) with proof of compliance with the Non-Trawl RCA closure (*e.g.*, fishing location recorded in a logbook). The addition of a 100 fm (183 m) line would not solve this issue, as the area between the two lines would be too narrow to practicably enforce with the current

vessel monitoring system. Since all rockfish species are now rebuilt, the 150 fm (274 m) depth contour around Lasuen Knoll is no longer needed for use as a Non-Trawl RCA boundary. In addition to removing the line, NMFS is proposing a regulatory modification to the Non-Trawl RCA Boundaries tables at Table 2a (South) to Part 660, Subpart E and Table 3a (South) to Part 660, Subpart F, which would clarify that the 100 fm (183 m) to 150 fm (274 m) Non-Trawl RCA closure south of 34°27' N lat. around islands and banks only applies when both depth contours are defined in the Federal regulations. This change would alleviate related enforcement challenges around other islands and banks that also lack defined coordinates for these depth contours.

Third, NMFS is proposing to remove seven YRCAs from Federal regulations that have never been used. Although all YRCAs have defined coordinates in the Federal regulations at § 660.70, many YRCAs are not currently “turned on” and used as active closures. Rather, they exist as closures that can be activated as necessary to mitigate bycatch of yelloweye rockfish. Since NMFS declared yelloweye rockfish rebuilt in May 2026, and certain YRCAs were never used even during the rebuilding phase, these YRCAs are considered no longer needed. The YRCAs under consideration for removal include Stonewall Bank Expansion 1 and Stonewall Bank Expansion 2 off Oregon, as well as all five YRCAs off California, including Point St. George, South Reef, Reading Rock, Northern Point Delgada, and Southern Point Delgada. If this proposed rule is approved, the coordinates for all seven of these YRCAs would be removed from the Federal regulations at § 660.70, and all references to the YRCAs would be removed from the applicable fishery management measure sections for the LEFG, OA, and recreational fisheries (*i.e.*, at §§ 660.230, 660.330, and 660.360). Stonewall Bank Expansions 1 and 2 also apply to the directed commercial Pacific halibut fishery; therefore, references to those two YRCAs would also be removed from the Pacific halibut regulations at 50 CFR part 300.

F. Limited Entry Trawl

The limited entry trawl fishery is made up of the shorebased individual fishing quota (IFQ) program (for whiting and non-whiting) and the at-sea whiting sectors (Mothership (MS) and catcher-processor (C/P)). For some stocks and stock complexes with a trawl allocation, an amount is first set-aside for the at-sea whiting sector with the remainder of the trawl allocation going to the shorebased IFQ sector. Set-asides are not managed by NMFS or the Council except in the case of a risk to the ACL.

At-Sea Set Asides

For several species, the trawl allocation is reduced by an amount called a “set-aside” for the at-sea whiting sector. This amount is designed to accommodate catch by the at-sea whiting sector when they are targeting Pacific whiting. NMFS is proposing, in alignment with the Council’s recommendation, the set-asides in table 11 for the 2027–28 biennium. Relative to the last biennium (2025–26), the set-asides for canary rockfish and shortspine thornyhead increased in accordance with the set-aside increases implemented through the 2026 emergency rule (91 FR 2714; January 22, 2026). The set-asides for sablefish north of 36° N lat. and yellowtail rockfish north of 40°10' N lat. decreased to reflect proportional changes to those stocks’ ACLs and trawl allocations. Set-asides for four stocks are proposed for removal, including dover sole, lingcod north of 40°10' N lat., longnose skate, and petrale sole. As described in the Council Analytical Document (see Electronic Access), historic mortality of these stocks in the at-sea fishery is very low and is not expected to pose a risk to the trawl allocation, even if the recent 10-year maximum was caught in the at-sea fishery. Removing all four of these at-sea set-asides would reduce management complexity and lower the number of set-asides that the Council and NMFS reconsider each biennial cycle. The set-aside amounts for the remaining species are proposed to be the same as during the 2025–26 biennium. At-sea set-asides are not managed by NMFS except in the case of a risk to the ACL. For this reason, at-sea set-asides are published in the SAFE each biennium (see Electronic Access).

Table 11 -- 2027-28 At-sea Set-asides for Vessels Targeting Pacific Whiting While Fishing as Part of the At-sea Sector

Species or Species Complex	Area	At-sea Set Aside Amount (mt)
Arrowtooth Flounder	Coastwide	100
Canary rockfish	Coastwide	21.9
Darkblotched rockfish	Coastwide	100
Dover sole	Coastwide	Remove
Lingcod	N of 40°10' N lat.	Remove
Longnose skate	Coastwide	Remove
Other flatfish	Coastwide	100
Pacific halibut	Coastwide	10
Pacific ocean perch	N of 40°10' N lat.	300
Petrale sole	Coastwide	Remove
Sablefish	N of 36° N lat.	305
Shelf rockfish complex	N of 40°10' N lat.	35
Shortspine thornyhead	N of 34°27' N lat.	76.3
Slope rockfish complex	N of 40°10' N lat.	300
Widow rockfish	Coastwide	300
Yellowtail rockfish	N of 40°10' N lat.	320

Incidental Trip Limits for IFQ Vessels

For vessels fishing in the Shorebased IFQ Program with either groundfish trawl gear or non-trawl gears, the following incidentally-caught stocks are managed with trip limits: big skate, blackgill rockfish, cabezon (California), California scorpionfish, longnose skate, the Nearshore rockfish complexes north and south of 40°10' N lat., the Washington black rockfish and Oregon black/blue/deacon rockfish complexes, the Oregon cabezon/kelp greenling complex, the Other fish complex, Pacific spiny dogfish, and Pacific whiting. For all these stocks, this rule proposes maintaining the same trip limits for these stocks for the start of the 2027–28 biennium as those in place in 2025. Trip limits for the IFQ fishery can be found in Table 1b (North) and Table 1b (South) to Part 660, Subpart D. Changes to trip limits would be considered a routine measure under 50 CFR 660.60(c), and may be implemented or adjusted, if determined necessary, through inseason action.

G. LEFG and OA Non-Trawl Fishery

Management measures for the LEFG and OA non-trawl fisheries tend to be

similar because the majority of participants in both fisheries use hook-and-line gear. Management measures, including area restrictions (e.g., Non-Trawl RCA) and trip limits in these non-trawl fisheries, are generally designed to allow harvest of target stocks while keeping catch of overfished stocks low. LEFG trip limits are specified in Table 2b (North) and Table 2b (South) to Part 600 Subpart E. OA trip limits are specified in Table 3b (North) and Table 3b (South) to Part 660 Subpart F. The proposed trip limits for the 2027–28 biennium are included below; the specific trip limits that are changing from those in place at the end of 2026 are included in the regulatory text of this proposed rule.

LEFG and OA Trip Limits

NMFS is proposing, in alignment with the Council's recommendation, the trip limits in tables 12 through 15 below for LEFG and OA fisheries at the start 2027. Relative to the 2025–26 biennium, LEFG and OA trip limits are increasing for: black rockfish between 42°–40°10' N lat., California quillback rockfish between 42°–40°10' N lat. and south of 40°10' N lat., chilipepper rockfish south

of 40°10' N lat., the Nearshore Rockfish Complex between 42°–40°10' N lat. and south of 40°10' N lat., the shelf rockfish complex north of 40°10' N lat., widow rockfish coastwide, and yellowtail rockfish north of 40°10' N lat. LEFG trip limits are also increasing for shortspine thornyhead south of 34°27' N lat. In addition, new LEFG and OA trip limits are being proposed for cowcod south of 40°10' N lat. and yelloweye rockfish coastwide. Trip limits for all other stocks and stock complexes would remain the same as what is in place at the end of 2026, unless the Council recommends, and NMFS implements, a trip limit change via an inseason action in late 2026. More information on these trip limits and the alternative options considered can be found in the Council Analytical Document (see Electronic Access under **ADDRESSES**).

In addition to trip limit modifications, NMFS is proposing to modify the regulations at § 660.60(c)(1) to clarify that trip or sub-trip limits for any groundfish species (separately or in any combination) managed under the Groundfish FMP, including those

species managed in a stock complex,
may be adopted or revised inseason.

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Table 12 -- 2027 Trip Limits for Limited Entry Fixed Gear North of 40°10' N Lat.

Species	Trip Limit in pounds (lb)
Big skate	Unlimited.
Black rockfish (42°00' N lat.-40°10' N lat.)	8,000 lb/2 months.
Cabazon (42°00' N lat.-40°10' N lat.)	Unlimited.
Cabazon/kelp greenling complex (Oregon)	Unlimited.
California quillback rockfish (42°00' N lat.-40°10' N lat.)	300 lb/ 2 months.
Canary rockfish	4,000 lb/2 months.
Flatfish (includes dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder)	20,000 lb/2 months.
Lingcod (north of 42°00' N lat.)	11,000 lb/2 months.
Lingcod (42°00' N lat.-40°10' N lat.)	2,000 lb/2 months
Longnose skate	Unlimited
Longspine thornyheads	10,000 lb/2 months.
Nearshore rockfish complex, Oregon black/blue/deacon rockfish, & Washington black rockfish (north of 42°00' N lat.)	5,000 lb/2 months, no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish. See § 660.230(e) for additional trip limits for Washington black rockfish.
Nearshore rockfish complex (42°00' N lat.-40°10' N lat.)	3,000 lb/2 months.
Other fish	Unlimited.
Other flatfish complex	20,000 lb/2 months.
Pacific cod	1,000 lb/2 months.
Pacific ocean perch	3,600 lb/2 months.
Pacific Spiny Dogfish	Periods 1-2: 200,000 lb/2 months.
	Period 3: 150,000 lb/2 months.
	Periods 4-6: 100,000 lb/2 months.
Pacific whiting	10,000 lb per trip.
Sablefish	5,500 lb/week not to exceed 11,000 lb/2 months.
Shelf rockfish complex	8,000 lbs./2 months, of which no more than 300 lb may be vermilion/sunset rockfish
Shortspine thornyhead	3,000 lb/2 months.
Slope rockfish complex & darkblotched rockfish	8,000 lb/2 months.
Widow rockfish	12,000 lb/2 months.
Yelloweye rockfish	75 lb/2 months.
Yellowtail rockfish	7,000 lb/2 months.

Table 13 -- 2027 Trip Limits for Limited Entry Fixed Gear South of 40°10' N Lat.

Species	Trip Limit
Big skate	Unlimited.
Bocaccio	8,000 lb/2 months.
Bronzespotted rockfish	CLOSED.
Cabazon	Unlimited.
California quillback rockfish	300 lb/ 2 months.
California scorpionfish	3,500 lb/2 months.
Canary rockfish	4,000 lb/2 months.
Chilipepper rockfish	15,000 lb/2 months.
Cowcod	75 lb/2 months.
Flatfish (includes dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder)	20,000 lb/2 months.
Lingcod	1,600 lb/2 months.
Longnose skate	Unlimited.
Longspine thornyhead	10,000 lb/2 months.
Nearshore rockfish complexes	
Shallow nearshore rockfish (south of 40°10' N lat.)	3,000 lb/2 months.
Deeper nearshore rockfish complex (40°10' N lat.-36° N lat.)	3,000 lb/2 months.
Deeper nearshore rockfish complex (south of 36° N lat.)	3,000 lb/2 months, of which no more than 75 lb may be copper rockfish.
Other fish	Unlimited.
Other flatfish complex	20,000 lb/2 months.
Pacific cod	1,000 lb/2 months.
Pacific spiny dogfish	Periods 1-2: 200,000 lb/2 months Period 3: 150,000 lb/2 months Periods 4-6: 100,000 lb/2 months.
Pacific whiting	10,000 lb per trip.
Sablefish (40°10' N lat.-36° N lat.)	5,500 lb/week not to exceed 11,000 lb/2 months.
Sablefish (south of 36° N lat.)	3,000 lb/week.
Shelf rockfish complex (40°10' N lat.-34°27' N lat.); excludes bronzespotted rockfish	8,000 lb per 2 months, of which no more than 500 lb may be vermilion/sunset rockfish.
Shelf rockfish complex (south of 34° 27' N lat.); excludes bronzespotted rockfish	5,000 lb per 2 months, of which no more than 3,000 lb may be vermilion/sunset rockfish.
Shortspine thornyhead (40°10' N. lat.-34°27' N. lat.)	3,000 lb/2 months.
Shortspine thornyhead (south of 34°27' N lat.)	5,000 lb/2 months.
Slope rockfish complex & darkblotched rockfish	40,000 lb/2 months, of which no more than 6,000 lb may be blackgill rockfish.
Splitnose rockfish	40,000 lb/2 months.
Widow rockfish	24,000 lb/2 months.
Yelloweye rockfish	75 lb/2 months.

Table 14 -- 2027 Trip Limits for Open Access North of 40°10' N Lat.

Species	Trip Limit
Big skate	Unlimited.
Black rockfish (42°00' N lat.-40°10' N lat.)	8,000 lb/2 months.
Cabazon (42°00' N lat.-40°10' N lat.)	Unlimited.
Cabazon/kelp greenling complex (Oregon)	Unlimited.
California quillback rockfish (42°00' N lat.-40°10' N lat.)	300 lb/ 2 months.
Canary rockfish	2,000 lb/2 months.
Flatfish (includes dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder)	10,000 lb/2 months.
Lingcod (north of 42°00' N. lat.)	9,000 lb/2 months.
Lingcod (42°00' N lat.-40°10' N lat.)	2,000 lb/2 months.
Longnose skate	Unlimited.
Longspine thornyheads	100 lb/2 months.
Nearshore rockfish complex, Oregon black/blue/deacon rockfish, & Washington black rockfish (north of 42°00' N. lat.)	5,000 lb/2 months no more than 1,200 lb of which may be species other than black rockfish or blue/deacon rockfish.
	See § 660.330(e) for additional trip limits for Washington black rockfish.
Nearshore rockfish complex (42°00' N lat.-40°10' N lat.)	3,000 lb/2 months.
Other fish	Unlimited.
Other flatfish complex	10,000 lb/2 months.
Pacific cod	1,000 lb/2 months.
Pacific ocean perch	200 lb/2 months.
Pacific Spiny Dogfish	Periods 1-2: 200,000 lb/2 months.
	Period 3: 150,000 lb/2 months.
	Periods 4-6: 100,000 lb/2 months.
Pacific whiting	600 lb/2 months.
Sablefish	4,000 lb/week not to exceed 8,000 lb/2 months.
Shelf rockfish complex	6,400 lbs./2 months, of which no more than 300 lb may be vermillion/sunset rockfish
Shortspine thornyhead	100 lb/2 months.
Slope rockfish complex & darkblotched rockfish	4,000 lb/2 months.
Widow rockfish	8,000 lb/2 months.
Yelloweye rockfish	50 lb/2 months.
Yellowtail rockfish	5,000 lb/2 months.
Salmon Troll	See § 660.334(b)(1).
Pink Shrimp non-groundfish trawl	See § 660.333(g) and (h).

Table 15 -- 2027 Trip Limits for Open Access South of 40°10' N Lat.

Species	Trip Limit
Big skate	Unlimited.
Bocaccio	6,000 lb/2 months.
Bronzespotted rockfish	CLOSED.
Cabazon	Unlimited.
California quillback rockfish	300 lb/ 2 months.
California scorpionfish	3,500 lb/2 months.
Canary rockfish	2,000 lb/2 months.
Chilipepper rockfish	9,000 lb/2 months.
Cowcod	50 lb/2 months.
Flatfish (includes dover sole, arrowtooth flounder, petrale sole, English sole, starry flounder)	10,000 lb/2 months.
Lingcod	1,600 lb/2 months.
Longnose skate	Unlimited.
Longspine thornyhead (40°10' to 34°27' N lat.)	100 lb/2 months.
Nearshore rockfish complexes	
Shallow nearshore rockfish (south of 40°10' N lat.)	3,000 lb/2 months.
Deeper nearshore rockfish complex (40°10' N lat.-36° N lat.)	3,000 lb/2 months.
Deeper nearshore rockfish complex (south of 36° N lat.)	3,000 lb/2 months, of which no more than 75 lb may be copper rockfish.
Other fish	Unlimited.
Other flatfish complex	10,000 lb/2 months.
Pacific cod	1,000 lb/2 months.
Pacific spiny dogfish	Periods 1-2: 200,000 lb/2 months Period 3: 150,000 lb/2 months Periods 4-6: 100,000 lb/2 months.
Pacific whiting	600 lb per trip.
Sablefish (40°10' N lat.-36° N lat.)	4,000 lb/week not to exceed 8,000 lb/2 months.
Sablefish (south of 36° N lat.)	2,500 lb/week not to exceed 7,500 lb/2 months.
Shelf rockfish complex (40°10' N lat.-34°27' N lat.); excludes bronzespotted rockfish	4,000 lb per 2 months, of which no more than 300 lb may be vermilion/sunset rockfish.
Shelf rockfish complex (south of 34°27' N lat.); excludes bronzespotted rockfish	3,000 lb per 2 months, of which no more than 900 lb may be vermilion/sunset rockfish.
Shortspine thornyhead (40°10' N. lat.-34°27' N. lat.)	100 lb/2 months.

Shortspine thornyhead and longspine thornyhead (south of 34°27' N lat.)	100 lb/day, no more than 1,000 lb/2 months for all periods.
Slope rockfish complex & darkblotched rockfish	10,000 lb/2 months, of which no more than 2,500 lb may be blackgill rockfish.
Splitnose rockfish	400 lb/2 months.
Widow rockfish	16,000 lb/2 months.
Yelloweye rockfish	50 lb/2 months.
Salmon Troll	See § 660.334(b)(2).
Ridgeback Prawn, California halibut, and sea cucumber	See § 660.333(e) and (f).

BILLING CODE 3510-22-C**Primary Sablefish Tier Limits**

The primary sablefish fishery tier program is a limited access privilege program set up under amendment 14 to Groundfish FMP (66 FR 41152; August 7, 2001). Under amendment 14, as set out in § 660.231, the permit holder of a sablefish-endorsed permit receives a tier limit, which is an annual share of the sablefish catch allocation to this sector. NMFS sets three different tier limits through the biennial harvest specifications and management measures process and up to three permits may be stacked at one time on a vessel participating in the fishery. Stacked tier limits are combined to provide a cumulative catch limit for that vessel. After vessels have caught their full tier limits, they are allowed to move into other fisheries for sablefish, specifically the LEFG or OA trip limit fishery, or fisheries for other species. The proposed tier limits for 2027 are as follows: Tier 1 at 93,770 lb (42,533 kg), Tier 2 at 42,623 lb (19,333 kg), and Tier 3 at 24,356 lb (11,047 kg). In 2028 and beyond, the following limits are in effect: Tier 1 at 101,490 lb (46,030 kg), Tier 2 at 46,132 lb (20,923 kg), and Tier 3 at 26,361 lb (11,956 kg).

H. Recreational Fisheries

This section describes the recreational fisheries management measures proposed for 2027–2028, which are intended to keep catch within the recreational HGs for each stock. Washington, Oregon, and California each proposed, and the Council recommended, different combinations of seasons, bag limits, area closures, and

size limits for stocks targeted in the recreational fisheries off each state. These measures are designed to limit catch of overfished stocks or species of concern found in the waters adjacent to each state while allowing target fishing opportunities in their respective recreational fisheries. This proposed rule would set these measures for recreational fisheries occurring in the EEZ. Each state, respectively, typically sets measures for recreational fisheries in State waters. The following sections describe the recreational management measures proposed in each state.

Washington

The Council manages recreational fisheries in Federal waters seaward of Washington in four areas: (1) Marine Area 1, which extends from the Oregon/Washington border to Leadbetter Point; (2) Marine Area 2, which extends from Leadbetter Point to the mouth of the Queets Rivers; (3) Marine Area 3, which extends from the Queets River to Cape Alava; and (4) Marine Area 4, which extends from Cape Alava to the Sekiu River.

Season Structure

Under the proposed season structure, various depth restrictions would be modified from the 2025–26 season structure to simplify regulations, limit the mortality of canary rockfish, and expand access to deeper water species, including lingcod and yellowtail rockfish.

First, select coordinates on the 20 fm (37 m) depth contour line seaward of Marine Area 4 would be modified, which would provide fishing access to

Duncan Rock and Duntze Rock during the June–July depth restriction. The purpose of this change is to address enforcement concerns in the area. The details of these modifications are further described in Section III, E of this proposed rule.

Second, the restriction that prohibits recreational vessels from retaining lingcod seaward of 30 fm (55 m) during the month of May (except when the Pacific halibut season is open) in Marine Area 2 would be removed. This would expand access to deepwater lingcod during the month of May, while posing minimal impacts on yelloweye or canary rockfishes.

Third, the deepwater lingcod closure in Marine Areas 1 and 2 that prohibits retention of lingcod seaward of a specific line (see description in footnote e/of table 16) year-round, except for during June and September, would be modified to expand access to a small area of deeper water off Leadbetter Point. The open dates for retaining lingcod would also be modified from the full month of September, to September 1–September 15. The coordinate changes to the lingcod closure would expand access to deeper water lingcod; however, the reduction in open days for retaining lingcod during the month of September would serve to limit mortality of canary rockfish.

Except for the changes described above, all other elements of the 2025–26 season structure would remain in place. The proposed season structure for 2027–28 is displayed in table 16.

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Table 16 -- Proposed Washington Recreational Fishing Season Structure for 2027-28

Marine Area	Jan	Feb	M a r	Apr	May	Jun	Jul	Aug	Sep	O c t	Nov	Dec
3 and 4 (North Coast)	Closed		Open ^{a/}			See WA state regulations for allowable depths a/ b/ c/		Open		Closed		
2 (South Coast)	Closed		Open ^{a/d/}							Closed		
1 (Columbia River)	Closed		Open ^{a/ e/ f/}							Closed		

a/ Retention of copper, quillback, and vermilion rockfishes is prohibited May 1 through July 31.

b/ Fishing for or possession of groundfish seaward of the line approximating the 20-fm (37 m) depth contour is prohibited from June 1 through July 31, except bocaccio, silvergray, canary, widow, and yellowtail rockfishes as well as lingcod, sablefish, and Pacific cod can be retained during days open to the Pacific halibut Fishery.

c/ Retention of yellowtail and widow rockfishes is allowed seaward of the line approximating 20-fm (37 m) in July.

d/ When lingcod is open, retention is prohibited seaward of a line drawn from Queets River (47°31.70' N lat. 124°45.00' W long.) to Leadbetter Point (46°38.17' N lat. 124°30.00' W long.), except on days open to the primary Pacific halibut fishery and June 1 - 15 and September 1 - 15.

e/ No groundfish may be landed if the vessel has brought halibut into port or landed halibut, except: sablefish, Pacific cod, all flatfish species, yellowtail, widow, canary, redstriped, greenstriped, silvergray, chilipepper, bocaccio, blue/deacon rockfish, and lingcod.

f/ Retention of lingcod is prohibited seaward of a line drawn from 46°38.17' N lat., 124°30.00' W long. to 46°33.00' N lat., 124°28.55' W long., except lingcod retention is allowed from June 1 - June 15 and Sept 1 - Sept 15.

BILLING CODE 3510-22-C**Bag Limits**

Yelloweye rockfish is managed as a coastwide stock. As discussed, NMFS declared yelloweye rockfish rebuilt in May 2026, based on the results of the 2025 stock assessment (see Electronic Access under **ADDRESSES**). To begin allowing access to this rebuilt stock while maintaining a precautionary approach to harvest, a small sub-bag limit of one fish per day in the months of May and September is proposed.

Except for the changes described above, all other management measures would remain the same as those in place at the end of the 2026 fishing year. For more information on the full suite of management measures considered for the Washington recreational fishery, see the Washington Department of Fish and Wildlife (WDFW) reports from the April and June 2026 Council meetings

(Agenda Item C.7.a, Supplemental WDFW Report 1, April 2026; Agenda Item E.6.a Supplemental WDFW Report 1, June 2026), as well as the Council Analytical Document (see Electronic Access under **ADDRESSES**).

Oregon

The Council manages recreational fisheries in Federal waters seaward of Oregon as one management area. NMFS is proposing, in alignment with the Council's recommendation, that Oregon recreational fisheries in 2027-28 would operate under an all-months-all-depths season structure to start the 2027 fishing year. The Council recommended maintaining the 2025-26 aggregate bag limits and size limits in Oregon recreational fisheries, but with the addition of a new bag limit for yelloweye rockfish.

The proposed bag limits are: a marine fish aggregate limit of 10 fish per day with a sub-bag limit of 1 yelloweye rockfish, where cabezon have a minimum size of 16 inches (in) (41 centimeter (cm)); 3 lingcod per day, with a minimum size of 22 in (56 cm); 25 flatfish per day, excluding Pacific halibut; a longleader gear limit of 10 fish per day with a sub-bag limit of 2 canary rockfish (increased from one at the end of 2026); and 10 sablefish per day.

As discussed, NMFS declared yelloweye rockfish rebuilt in May 2026, based on the results of the 2025 stock assessment (see Electronic Access under **ADDRESSES**). To begin allowing access to this rebuilt stock in Oregon, while maintaining a precautionary approach to harvest, a small bag limit of one fish per day is proposed.

Except for the changes described above, all other management measures

would remain the same as those in place at the start of the 2025–26 biennium. For more information on the full suite of management measures considered for the Oregon recreational fishery, see the Oregon Department of Fish and Wildlife (ODFW) reports from the April and June 2026 Council meetings (Agenda Item C.7.a Supplemental ODFW Report 1, April 2026 and Agenda Item E.6.a Supplemental ODFW Report 1, June 2026), as well as the Council Analytical Document (see Electronic Access under **ADDRESSES**).

California

The Council manages recreational fisheries in Federal waters seaward of California in five separate groundfish management areas (GMAs). Season and area closures differ between GMAs to limit incidental catch of overfished stocks and stocks of concern while providing as much recreational fishing opportunity as possible. NMFS is proposing, in alignment with the Council's recommendations, changes to routine management measures for the California recreational fishery in the 2027–28 biennium, including changes to complex management, season structure, and bag limits as described below.

Changes to the Rockfish, Cabezon, and Kelp Greenling Complex (RCG complex)

Under the proposed management measure changes, the RCG complex would be separated into the Rockfish Complex, cabezon, and kelp greenling. These three species/species groups would be managed via separate season structures, bag limits, and size and gear restrictions. Cabezon and kelp greenling are species found in nearshore shallow waters and are commonly caught with rockfish. Since 2004, these species have been managed in the California recreational fishery as a unit with rockfish and subject to the same regulatory constraints imposed on overfished shelf species. However, in recent years, the majority of mortality from the RCG complex is primarily from rockfish, with a small proportion

coming from cabezon or kelp greenling, as cabezon and kelp greenling are not as highly targeted as rockfish. Therefore, separating the aggregate bag limit for these stocks would reduce regulatory complexity and provide additional fishing opportunities for cabezon and greenling, while posing minimal adverse impact on either these stocks or rockfish stocks.

Season Structure

Under the proposed season structures, the fisheries for the Rockfish complex and lingcod would be closed in all California GMAs from January 31 to March 31, and open at all depths from April 1 to December 31. The fisheries for cabezon and kelp greenling would be open at all depths year round in all GMAs. Recreational groundfish fishing opportunities in state waters may differ and would be announced separately by the California Department of Fish and Wildlife (CDFW).

Bag Limits

NMFS is proposing, in alignment with the Council's recommendation, a decrease in the sub-bag limit for vermilion/sunset rockfish north of 40°10' N lat., and new bag limits for the Rockfish complex, cabezon, kelp greenling, cowcod, and yelloweye rockfish, as displayed in table 18 below.

Vermilion/sunset rockfish is managed within the Shelf Rockfish Complex north and south of 40°10' N lat. In 2024, the vermilion/sunset rockfish north of 40°10' N lat. ACL contribution to the Shelf Rockfish Complex off Northern California (between 42° and 40°10' N lat.) was exceeded with the four fish sub-bag limit in place. With an all-depth season structure in this area, the likelihood of mortality exceeding the ACL contribution in this area increases. The reduction from a four-fish to a two-fish sub-bag limit is therefore intended to keep harvest within the ACL contribution and simplify regulations by making vermilion/sunset rockfish sub-bag limits the same for north and south of 40°10' N lat.

With the separation of the RCG complex as described above, new bag limits are being proposed for the Rockfish complex, cabezon, and kelp greenling. The bag limit for each species/species group would be 10 fish per day.

Cowcod is managed as a single stock south of 40°10' N. lat. Cowcod was declared overfished in 2000 and, as a result, retention was prohibited in the California recreational fishery beginning in 2001. Prior to becoming prohibited, cowcod was actively targeted by anglers due to their large size and unique appearance. Cowcod was declared rebuilt in 2019 and, since then, the Council and NMFS have taken a precautionary, stepwise approach to expanding access to this species through changes to area management (*i.e.*, condensing the Non-Trawl RCA and opening the Cowcod Conservation Area) and removing the cowcod ACT. To continue expanding access to this rebuilt stock, while maintaining a precautionary approach to harvest, a small bag limit of 1 fish per day, in the month of December only, is proposed. To facilitate effective enforcement of this new bag limit, there would also be a requirement to land cowcod whole for ease of identification.

As discussed above, NMFS declared yelloweye rockfish rebuilt in May 2026, based on the results of the 2025 stock assessment (see Electronic Access under **ADDRESSES**). To begin allowing access to this rebuilt stock, while maintaining a precautionary approach to harvest, a small bag limit of one fish per day in the month of December only is proposed. To facilitate effective enforcement of this new bag limit, there would be a requirement to land yelloweye rockfish whole for ease of identification.

All other bag, gear, and size limits would remain the same as those in place at the end of the 2026 fishing year. Table 17 below displays all proposed bag limits (including changed and unchanged), as well as their associated gear and size limits.

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Table 17 -- Proposed Bag Limits, Gear Limits, and Size Limits for the 2027-2028 in the California recreational fishery

Bag Limits, Gear Limits, Size Limits	
<i>Rockfish Complex</i>	<i>10-fish aggregate daily bag and possession limit; no size limits; no more than 2 hooks with 1 line</i>
<i>Vermilion/sunset rockfish North of 40°10' N lat.</i>	<i>2-fish sub-bag limit</i>
<i>Vermilion/sunset rockfish South of 40°10' N lat.</i>	<i>2-fish sub-bag limit</i>
<i>Canary rockfish</i>	<i>2-fish sub-bag limit</i>
<i>Copper rockfish</i>	<i>1-fish sub-bag limit</i>
<i>Yelloweye rockfish</i>	<i>1 fish during December only, must be landed whole</i>
<i>Cowcod</i>	<i>1 fish during December only, must be landed whole</i>
<i>Quillback rockfish</i>	<i>Prohibited, 0 fish</i>
<i>Bronzespotted rockfish</i>	<i>Prohibited, 0 fish</i>
<i>Lingcod</i>	<i>2 fish; 22 in. size limit; no more than 2 hooks with 1 line</i>
<i>Cabazon</i>	<i>10 fish; no size limit; no more than 2 hooks with 1 line (effectively status quo)</i>
<i>Greenling</i>	<i>10 fish; no size limit; no more than 2 hooks with 1 line (effectively status quo)</i>
<i>California Scorpionfish</i>	<i>5 fish; no size limit; no more than 2 hooks with 1 line</i>
<i>Pacific sanddab, petrale sole, starry flounder</i>	<i>Unlimited</i>
<i>All other groundfish unless specified (state regulations may also apply)</i>	<i>20 fish, of which no more than 10 may be of any one species</i>

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Except for the changes described above, all other management measures would remain the same as those in place at the end of the 2026 fishing year. For more information on the full suite of management measures considered for the California recreational fishery, see the CDFW reports from the April and June 2026 Council meetings (Agenda Item C.7.a Supplemental CDFW Report 1, April 2026; Agenda Item E.6.a CDFW Report 1, June 2026), as well as the Council Analytical Document (see Electronic Access under **ADDRESSES**).

In addition to the changes described above for each state recreational fishery, NMFS is proposing to modify the regulations at § 660.60(c)(2) to clarify that bag or sub-bag limits for any groundfish species (separately or in any combination) managed under the Groundfish FMP, including those

species managed in a stock complex, may be adopted or revised inseason.

I. Exempted Fishing Permits

Issuing EFPs is authorized by regulations implementing the MSA at 50 CFR 600.745, which state that EFPs may be used to authorize fishing activities that would otherwise be prohibited.

At its June 2026 meeting, the Council recommended that NMFS approve two EFP applications for the 2027 fishing year and preliminarily approve the EFP applications for the 2028 fishing year. The Council considers EFP applications concurrently with the biennial harvest specifications and management measures process because expected catch under most EFP projects is included in the catch limits for groundfish stocks. All of the EFP applications for 2027–28 are renewals from previous biennia. A summary of each EFP application is provided below.

Groundfish EFP Proposal—Year-round Coastwide Midwater Rockfish EFP: Monitoring and Minimizing Salmon Bycatch When Targeting Rockfish in the Shorebased IFQ Fishery, 2027–2028. The West Coast Seafood Processors, Oregon Trawl Commission, Midwater Trawlers Cooperative, and the Environmental Defense Fund submitted a renewal application to continue research that has been conducted since 2017. The multi-year EFP project is collectively referred to as the “Trawl Gear EFP.” The purpose of the Trawl Gear EFP is for vessels participating in the West Coast Groundfish Trawl Rationalization Program’s Limited Entry Shorebased IFQ Program to test whether removing certain gear, time, and area restrictions may impact the nature and extent of bycatch of protected and prohibited species (*i.e.*, Chinook salmon, coho, eulachon, and green

sturgeon). The Trawl Gear EFP project would require exemptions for vessels fishing with bottom trawl groundfish gear from the requirement to use selective flatfish trawl gear, and the prohibition on using small footrope gear other than selective flatfish trawl gear between 42° and 40°10' N lat. and shoreward of the boundary line approximating the 100 fm depth contour (see 50 CFR 660.130(c)(2)(i) and (c)(2)(ii)). The Trawl Gear EFP project would require exemptions for vessels fishing with midwater trawl groundfish gear from: (1) the prohibition on fishing outside the primary season dates for the Pacific whiting IFQ fishery (see §§ 660.112(b)(1)(x) and § 660.130(c)(3)); and (2) the prohibition on fishing south of 40°10' N lat. shoreward of the boundary line approximating the 150 fm depth contour (see § 660.130(c)(3)(ii) and (c)(4)(ii)(B)). The Trawl Gear EFP project would require exemptions for vessels fishing with either midwater or bottom trawl groundfish gear from: (1) the prohibition on retaining certain prohibited species (see § 660.12 (a)(1)); and (2) the requirement to discard certain prohibited species at sea (see § 660.140 (g)(1)). If the Trawl Gear EFP application is approved, NMFS would set a bycatch limit of 1,000 Chinook salmon north of 42° N lat. and 100 Chinook salmon south of 42° N lat. for vessels declared into the EFP, regardless of gear type. If either of these bycatch limits are reached, NMFS would revoke the Trawl Gear EFP for both gear types in the respective management area (*i.e.*, north or south of 42° N lat.). Participating vessels would also be required to retain all salmon (excluding salmon already sampled by NMFS' West Coast Groundfish Observer Program) until offloading. If approved, NMFS would authorize up to 60 vessels to participate in the Trawl Gear EFP.

Groundfish EFP Proposal—California Department of Fish and Wildlife 2027–2028 EFP: The CDFW submitted a renewal application for research that has been conducted since 2021. The purpose of the CDFW EFP project is to collect fishery-dependent biological data for cowcod and yelloweye rockfish for inclusion in future stock assessments. The CDFW EFP project would provide that any cowcod or yelloweye rockfish taken and retained would not count against the recreational bag limit of 10 fish for the Rockfish Complex. If approved, NMFS would authorize up to 30 vessels that participate in the California recreational commercial passenger fishing vessel (CPFV) fishery to retain these species for

transfer to CDFW groundfish staff upon landing.

Neither of these EFP projects request set-asides as off-the-top deductions from the 2027–28 applicable ACLs. For the Trawl Gear EFP, landings and discards of IFQ species would be accounted for through the participating vessel's IFQ. For the CDFW EFP, all mortality is expected to occur in conjunction with routine recreational fishing activities and would be calculated as part of the normal recreational catch estimation process. NMFS would not require 100 percent observer coverage for vessels participating in the CDFW EFP project because recreational vessels do not meet the minimum size requirements under Federal regulations to carry an observer.

NMFS does not expect any appreciable impacts to the environment, essential fish habitat, or protected or prohibited species from these EFPs beyond those analyzed for the groundfish fishery as a whole in applicable biological opinions (available at <https://www.fisheries.noaa.gov/species/west-coast-groundfish#management>), the draft Analysis (see ADDRESSES), or the EA for the 2018 Trawl Gear EFP dated December 2017 (available at: <https://www.fisheries.noaa.gov/region/west-coast>).

After publication of this document in the **Federal Register**, NMFS may approve and issue permits for the proposed EFP projects for the 2027 fishing year after the close of the public comment period. Both EFP applications are available under “Supporting and Related Materials” (see ADDRESSES). NMFS will consider comments submitted in deciding whether to approve the applications as requested. NMFS may approve the applications in their entirety or may make any alterations needed to achieve the goals of the EFP projects. NMFS would not issue another **Federal Register** notice soliciting public comment on renewing these EFP projects for 2028 unless: (1) the applicants modify and resubmit their applications to NMFS; (2) changes to relevant fisheries regulations warrant a revised set of exemptions authorized under the EFP projects; or (3) NMFS' understanding of the current biological and economic impacts from EFP fishing activities substantially changes.

J. Amendment 38 Proposed Regulations

If Amendment 38 to the Groundfish FMP is approved by the Secretary, NMFS would modify the regulations at § 660.40 to remove the rebuilding plans for yelloweye rockfish and California quillback rockfish. NMFS would also no longer list these species as prohibited

species, meaning the relevant sector-specific management measure sections at § 660.230 (LEFG), § 660.330 (OA), and § 660.360 (Recreational) would allow retention of these species via the inclusion of commercial trip limits or recreational bag limits. The associated FMP changes are available for public review alongside the NOA published for Amendment 38 (see Electronic Access under ADDRESSES).

IV. Classification

Pursuant to § 303(c)/304(b) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Groundfish FMP, other provisions of the MSA, and other applicable law, subject to further consideration after public comment. In making its final determination, NMFS will take into account the complete record, including the data, views, and comments received during the comment period.

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Council, the North Pacific Fishery Management Council, and the Secretary of Commerce. Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) allows the Regional Council having authority for a particular geographical area to develop regulations governing the allocation and catch of halibut in U.S. Convention waters so long as those regulations do not conflict with IPHC regulations. The proposed action is consistent with the Council's authority to regulate Pacific halibut catches among fishery participants in the waters in and off the coasts of Washington, Oregon, and California.

In accordance with NEPA, as amended, NMFS prepared an environmental assessment (EA) that discusses the impact on the quality of the human environment as a result of this rule. A copy of the EA is available from NMFS (see ADDRESSES).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Senior Lead Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The basis for this conclusion is provided below.

For purposes of the RFA (5 U.S.C. 601 *et seq.*) only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business

primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. This standard applies to all businesses classified under North American Industry Classification System (NAICS) code 11411 for commercial fishing, including all businesses classified as commercial finfish fishing (NAICS 114111), commercial shellfish fishing (NAICS 114112), and other commercial marine fishing (NAICS 114119) businesses (13 CFR 121.201; 50 CFR 200.2).

A detailed description of the fishery and affected entities is available in the SAFE (see Electronic Access under **ADDRESSES**). The SAFE includes a summary of historical harvests, a description of the management and economic characteristics of the commercial, tribal, and recreational fisheries, and a description of the relevant commercial port communities. The SAFE is incorporated by reference. Fishery specific ex-vessel revenue information presented below originates from the Agenda Item E.6, Supplemental Attachment 7, June 2026, hereinafter referred to as the "Socioeconomic Analysis."

All vessels participating in the groundfish fisheries in the EEZ off Washington, Oregon, and California managed under the Groundfish FMP may be affected by this action. The total number of participating vessels in non-tribal commercial fisheries from 2025 was 683.

In 2025, approximately 317 vessels participated in the directed OA fishery. All directed OA vessels are assumed to be small entities with average ex-vessel revenues (all species) of \$76,312. As described in the Socioeconomic Analysis, the projected total OA groundfish ex-vessel revenue is \$8.6 million for the 2027–28 biennium. The OA fishery has a wide portfolio of targets, ranging from rockfish to sablefish. While the proposed non-trawl commercial allocation of sablefish would be reduced for the 2027–28 biennium, the 2025–26 allocations were so high (tripled from the 2023–24 biennium) that even the reduced allocations for 2027–28 are still at historic highs. Further, during these historically high allocations, there has been underattainment of annual sablefish catch limits. Thus, those participants who target sablefish are still expected to benefit from the sablefish quotas, and no adverse impacts are anticipated from the proposed

reductions. OA vessels that target shortspine thornyhead, canary rockfish, chilipepper, and yellowtail rockfish north of 40°10' N lat. in their fishing portfolios would have more fishing opportunity due to slightly higher proposed allocations relative to last biennium. Proposed ACLs for chilipepper and rougheye/blackspotted rockfish would also increase more substantively relative to the last biennium, which could improve the economic returns for vessels that target these stocks. The degree to which fishermen take advantage of these higher allocations will depend on a variety of factors, including but not limited to weather and markets. Overall, significant economic impacts are not anticipated for the OA sector resulting from the 2027–28 allocations, as compared to past biennia and in the context of the Pacific Coast groundfish's complex multi-species fishery.

In 2025, 207 of the 223 groundfish LEFG permits were reported to be owned by 139 small entities. Not all vessels are owned by the registered permit owners and therefore the number of impacted small businesses may be more than 139 permit owners. The average permit owner that identifies as a small entity owns 1.56 LEFG-endorsed permits, with 48 small entities owning more than one permit throughout the year. As reported in the Socioeconomic Analysis, the projected 2027–28 LEFG ex-vessel revenue is \$21.5 million. The LEFG fishery is highly associated with sablefish, with 164 of the 223 LEFG permits having a sablefish endorsement, which allows vessels to participate in the sablefish tier fishery. While the proposed non-trawl commercial allocation of sablefish would be reduced for the 2027–28 biennium, the 2025–26 allocations were so high (tripled from the 2023–24 biennium) that even the reduced allocations for 2027–28 are still at historic highs. Further, during these historically high allocations, there has been underattainment of annual sablefish catch limits. Thus, those participants who target sablefish are still expected to benefit from the sablefish quotas, and no adverse impacts are anticipated from the proposed

biennium, which could improve the economic returns for vessels that target these stocks. The degree to which fishermen take advantage of these higher allocations will depend on a variety of factors, including but not limited to weather and markets. Overall, significant economic impacts are not anticipated for the LEFG sector resulting from the 2027–28 allocations, as compared to past biennia and in the context of the Pacific Coast groundfish's complex multi-species fishery.

With regards to the Shorebased IFQ fishery, 129 (of 162) quota share (QS) accounts and 98 vessel accounts (of 119) reported as being owned by small entities in 2025. The 129 QS owners that reported as small entities owned 88.9 percent of all QS issued at the start of 2025. The projected ex-vessel revenue, under the proposed action for the IFQ fleet in 2027–28, is \$22 million, as indicated in the Socioeconomic Analysis. Impacts to Shorebased IFQ participants are expected to coincide with changes in allocations for IFQ species. While some proposed allocations are expected to increase, decreases in shortspine thornyhead, canary rockfish, widow rockfish, and yellowtail rockfish north of 40°10' N lat. will likely result in a reduction of economic returns to small entities. However, the potential reduction in economic returns is not anticipated to be significant. The Shorebased IFQ fishery targets a diversity of groundfish species, and fishery participants regularly switch to other target species when harvest limits for certain stocks decrease. In addition, harvest specifications, even if reduced, are set at sustainable levels that protect the long-term health of fish stocks and support optimum yield in the fishery across biennia. Therefore, long-term economic stability is protected even during shorter-term periods of reduced harvest opportunity for certain groundfish stocks.

For the At-Sea Pacific whiting sector, all ten catcher-processor permits are owned by large entities and for MS permits, four of six are owned by large entities. Mothership catcher vessel endorsed permits account for 33 of the 167 trawl endorsed permits and 26 are owned by small entities. At-sea fisheries are mostly impacted by the Pacific whiting allocation. Because these vessels strictly target Pacific whiting and the annual total allowable catch is set via a bilateral Treaty process with the Government of Canada, this action is not expected to have any direct impacts on these vessels. Indirectly, the management of the at-sea sector includes set-asides to account for

incidentally caught groundfish in the fishery. No accountability measures are prescribed for set asides; however, these fleets self-manage to the set-aside amounts. Thus, in terms of this action, reduced set-asides for canary rockfish, widow rockfish, and yellowtail rockfish may constrain fishing activities as these species can co-occur with Pacific whiting. The degree to which this co-occurrence happens can vary. Reduced set-asides do not always equate to reduced harvest opportunity for Pacific whiting fishermen, particularly if pure schools (*i.e.*, schools of Pacific whiting with limited to no co-occurring groundfish species) can be found and targeted. Overall, the potential operational constraints established by the 2027–28 groundfish allocations are not anticipated to result in significant adverse economic impacts to the at-sea Pacific whiting sector, as annual catch within the at-sea fisheries is primarily impacted by the annual Pacific whiting allocation set through the treaty process, rather than by groundfish allocations. Further, as the lower harvest levels for groundfish are set to protect the long-term health of those stocks and support optimum yield across biennia, the 2027–28 allocations implemented through this action support long-term economic stability within the Pacific whiting sectors. In addition to small businesses, the RFA recognizes and defines other kinds of small entities, which are described below. Potential impacts to these entities are included within the discussion above under Shorebased IFQ impacts.

A small governmental jurisdiction is any government or district with a population of less than 50,000 persons. According to the public IFQ Account database, as of February 9, 2026, the City of Monterey owns quota shares of ten species or complexes. The U.S. Census estimates the population to be 29,571 as of July 1, 2024, so the City of Monterey is considered a small governmental jurisdiction by the RFA standard above. The City of Monterey received 4.85 percent of the non-whiting quota pounds issued for 2025 according to the public IFQ Account database.

A small organization is any not-for-profit enterprise that is independently owned and operated and not dominant in its field (5 U.S.C. 601). A nonprofit organization is determined to be “not dominant in its field” if it is considered “small” under SBA size standards. Environmental, conservation, or professional organizations (NAICS 813312, 813920) are considered not dominant in their field (small for the purposes of NMFS rulemaking) if they have combined annual receipts of \$15

million or less. Other organizations (NAICS 813319, 813410, 813910, 813930, 813940, 813990) are considered not dominant in their fields with combined annual receipts of \$7.5 million or less. Five small not-for-profit organizations have ownership in six QS permits in the Catch Share Program and will thus be affected by this action. Collectively, the five small not-for-profit organizations received 8.0 percent of the non-whiting quota pounds issued in 2025. Therefore, non-profit entities owning LE trawl permits will be affected by this action. Whether or not these entities would be economically affected positively or negatively by this proposed action would depend on the specific entity’s portfolio of quota pounds owned, and whether harvest limits for those species are increasing or decreasing this biennium. However, significant economic impacts are not anticipated for these entities as a result of the 2027–28 harvest specifications, as compared to past biennia and in the context of the Pacific Coast groundfish’s complex multi-species fishery.

A small trust, estate, and agency account (NAICS 525920) is defined at 13 CFR 121.201 as having annual receipts of less than \$32.5 million (including affiliates). A total of 10 personal or family trusts/estates owned QS permits and will thus potentially be affected by this action. All of these are assumed to be smaller than the size standard above. Collectively, these ten small entities owned 11 QS permits and received 4.5 percent of the non-whiting quota pounds issued for 2025.

CPFVs are commercially registered fishing vessels that take recreational fishing passenger trips, carrying sport fishermen to target groundfish and other species. CPFVs are also known as Party and Charter boats. CPFVs are considered small businesses operating in the recreational sector. The most recent estimated numbers of active vessels that took at least one groundfish trip are: 41 vessels in Washington, 41 vessels in Oregon, and 342 vessels in California—a total of 424 vessels. Groundfish, particularly rockfish, are a core part of the CPFV portfolio. Fluctuating harvest limits in 2027–28, either increases or decreases, may affect CPFVs through resulting changes inseason or bag limits implemented to achieve optimum yield in the fishery. Some bait and tackle businesses that sell recreational groundfish gear may be small entities and may also be affected by fluctuating season and bag limits. However, due to the integration of freshwater fisheries and other marine recreational gear sold by these retailers, it is difficult to judge the impacts from this proposed action

on these businesses. Recreational fishing businesses may offset potential losses associated with certain reduced catch limits proposed for 2027–28 by benefiting from additional fishing opportunities to target and retain sablefish in addition to the limits for other groundfish, and by retaining Pacific halibut, on the same trip during the applicable season in each state fishery. Additionally, during the 2027–28 biennium this proposed action would create new opportunities to retain a limited amount of yelloweye rockfish (all three states) and cowcod (California) in the recreational groundfish fisheries.

NMFS considers two criteria in determining the significance of adverse regulatory effects: disproportionality and profitability.

Disproportionality: This criterion compares the effect of the regulatory action between small and large entities. Regulations related to harvest specifications, including inter- and intra-sector allocations, are largely fixed within the Groundfish FMP framework and are not impacted by biennial determination of ACLs. Management measures are created for each commercial and state recreational fishery independently, with the majority of groundfish participants made up of exclusively small entities. Within the trawl sector, small entities could be at a competitive disadvantage if quota pound (QP) availability for key species such as canary rockfish or shortspine thornyhead results in QP prices increasing. Larger entities may be able to outbid those entities in order to prosecute various fishing strategies, including Pacific whiting. For the non-trawl commercial sectors (OA and LEFG), where there are some large entities participating in the LEFG sector, it is possible that smaller entities would be impacted to a greater extent than larger entities given that opportunities are declining for most non-sablefish species. However, the declines for non-sablefish species would not result in significant decreases to any non-trawl trip limit, therefore, the extent of any potential disproportionate impacts would not be significant.

Profitability: There are no anticipated compliance or regulatory costs to entities associated with this action. This proposed rule is expected to have both positive and negative impacts on profitability. Positive impacts are anticipated to result from new opportunities to retain yelloweye rockfish in all three state recreational fisheries and, in addition, cowcod in the California recreational fishery. Positive impacts are also anticipated for any

stock with increased harvest specifications, which would result in increased fishing opportunity. Negative impacts may result given that costs are expected to remain the same (or increase with inflation) and some fishing opportunities are expected to decline due to decreases in ACLs for certain stock/stock complexes. Most notably, participants who target widow rockfish are likely to see losses in profitability due to a 40 percent reduction in the proposed ACL. While the ACL for the Pacific Coast groundfish fishery's most profitable stock, sablefish, decreases by almost 60 percent, it remains at historical highs, as explained above; therefore, fishery participants who target sablefish are still expected to benefit from the 2027–28 sablefish quotas and no adverse impacts are anticipated from the proposed reductions. Accordingly, for the subset of the fishery that targets sablefish, the profits from that stock may balance the potential decreases in profitability due to the reductions in other ACLs. Moreover, short-term economic losses from reduced harvest specifications in 2027–28 are not anticipated to impose significant adverse economic impacts for fishery participants in the Pacific Coast groundfish's complex multi-species fishery overall, as harvest specifications are set to achieve optimum yield across biennia and thus promote long-term economic stability by protecting the long-term health of groundfish stocks.

Data used to inform the draft Analysis come primarily from the Pacific Fisheries Information Network (PacFIN) and the Pacific Coast Recreational Fisheries Information Network (RecFIN), which includes data provided by the states of Oregon, California, and Washington on commercial and recreational fishing trips and landings. Other data sources include the California Passenger Fishing Vessel survey, the West Coast Region permit database, and the West Coast Region Individual Fishing Quota Account public database. The number of entities predicted to be impacted is generally based on the level of participation in the previous year (2025), and as noted above is in some cases likely to be an overestimate of the true number of entities likely to be impacted if current trends continue. However, it is possible that as environmental or management conditions change in other fisheries, such changes may impact the level of participation in the Pacific Coast groundfish fishery beyond what is predicted here.

There are no new reporting or recordkeeping requirements associated with this action.

There are no Federal rules that duplicate, overlap, or conflict with the proposed rule.

Based on the rationale above and contained in the draft Analysis (see Electronic Access under **ADDRESSES**), NMFS has concluded that this proposed action would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Pursuant to E.O. 13175, this rule was developed after meaningful consultation and collaboration with tribal officials from the area covered by the Groundfish FMP. Under the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Fishery Management Council must be a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. The tribal representative on the Council made a motion to adopt the tribal management measures, which was passed by the Council, and those management measures, which were developed and proposed by the tribes, are included in this rule.

List of Subjects

50 CFR Part 300

Fisheries, Fishing.

50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 16, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR parts 300 and 660 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

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

Authority: 16 U.S.C. 951 *et seq.*, 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 5501 *et seq.*, 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*

■ 2. Amend § 300.63 by revising paragraphs (c)(5)(ii)(A)(4) and (c)(6)(ii)(G) to read as follows:

* * * * *

(c) * * *

(5) * * *
(ii) * * *
(A) * * *

(4) Recreational fishing for halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut onboard. The Stonewall Bank YRCA is defined at 50 CFR 660.70(i).

* * * * *

(6) * * *
(ii) * * *

(G) Modification of the Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) restrictions off Oregon as defined in groundfish regulations at 50 CFR 660.70(i).

* * * * *

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 3. In § 660.40, remove paragraphs (a) and (b).

■ 4. In § 660.50, revise paragraphs (f)(4), (f)(10) through (25), and (g)(2) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(4) *Canary rockfish*. The Tribal harvest guideline is 35 mt per year.

* * * * *

(10) *Nearshore Rockfish*. The Tribal harvest guideline is 1.5 mt per year.

(11) *Other Flatfish*. The tribal harvest guideline is 60 mt per year.

(12) *Pacific cod*. The tribal harvest guideline is 500 mt per year.

(13) *Pacific Ocean Perch*. The tribal harvest guideline is 130 mt per year.

(14) *Pacific Spiny Dogfish*. The tribal harvest guideline is 275 mt per year.

(15) *Pacific whiting*. The Tribal allocation for 2026 is 49,130.20 mt, which is 17.5 percent of the 280,744 mt U.S. TAC.

(16) *Petrale sole*. The harvest guideline is 290 mt per year.

(17) *Sablefish*.

(i) The sablefish allocation to Pacific coast treaty Indian Tribes is 10 percent of the sablefish ACL for the area north of 36° N lat. This allocation represents the total amount available to the treaty

Indian fisheries before deductions for discard mortality.

(ii) The Tribal allocation is 1,096 mt in 2027 and 1,186 mt in 2028. This allocation is, for each year, 10 percent of the Monterey through Vancouver area (North of 36° N lat.) ACL, including estimated discard mortality.

(18) *Shelf Rockfish*. The tribal harvest guideline is 30 mt per year.

(19) *Slope Rockfish*. The tribal harvest guideline is 36 mt per year.

(20) *Starry Flounder*. The Tribal harvest guideline is 2 mt per year.

(21) *Thornyheads*. The Tribal harvest guideline for shortspine thornyhead is 40 mt per year and the tribal harvest guideline for longspine thornyhead is 30 mt per year.

(22) *Washington cabezon/kelp greenling*. The tribal harvest guideline is 2 mt per year.

(23) *Widow rockfish*. Widow rockfish taken in the directed tribal midwater trawl fisheries are subject to a catch limit of 100 mt for the entire fleet, per year.

(24) *Yelloweye Rockfish*. The tribal harvest guideline is 12 mt per year.

(25) *Yellowtail rockfish*. Yellowtail rockfish taken in the directed tribal midwater trawl fisheries are subject to a catch limit of 1,000 mt for the entire fleet, per year.

(g) * * *

(2) *Yelloweye rockfish*. Subject to a 500-lb (227-kg) trip limit.

* * * * *

■ 5. Amend § 660.60 by:

■ a. Revising paragraph (a), the introductory text of paragraphs (b), (c), and (c)(1), and paragraphs (c)(1)(i) and (c)(1)(ii);

■ b. Redesignating paragraph (c)(1)(iii) through (c)(1)(v) as (c)(1)(iv) through (c)(1)(vi);

■ c. Adding new paragraph (c)(1)(iii); and

■ d. Revising paragraph (c)(2) introductory text.

The revisions and addition read as follows:

§ 660.60 Specifications and management measures.

(a) *General*. NMFS will establish and adjust specifications and management measures biennially or annually and during the fishing year. Regulations under this subpart may be promulgated, removed, or revised during the fishing year. Any such action will be made according to the framework standards and procedures in the PCGFMP and other applicable law, and will be published in the **Federal Register**.

(b) *Biennial actions*. The Pacific Coast Groundfish fishery is managed on a biennial, calendar year basis. Harvest

specifications and management measures will be announced biennially, with the harvest specifications for each species or species group set for two sequential calendar years. In general, management measures are designed to achieve, but not exceed, the specifications (particularly optimum yields, including but not limited to harvest guidelines, allocations, quotas, and sharing agreements), and to protect overfished and depleted stocks. Management measures will be designed to take into account the co-occurrence ratios of target species with overfished species, and will select measures that will minimize bycatch to the extent practicable.

* * * * *

(c) *Routine management measures*. Catch restrictions that are likely to be adjusted on a biennial, or more frequent basis may be imposed and announced by a single notification in the **Federal Register**, if good cause exists under the Administrative Procedure Act (APA) to waive notice and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. Routine management measures that may be revised during the fishing year, via this process, are implemented in paragraph (h) of this section, and in subparts C through G of this part, including tables 1a through 1c and tables 2a through 2c to subpart C of this part, tables 1a and 1b (North) and tables 1a and 1b (South) of subpart D of this part, tables 2a and 2b (North) and tables 2a and 2b (South) of subpart E of this part, and tables 3a and 3b (North) and tables 3a and 3b (South) of subpart F of this part. Most trip, bag, and size limits, and most Groundfish

Conservation Area closures have been designated as “routine,” which means they may be changed rapidly after a single Council meeting. Council meetings are held in the months of March, April, June, September, and November. Inseason changes to routine management measures are announced in the **Federal Register** pursuant to the requirements of the APA. Changes to routine management measures are effective at the times stated in the **Federal Register**. All routine management measures for commercial and recreational fisheries are intended to keep landings within the harvest levels announced by NMFS, to rebuild and protect overfished or depleted species, to maintain consistency with State regulations, and for the other purposes set forth in this section. The following catch restrictions have been designated as routine and can be

applied to sectors and gear types individually or collectively:

(1) *Commercial Limited Entry and Open Access Fisheries, all gear types*—

(i) *Trip limits*. Trip limits, including sub-trip limits, for any groundfish species, as defined under “Groundfish” at § 660.11, separately or in any combination. In addition, sub-limits or aggregate limits may be specified for groundfish stocks managed outside the Shorebased IFQ Program. Once a trip limit change is effective, it is illegal to take and retain, possess, or land more fish than allowed under the new trip limit. This means that, unless otherwise announced in the **Federal Register**, offloading must begin before the time a fishery closes or a more restrictive trip limit takes effect.

(ii) *Size limits*. Size limits for sablefish and lingcod.

(iii) *Closures*. Closures include depth-based closures, area closures, seasonal closures, and other fishery closures (e.g., species, sector, or gear-specific), as defined in § 660.11.

* * * * *

(2) *Recreational fisheries, all gear types*—Routine management measures for all groundfish species, separately or in any combination, include bag limits, sub-bag limits, size limits, time and area closures, other fishery closures, boat limits, hook limits, and dressing requirements. All routine management measures on recreational fisheries are intended to keep landings within the harvest levels announced by NMFS, to rebuild and protect overfished or depleted species, and to maintain consistency with State regulations, and for the other purposes set forth in this section.

* * * * *

■ 6. Amend § 660.70 by:

■ a. Removing paragraphs (j) and (k), and redesignating paragraphs (l) and (m) as paragraphs (j) and (k); and

■ b. Removing paragraphs (n) through (r) and re-designating paragraphs (s) and (t) as paragraphs (l) and (m).

■ 7. Amend § 660.71 by:

■ a. Revising paragraph (b)(1);

■ b. Re-designating paragraphs (b)(2) through (112) as paragraphs (b)(3) through (113); and

■ c. Adding new paragraph (b)(2).

The revisions read as follows:

§ 660.71 Latitude/longitude coordinates defining the 10-fm (18-m) through 40-fm (73-m) depth contours.

* * * * *

(b) * * *

(1) 48°25.00' N lat., 124°44.06' W long.;

(2) 48°25.00' N lat., 120°45.22' W
long.;

■ 8. Revise tables 1a through 1c to part
660, subpart C, to read as follows:

* * * * *

TABLE 1a TO PART 660, SUBPART C—2027, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HG
[Weight in metric tons]

Species/stock	Area	OFL	ABC	ACL ^a	Fishery HG ^b
Arrowtooth Flounder	Coastwide	12,152	7,947	7,947	5,879.5
Big Skate	Coastwide	1,398	1,155	1,155	1,105.8
Black Rockfish	Washington	260	240	240	221.7
Black Rockfish	California	281	260	249	248.8
Bocaccio	S of 40°10' N lat	2,542	2,288	2,288	2,284.9
Cabazon	California	165	150	150	149.6
California Quillback Rockfish ^c	California	13	12	12	12
California Scorpionfish	California	263	233	233	232.5
Canary Rockfish	Coastwide	694	643	643	601.5
Chilipepper	S of 40°10' N lat	3,194	2,986	2,986	2,980.6
Cowcod	S of 40°10' N lat	111	74	74	73.3
Darkblotched Rockfish	Coastwide	859	773	773	751.9
Dover Sole	Coastwide	42,064	38,573	38,573	37,026.2
English Sole	Coastwide	4,072	3,168	3,168	2,956
Lingcod	N of 40°10' N lat	4,140	3,482	3,482	3,212.9
Lingcod ^d	S of 40°10' N lat	966	812	789	786.8
Longnose Skate	Coastwide	1,872	1,546	1,546	1,303.8
Longspine Thornyhead	Coastwide	4,076	2,471	.....	.....
Longspine Thornyhead	N of 34°27' N lat .....	.....	.....	1,878	1,833.9
Longspine Thornyhead	S of 34°27' N lat .....	.....	.....	593	592.1
Pacific Cod	Coastwide	3,200	1,926	1,600	1,099.9
Pacific Ocean Perch	N of 40°10' N lat	3,856	3,123	3,123	2,987.6
Pacific Spiny Dogfish	Coastwide	1,810	1,278	1,278	990.2
Pacific Whiting ^e	Coastwide .....	.....	.....	.....	.....
Petrale Sole	Coastwide	2,645	2,489	2,489	2,171.7
Sablefish	Coastwide	14,935	13,964	13,964	.....
Sablefish	N of 36° N lat .....	.....	.....	10,962	9,774.8
Sablefish	S of 36° N lat .....	.....	.....	3,002	2,990.3
Shortspine Thornyhead ^f	Coastwide	994	902	902	849.3
Splitnose	S of 40°10' N lat	796	620	620	615.9
Starry Flounder	Coastwide	652	393	393	377.8
Widow Rockfish	Coastwide	6,239	6,238	6,238	6,137.4
Yelloweye Rockfish ^g	Coastwide	129	113	113	96.6
Yellowtail Rockfish	N of 40°10' N lat	5,051	5,050	5,050	4,043.1

Species/Stock Complexes

Blue/Deacon/Black Rockfish	Oregon	495	448	448	447.5
Cabazon/Kelp Greenling	Washington	19	14	14	12.5
Cabazon/Kelp Greenling	Oregon	193	174	174	173.5
Nearshore Rockfish North	N of 40°10' N lat	104	85	85	82.3
Nearshore Rockfish South ^h	S of 40°10' N lat	1,145	929	928	925.6
Other Fish	Coastwide	286	223	223	218.5
Other Flatfish	Coastwide	9,367	6,577	6,577	6,451.7
Shelf Rockfish North	N of 40°10' N lat	1,673	1,342	1,342	1,293.3
Shelf Rockfish South ⁱ	S of 40°10' N lat	1,832	1,457	1,456	1,443.1
Slope Rockfish North	N of 40°10' N lat	1,966	1,623	1,089	1,039.4
Slope Rockfish South	S of 40°10' N lat	878	699	688	686.8

^a Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

^b Fishery HGs means the HG or quota after subtracting Pacific Coast treaty Indian Tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT. These deductions, as well as any HG sharing agreements between states and/or sectors, are published in the SAFE.

^c California quillback rockfish off California has a recreational ACT of 7.1 mt.

^d Lingcod south of 40°10' N lat. has a recreational ACT of 387.1 mt for south of 4010 N lat.

^e Pacific whiting ACLs are set through an annual US/Canada treaty process external to the Council.

^f Shortspine thornyhead has a commercial ACT of 61.6 mt for north of 34°27' N lat.

^g Yelloweye rockfish has a non-trawl ACT of 69.7 mt and a non-nearshore ACT of 14.6 mt. The recreational ACTs are: 17.9 mt (Washington), 16.3 mt (Oregon), and 21.1 mt (California).

^h Vermilion/sunset rockfish has a recreational ACT of 168 mt for south of 40°10' N lat.

ⁱ Copper rockfish has a recreational ACT of 20.1 mt for south of 34°27' N lat.

TABLE 1b TO PART 660, SUBPART C—2027, ALLOCATIONS BY SPECIES OR SPECIES GROUP
[Weight in metric tons]

Species/stock & complexes	Area	Fishery HG or ACT	Trawl		Non-trawl	
			%	mt	%	mt
Arrowtooth Flounder	Coastwide	5,879.5	95	5,585.5	5	294
Big Skate	Coastwide	1,105.8	95	1,050.5	5	55.3
Bocaccio	S of 40°10' N lat	2,284.9	39	891.1	61	1,393.8
Canary Rockfish	Coastwide	601.5	72.3	434.9	27.7	166.6
Chilipepper	S of 40°10' N lat	2,980.6	75	2,235.5	25	745.2
Cowcod	S of 40°10' N lat	73.3	36	26.4	64	46.9
Darkblotched Rockfish	Coastwide	751.9	95	714.3	5	37.6
Dover Sole	Coastwide	37,026.2	95	35,174.9	5	1,851.3
English Sole	Coastwide	2,956	95	2,808.2	5	147.8
Lingcod	N of 40°10' N lat	3,212.9	45	1,445.8	55	1,767.1
Lingcod	S of 40°10' N lat	786.8	40	314.7	60	472.1
Longnose Skate	Coastwide	1,303.8	90	1,173.4	10	130.4
Longspine Thornyhead	N of 34°27' N lat	1,833.9	95	1,742.2	5	91.7
Pacific Cod	Coastwide	1,199.9	95	1,044.9	5	55
Pacific Ocean Perch	N of 40°10' N lat	2,987.6	95	2,838.2	5	149.4
Pacific Whiting	Coastwide .....	.....	100	.....	0	.....
Petrale Sole	Coastwide	2,171.7	.....	2,141.7	.....	30
Sablefish	N of 36° N lat.	9,774.8	See Table 1c.			
Sablefish	S of 36° N lat	2,990.3	42	1,255.9	58	1,734.4
Shortspine Thornyhead	Coastwide	849.3	71	603	29	246.3
Splitnose	S of 40°10' N lat	615.9	95	585.1	5	30.8
Starry Flounder	Coastwide	377.8	50	188.9	50	188.9
Widow Rockfish	Coastwide	6,137.4	.....	5,837.4	.....	300
Yelloweye Rockfish	Coastwide	96.6	8	7.7	92	88.9
Yellowtail Rockfish	N of 40°10' N lat	4,043.1	88	3,557.9	12	485.2
Other Flatfish	Coastwide	6,451.7	90	5,806.5	10	645.2
Shelf Rockfish North	N of 40°10' N lat	1,293.3	60.2	778.6	39.8	514.7
Shelf Rockfish South	S of 40°10' N lat	1,443.1	12.2	176.1	87.8	1,267
Slope Rockfish North	N of 40°10' N lat	1,039.4	81	841.9	19	197.5
Slope Rockfish South	S of 40°10' N lat	686.8	52.5	360.8	47.5	326

TABLE 1c TO PART 660, SUBPART C—SABLEFISH NORTH OF 36° N LAT. ALLOCATIONS, 2027
[Weight in metric tons]

	Percent	Allocation (mt)
Non-tribal Commercial HG ^a .....	.....	9,774.8
LE Share	90.6	8,856
LE Trawl	58	5,136
LEFG	42	3,720
Primary	85	3,162
Trip limit	15	558
OA Share	9.4	919

^a Off-the-top deductions from the ACL that result in the HG are in the SAFE.

■ 9. Revise tables 2a through 2c to part 660, subpart C, to read as follows:

TABLE 2a TO PART 660, SUBPART C—2028, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT, AND FISHERY HG
[Weight in metric tons]

Species/stock	Area	OFL	ABC	ACL ^a	Fishery HG ^b
Arrowtooth Flounder	Coastwide	11,107	7,131	7,131	5,062.8
Big Skate	Coastwide	1,372	1,122	1,122	1,072.8
Black Rockfish	Washington	261	241	241	222.3
Black Rockfish	California	293	270	261	260.7
Bocaccio	S of 40°10' N lat	2,438	2,185	2,185	2,182.1
Cabazon	California	161	146	146	145.4
California Quillback Rockfish ^c	California	13	12	12	12
California Scorpionfish	California	261	229	229	228.6
Canary Rockfish	Coastwide	720	664	664	622.5

TABLE 2a TO PART 660, SUBPART C—2028, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT, AND FISHERY HG—Continued
[Weight in metric tons]

Species/stock	Area	OFL	ABC	ACL ^a	Fishery HG ^b
Chilipepper	S of 40°10' N lat	3,086	2,870	2,870	2,864.1
Cowcod	S of 40°10' N lat	111	73	73	72
Darkblotched Rockfish	Coastwide	842	754	754	733.2
Dover Sole	Coastwide	39,010	35,616	35,616	34,069.6
English Sole	Coastwide	4,072	3,168	3,168	2,956
Lingcod	N of 40°10' N lat	4,128	3,439	3,439	3,170.1
Lingcod ^d	S of 40°10' N lat	984	820	796	793.8
Longnose Skate	Coastwide	1,852	1,515	1,515	1,272.4
Longspine Thornyhead	Coastwide	4,008	2,413		
Longspine Thornyhead	N of 34°27' N lat			1,834	1,789.3
Longspine Thornyhead	S of 34°27' N lat			579	578.1
Pacific Cod	Coastwide	3,200	1,926	1,600	1,099.9
Pacific Ocean Perch	N of 40°10' N lat	3,781	3,036	3,036	2,900.3
Pacific Spiny Dogfish	Coastwide	1,790	1,240	1,240	952.5
Pacific Whiting ^e	Coastwide				
Petrale Sole	Coastwide	2,619	2,489	2,489	2,171.7
Sablefish	Coastwide	16,240	15,103		
Sablefish	N of 36° N lat			11,856	10,579.7
Sablefish	S of 36° N lat			3,247	3,235
Shortspine Thornyhead ^f	Coastwide	1,013	902	902	849.3
Splittnose	S of 40°10' N lat	796	620	620	615.9
Starry Flounder	Coastwide	652	393	393	377.8
Widow Rockfish	Coastwide	6,239	6,238	6,238	6,137.4
Yelloweye Rockfish ^g	Coastwide	131	113	113	96.8
Yellowtail Rockfish	N of 40°10' N lat	4,859	4,730	4,730	3,723.1
Blue/Deacon/Black Rockfish	Oregon	502	452	452	451.7
Cabazon/Kelp Greenling	Washington	19	14	14	12.4
Cabazon/Kelp Greenling	Oregon	193	173	173	172.9
Nearshore Rockfish North	N of 40°10' N lat	103	83	83	81
Nearshore Rockfish South ^h	S of 40°10' N lat	1,145	925	924	921.7
Other Fish	Coastwide	286	223	223	218.5
Other Flatfish	Coastwide	8,950	6,193	6,193	6,067.7
Shelf Rockfish North	N of 40°10' N lat	1,665	1,333	1,333	1,284.1
Shelf Rockfish South ⁱ	S of 40°10' N lat	1,831	1,453	1,453	1,439.8
Slope Rockfish North	N of 40°10' N lat	1,964	1,612	1,086	1,036.2
Slope Rockfish South	S of 40°10' N lat	877	696	686	684

^a Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

^b Fishery HGs means the HG or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT. These deductions, as well as any HG sharing agreements between states and/or sectors, are published in the SAFE.

^c California quillback rockfish off California has a recreational ACT of 7.1 mt;

^d Lingcod south of 40°10' N lat. has a recreational ACT of 391.3 mt for south of 40°10' N lat.;

^e Pacific whiting ACLs are set through an annual US/Canada treaty process external to the Council;

^f Shortspine thornyhead has a non-trawl commercial ACT of 61.6 mt for north of 34°27' N lat.;

^g Yelloweye rockfish has a non-trawl ACT of 69.7 mt and a non-nearshore ACT of 14.6 mt. The recreational ACTs are: 17.9 mt (Washington), 16.3 mt (Oregon), and 21.1 mt (California);

^h Vermilion/sunset rockfish has a recreational ACT of 164.4 mt for south of 40°10' N lat.;

ⁱ Copper rockfish has a recreational ACT of 22.0 mt for south of 34°27' N lat.

TABLE 2b TO PART 660, SUBPART C—2028, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP

Species/stock & complexes	Area	Fishery HG or ACT	Trawl		Non-trawl	
			%	mt	%	mt
Arrowtooth Flounder	Coastwide	5,062.8	95	4,809.7	5	253.1
Big Skate	Coastwide	1,072.8	95	1,019.2	5	53.6
Bocaccio	S of 40°10' N lat	2,182.1	39	851	61	1,331.1
Canary Rockfish	Coastwide	622.5	72.3	450.1	27.7	172.4
Chilipepper	S of 40°10' N lat	2,864.1	75	2,148.1	25	716
Cowcod	S of 40°10' N lat	72	36	25.9	64	46.1
Darkblotched Rockfish	Coastwide	733.2	95	696.6	5	36.7
Dover Sole	Coastwide	34,069.6	95	32,366.1	5	1,703.5
English Sole	Coastwide	2,956	95	2,808.2	5	147.8
Lingcod	N of 40°10' N lat	3,170.1	45	1,426.6	55	1,743.6
Lingcod	S of 40°10' N lat	793.8	40	317.5	60	476.3
Longnose Skate	Coastwide	1,272.4	90	1,145.2	10	127.2
Longspine Thornyhead	N of 34°27' N lat	1,789.3	95	1,699.9	5	89.5
Pacific Cod	Coastwide	1,099.9	95	1,044.9	5	55
Pacific Ocean Perch	N of 40°10' N lat	2,900.3	95	2,755.3	5	145

TABLE 2b TO PART 660, SUBPART C—2028, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP—Continued

Species/stock & complexes	Area	Fishery HG or ACT	Trawl		Non-trawl	
			%	mt	%	mt
Pacific Whiting	Coastwide	2,171.7	100	.....	0	.....
Petrale Sole	Coastwide .....		.....	2,141.7	.....	30
Sablefish	N of 36° N lat	10,579.6	See Table 1c.			
Sablefish	S of 36° N lat	3,235	42	1,358.8	58	1,876.4
Shortspine Thornyhead	Coastwide	849.3	71	603	29	246.3
Splitnose	S of 40°10' N lat	615.9	95	585.1	5	30.8
Starry Flounder	Coastwide	377.8	50	188.9	50	188.9
Widow Rockfish	Coastwide	6,137.4	.....	5,837.4	.....	300.0
Yelloweye Rockfish	Coastwide	96.7	8.0	7.7	92	89
Yellowtail Rockfish	N of 40°10' N lat	3,723.1	88	3,276.3	12	446.8
Other Flatfish	Coastwide	6,067.7	90	5,460.9	10	606.8
Shelf Rockfish North	N of 40°10' N lat	1,284.1	60.2	773.3	39.8	511.2
Shelf Rockfish South	S of 40°10' N lat	1,439.8	12.2	175.7	87.8	1,264.1
Slope Rockfish North	N of 40°10' N lat	1,036.2	81	839.3	19	196.9
Slope Rockfish South	S of 40°10' N lat	684	52.4	359.5	47.6	324.5

TABLE 2C TO PART 660, SUBPART C—SABLEFISH NORTH OF 36° N LAT. ALLOCATIONS, 2028 AND BEYOND

[Weights in metric tons]

	Percent	Allocation (mt)
Non-tribal Commercial HG ^a .....	.....	10,579.6
LE Share	90.6	9,585
LE Trawl	58	5,559
LEFG	42	4,026
Primary	85	3,422
Trip limit	15	604
OA Share	9.4	995

^a Off-the-top deductions from the ACL that result in the HG are in the SAFE.

■ 10. Amend § 660.230 by:

■ a. Removing paragraphs (d)(9) through (d)(13); and

■ b. Re-designating paragraph (d)(14) as paragraph (d)(9).

■ 11. In § 660.231, revise paragraph (b)(3)(i) to read as follows:

§ 660.231 Limited entry fixed gear sablefish primary fishery.

* * * * *

(b) * * *

(3) * * *

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel

authorized to fish in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel (*i.e.*, stacked permits). If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to three permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than three primary season

sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under § 660.232. In 2027, the following annual limits are in effect: Tier 1 at 93,770 lb (42,533 kg), Tier 2 at 42,623 lb (19,333 kg), and Tier 3 at 24,356 lb (11,047 kg). In 2028 and beyond, the following limits are in effect: Tier 1 at 101,490 lb (46,030 kg), Tier 2 at 46,132 lb (20,923 kg), and Tier 3 at 26,361 lb (11,956 kg).

* * * * *

■ 12. Revise table 2a (North) to part 660, subpart E, as follows:

TABLE 2A (NORTH) TO PART 660, SUBPART E—NON-TRAWL ROCKFISH CONSERVATION AREA BOUNDARIES

Latitude	Boundary
North of 46°16' N lat.:	Shoreward EEZ—100 fm line.
46°16' N lat.—42°00' N lat	30 fm line—75 fm line.
42°00' N lat.—40°10' N lat	Shoreward EEZ—75 fm line.

Note 1 to table 2a (North): The Non-Trawl RCA is an area closed to fishing with particular non-trawl gear types, as defined at § 660.11. Non-Trawl RCA boundaries apply in the EEZ only; however, state regulations may implement RCA boundaries in state waters; see appropriate state regulations. Non-Trawl RCA boundaries may be revised via inseason action; therefore, users should refer back to this table throughout the year.

- 13. Amend Table 2b (North) to part 660, subpart E, by:
- a. Revising the entries for “Black rockfish (42°00′–N lat.–40°10′ N lat.)”, “Nearshore rockfish complex (42°00′ N lat.–40°10′ N lat.)”, “Shelf rockfish complex”, “Widow rockfish”,

- “Yelloweye rockfish”, and “Yellowtail rockfish”;
- b. Removing the entry for “Quillback rockfish (42°00′ N lat.–40°10′ N lat.)”; and
- c. Adding a new entry for “California quillback rockfish (42°00′ N lat.–40°10′

N lat.)” between the entries for “Cabezon/kelp greenling complex (Oregon)” and “Canary rockfish”.

The revisions and addition read as follows:

TABLE 2B (NORTH) TO PART 660, SUBPART E—TRIP LIMITS FOR LIMITED ENTRY FIXED GEAR NORTH OF 40°10′ N LAT.

Species	Trip limit
Black rockfish (42°00′ N lat.–40°10′ N lat.)	8,000 lb/2 months.
California quillback rockfish (42°00′ N lat.–40°10′ N lat.)	300 lb/2 months.
Nearshore rockfish complex (42°00′ N lat.–40°10′ N lat.)	3,000 lb/2 months.
Shelf rockfish complex	8,000 lb/2 months, of which no more than 300 lb may be vermilion/sunset rockfish.
Widow rockfish	12,000 lb/2 months.
Yelloweye rockfish	75 lb/2 months.
Yellowtail rockfish	7,000 lb/2 months.

Note 1 to table 2b (North): Trip limits apply in the EEZ only; see appropriate state regulations for state trip limits. Trip limits are effective year-round unless otherwise specified for different cumulative periods (defined at § 660.11 under “Trip limits”). Trip limits are effective from the U.S.-Canada border to 40°10′ N lat. unless otherwise specified via latitudinal or state subdivisions in this table. Stock complexes are defined at § 660.11 under “Groundfish”. Trip limits may be revised via inseason action; therefore, users should refer back to this table throughout the year. To convert pounds to kilograms, divide the weight in pounds by 2.20462. The resulting quotient is the weight in kilograms.

- 14. Revise table 2a (South) to part 660, subpart E, as follows:

TABLE 2A (SOUTH) TO PART 660, SUBPART E—NON-TRAWL ROCKFISH CONSERVATION AREA BOUNDARIES

Latitude	Boundary
40°10′ N lat.–37°07′ N lat.	Shoreward EEZ–75 fm line
37°07′ N lat.–34°27′ N lat.	50 fm line–75 fm line
South of 34°27′ N lat.	100 fm line–150 fm line (also applies around islands and banks with both a 100 fm and 150 fm line defined at § 660.73).

Note 1 to table 2a (South): The Non-Trawl RCA is an area closed to fishing with particular non-trawl gear types, as defined at § 660.11. Non-Trawl RCA boundaries apply in the EEZ only; however, state regulations may implement RCA boundaries in state waters; see appropriate state regulations. Non-Trawl RCA boundaries may be revised via inseason action; therefore, users should refer back to this table throughout the year.

- 15. Amend table 2b (South) to part 660, subpart E, by:
- a. Revising the entries for “Chilipepper rockfish (40°10′ N lat.–34°27′ N lat.)”, “Cowcod”, “Shallow nearshore rockfish complex”, “Deeper nearshore rockfish complex”, “Shortspine thornyhead (south of 34°27′ N lat.)”, “Widow rockfish (40°10′ N lat.–

- 34°27′ N lat.)”, and “Yelloweye rockfish”;
- b. Adding a new entry for “California quillback rockfish” in between the entries for “Cabezon” and “California scorpionfish”;
- c. Adding a new entry for “Deeper nearshore rockfish complex (south of 34°27′ N lat.)” in between the entries for

“Deeper nearshore rockfish complex (40°10′ N lat.–34°27′ N lat.)” and “Other fish”; and

- d. Removing the entries for “Chilipepper rockfish (south of 34°27′ N lat.)” and “Widow rockfish (south of 34°27′ N lat.)”.

The revisions and additions read as follows:

TABLE 2b (SOUTH) TO PART 660, SUBPART E—TRIP LIMITS FOR LIMITED ENTRY FIXED GEAR SOUTH OF 40°10′ N LAT.

Species	Trip limit
California quillback rockfish	300 lb/2 months.
Chilipepper rockfish	15,000 lb/2 months.

TABLE 2b (SOUTH) TO PART 660, SUBPART E—TRIP LIMITS FOR LIMITED ENTRY FIXED GEAR SOUTH OF 40°10' N LAT.—Continued

Species	Trip limit
Cowcod	75 lb/2 months.
* * * * *	
Shallow nearshore rockfish	3,000 lb/2 months.
Deeper nearshore rockfish complex (40°10' N lat.–34°27' N lat.) ..	3,000 lb/2 months.
Deeper nearshore rockfish complex (south of 34°27' N lat.) ..	3,000 lb/2 months, of which no more than 75 lb may be copper rockfish.
* * * * *	
Shortspine thornyhead (south of 34°27' N lat.)	5,000 lb/2 months.
* * * * *	
Widow rockfish	24,000 lb/2 months.
Yelloweye rockfish	75 lb/2 months.

Note 1 to table 2b (South): Trip limits apply in the EEZ only; see appropriate state regulations for state trip limits. Trip limits are effective year-round unless otherwise specified for different cumulative periods (defined at § 660.11 under “Trip limits”). Trip limits are effective from 40°10' N lat. to the U.S.-Mexico border unless otherwise specified via latitudinal or state subdivisions in this table. Stock complexes are defined at § 660.11 under “Groundfish”. Trip limits may be revised via inseason action; therefore, users should refer back to this table throughout the year. To convert pounds to kilograms, divide the weight in pounds by 2.20462. The resulting quotient is the weight in kilograms.

■ 16. Amend § 660.330 by:

■ a. Removing paragraphs (d)(9) through (d)(13); and

■ b. Re-designating paragraphs (d)(14) through (d)(16) as paragraphs (d)(9) through (d)(11).

■ 17. Revise table 3a (North) to part 660, subpart F, as follows:

TABLE 3a (NORTH) TO PART 660, SUBPART F—NON-TRAWL ROCKFISH CONSERVATION AREA BOUNDARIES

Latitude	Boundary
North of 46°16' N lat.	Shoreward EEZ–100 fm line.
46°16' N lat.–42°00' N lat.	30 fm line–75 fm line.
42°00' N lat.–40°10' N lat.	Shoreward EEZ–75 fm line.

Note 1 to table 3a (North): The Non-Trawl RCA is an area closed to fishing with particular non-trawl gear types, as defined at § 660.11. Non-Trawl RCA boundaries apply in the EEZ only; however, state regulations may implement RCA boundaries in state waters; see appropriate state regulations; see appropriate state regulations for state closures. Non-Trawl RCA boundaries may be revised via inseason action; therefore, users should refer back to this table throughout the year.

■ 18. Amend Table 3b (North) to part 660, subpart F, by:

■ a. Revising the entries for “Black rockfish (42°00' N lat.–40°10' N lat.)”, “Nearshore rockfish complex (42°00' N lat.–40°10' N lat.)”, “Shelf rockfish complex (north of 42°00' N lat.)”,

“Widow rockfish”, “Yelloweye rockfish”, and “Yellowtail rockfish”;
 ■ b. Removing the entry for “Quillback rockfish (42°00' N lat.–40°10' N lat.)”;
 ■ c. Adding a new entry for “California quillback rockfish (42°00' N lat.–40°10' N lat.)” in between the entries for “Cabezon/kelp greenling complex

(Oregon)” and “California rockfish”; and

■ d. Removing the entry for “Shelf rockfish complex (42°00' N lat.–40°10' N lat.)”.

The revisions and addition read as follows:

TABLE 3b (NORTH) TO PART 660, SUBPART F—TRIP LIMITS FOR OPEN ACCESS NORTH OF 40°10' N LAT.

Species	Trip limit
* * * * *	
Black rockfish (42°00' N lat.–40°10' N lat.)	8,000 lb/2 months.
* * * * *	
California quillback rockfish (42°00' N lat.–40°10' N lat.)	300 lb/2 months
* * * * *	
Nearshore rockfish complex (42°00' N lat.–40°10' N lat.)	3,000 lb/2 months.
* * * * *	
Shelf rockfish complex	6,400 lb/2 months, of which no more than 300 lb may be vermilion/sunset rockfish
* * * * *	
Widow rockfish	8,000 lb/2 months.
Yelloweye rockfish	50 lb/2 months.
Yellowtail rockfish	5,000 lb/2 months.

TABLE 3b (NORTH) TO PART 660, SUBPART F—TRIP LIMITS FOR OPEN ACCESS NORTH OF 40°10' N LAT.—Continued

Species	Trip limit
* * * * *	

Note 1 to table 3b (North): Trip limits apply in the EEZ only; see appropriate state regulations for state trip limits. Trip limits are effective year-round unless otherwise specified for different cumulative periods (defined at § 660.11 under “Trip limits”). Trip limits are effective from the U.S.-Canada border to 40°10' N lat. unless otherwise specified via latitudinal or state subdivisions in this table. Stock complexes are defined at § 660.11 under “Groundfish”. Trip limits may be revised via inseason action; therefore, users should refer back to this table throughout the year. To convert pounds to kilograms, divide the weight in pounds by 2.20462. The resulting quotient is the weight in kilograms.

■ 19. Revise table 3a (South) to part 660, subpart F, as follows:

TABLE 3a (SOUTH) TO PART 660, SUBPART F—NON-TRAWL ROCKFISH CONSERVATION AREA BOUNDARIES

Latitude	Boundary
40°10' N lat.–37°07' N lat	Shoreward EEZ–75 fm line.
37°07' N lat.–34°27' N lat	50 fm line–75 fm line.
South of 34°27' N lat	100 fm line–150 fm line (also applies around islands and banks with both a 100 fm and 150 fm line defined at § 660.73).

Note 1 to table 3a (South): The Non-Trawl RCA is an area closed to fishing with particular non-trawl gear types, as defined at § 660.11. Non-Trawl RCA boundaries apply in the EEZ only; however, state regulations may implement RCA boundaries in state waters; see appropriate state regulations. Non-Trawl RCA boundaries may be revised via inseason action; therefore, users should refer back to this table throughout the year.

■ 20. Amend table 3b (South) to part 660, subpart F, by:

■ a. Revising the entries for “Chilipepper rockfish (40°10' N lat.–34°27' N lat.)”, “Cowcod”, “Longspine thornyhead (40°10' to 34°27' N lat.)”, “Shallow nearshore rockfish (south of 40°10' N lat.); excludes bronzespotted rockfish”, “Shortspine thornyhead (south of 34°27' N lat.)”, “Widow

rockfish (40°10' N lat.–34°27' N lat.)”, and “Yelloweye rockfish”;

■ b. Adding a new entry for “California quillback rockfish” in between the entries for “Cabezon” and “California scorpionfish”;

■ c. Adding new entries for “Deeper nearshore rockfish complex (40°10' N lat.–34°27' N lat.)” and “Deeper nearshore rockfish complex (south of 34°27' N lat.)” in between the entries for

“Shallow nearshore rockfish (south of 40°10' N lat.)” and “Other fish (defined at § 660.11)”; and

■ d. Removing the entries for “Chilipepper rockfish (south of 34°27' N lat.)”, “Widow rockfish (south of 34°27' N lat.)”, and “Deeper nearshore rockfish (south of 40°10' N lat.)”.

The revisions and additions read as follows:

TABLE 3b (SOUTH) TO PART 660, SUBPART F—TRIP LIMITS FOR OPEN ACCESS SOUTH OF 40°10' N LAT.

Species	Trip limit
* * * * *	
California quillback rockfish	300 lb/2 months.
* * * * *	
Chilipepper rockfish	9,000 lb/2 months.
Cowcod	50 lb/2 months.
* * * * *	
Longspine thornyheads (40°10' to 34°27' N lat.)	100 lb/2 months.
* * * * *	
Shallow nearshore rockfish (south of 40°10' N lat.)	3,000 lb/2 months.
Deeper nearshore rockfish complex (40°10' N lat.–34°27' N lat.)	3,000 lb/2 months.
Deeper nearshore rockfish complex (south of 34°27' N lat.)	3,000 lb/2 months, of which no more than 75 lb may be copper rockfish.
* * * * *	
Shortspine thornyhead and longspine thornyhead (south of 34°27' N lat.)	100 lb/day, no more than 1,000 lb/2 months for all periods.
* * * * *	
Widow rockfish	16,000 lb/2 months.
Yelloweye rockfish	50 lb/2 months.

Note 1 to table 3b (South): Trip limits apply in the EEZ only; see appropriate state regulations for state trip limits. Trip limits are effective year-round unless otherwise specified for different cumulative periods (defined at § 660.11 under “Trip limits”). Trip limits are effective from 40°10' N lat. to the U.S.-Mexico border unless otherwise specified via latitudinal or state subdivisions in this table. Stock complexes are defined at § 660.11 under “Groundfish”. Trip limits may be revised via inseason action; therefore, users should refer back to this table throughout the year. To convert pounds to kilograms, divide the weight in pounds by 2.20462. The resulting quotient is the weight in kilograms.

■ 21. In § 660.360,
■ a. Revise table 1 to paragraph (c)(1)(i)(D), paragraph (c)(1)(ii), paragraph (c)(2)(i)(A), paragraphs (c)(2)(iii)(A) and (B), and paragraph (c)(2)(iii)(E);

■ b. Remove paragraph (c)(2)(iii)(F); and
■ c. Revise paragraph (c)(3).
The revisions read as follows:

**§ 660.360 Recreational fishery—
management measures.**

* * * * *

(c) * * *
(1) * * *
(i) * * *
(D) * * *

BILLING CODE 3510-22-P

Table 1 To Paragraph (c)(1)(i)(d)—Washington Recreational Fishing Season Structure

Marine Area	Jan	Feb	Mar	Apr	May	June	July	Aug	Sep	Oct	Nov	Dec
3 & 4 (N. Coast)	Closed		Open a/		See WA state regulations for allowable depths a/b/c/			Open		Closed		
2 (S. Coast)	Closed		Open a/d/							Closed		
1 (Col. River)	Closed		Open a/e/f/							Closed		

a/ Retention of copper, quillback, and vermilion rockfishes is prohibited May 1 through July 31.

b/ Fishing for or possession of groundfish seaward of the line approximating the 20-fm (37 m) depth contour is prohibited from June 1 through July 31, except bocaccio, silvergray, canary, widow, and yellowtail rockfishes as well as lingcod, sablefish, and Pacific cod can be retained during days open to the Pacific halibut fishery.

c/ Retention of yellowtail and widow rockfishes is allowed seaward of the line approximating 20-fm (37 m) in July.

d/ When lingcod is open, retention is prohibited seaward of a line drawn from Queets River (47°31.70' N lat. 124°45.00' W long.) to Leadbetter Point (46°38.17' N lat. 124°30.00' W long.), except on days open to the primary Pacific halibut fishery and June 1 - 15 and September 1 - 15.

e/ No groundfish may be landed if the vessel has brought halibut into port or landed halibut, except: sablefish, Pacific cod, all flatfish species, yellowtail, widow, canary, redstriped, greenstriped, silvergray, chilipepper, bocaccio, blue/deacon rockfish, and lingcod.

f/ Retention of lingcod is prohibited seaward of a line drawn from 46°38.17' N lat., 124°30.00' W long. to 46°33.00' N. lat., 124°28.55' W. long, except lingcod retention is allowed from June 1 - June 15 and Sept 1 - Sept 15.

a seven rockfish per day bag limit, including a sub-bag limit of five canary rockfish. This also includes a sub-bag limit of one yelloweye rockfish during the months of May and September only. In all other months, taking and retaining yelloweye rockfish is prohibited in all Marine Areas.

* * * * *

(2) * * *

(i) * * *

(A) *Stonewall Bank yelloweye rockfish conservation area.* Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land groundfish taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not be in possession of any groundfish. Recreational vessels may transit through the Stonewall Bank YRCA with or without groundfish on board. The Stonewall Bank YRCA is defined by latitude and longitude coordinates specified at § 660.70, subpart C.

* * * * *

(iii) * * *

(A) *Marine fish.* The bag limit is 10 marine fish per day, which includes rockfish, kelp greenling, cabezon, and other groundfish species. Under the marine fish daily bag limit, there is a sub-bag limit of one fish per day for yelloweye rockfish. The daily bag limit in the long-leader gear fishery is 10 fish per day with a sub-bag limit of five fish per day for canary rockfish. The bag limit of marine fish excludes Pacific halibut, salmonids, tuna, perch species, sturgeon, sanddabs, flatfish, lingcod, sablefish, striped bass, hybrid bass, offshore pelagic species, and baitfish (e.g., herring, smelt, anchovies, and sardines). The minimum size for cabezon retained in the Oregon recreational fishery is 16 in (41 cm) total length.

(B) *Lingcod.* There is a three fish limit per day. The minimum size for lingcod retained in the Oregon recreational fishery is 22 in (56 cm) total length. For vessels using long-leader gear (as defined in § 660.351), possession of lingcod is prohibited.

* * * * *

(E) *In the Pacific halibut fisheries.* Retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the **Federal Register**. Between the Columbia River and Humbug Mountain, during days open to the “all-depth” sport halibut fisheries when the recreational groundfish fishery is restricted to inside of the 40-

fm (73 m) depth restriction and Pacific halibut are onboard the vessel, no groundfish, except sablefish, Pacific cod, and other species of flatfish (sole, flounder, sanddab), may be taken and retained, possessed or landed, except with long-leader gear (as defined at § 660.351). “All-depth” season days are established in the annual management measures for Pacific halibut fisheries, which are published in the **Federal Register** and are announced on the NMFS Pacific halibut hotline, 1–800–662–9825.

(3) *California.* Seaward of California, for groundfish species not specifically mentioned in this paragraph, fishermen are subject to the overall 20-fish bag limit for all species of finfish, of which no more than 10 fish of any one species may be taken or possessed by any one person. Petrale sole, Pacific sanddab, and starry flounder are not subject to a bag limit. Recreational spearfishing for all Federally-managed groundfish, is exempt from closed areas and seasons, consistent with Title 14 of the California Code of Regulations. This exemption applies only to recreational vessels and divers provided no other fishing gear, except spearfishing gear, is on board the vessel. Retention of bronzedspotted rockfish and quillback rockfish is prohibited in the recreational fishery seaward of California all year in all areas. Retention of species or species groups for which the season is closed is prohibited in the recreational fishery seaward of California all year in all areas, unless otherwise authorized in this section. For each person engaged in recreational fishing in the EEZ seaward of California, the following closed areas, seasons, bag limits, and size limits apply:

(i) *Recreational groundfish conservation areas off California.* A Groundfish Conservation Area (GCA), a type of closed area, is a geographic area defined by coordinates expressed in degrees latitude and longitude. The following GCAs apply to participants in California’s recreational fishery.

(A) *Recreational rockfish conservation areas.* The Recreational RCAs are areas that are closed to recreational fishing for certain groundfish. Fishing for the Rockfish Complex as defined in paragraph (c)(3)(ii) of this section, or lingcod, with recreational gear is prohibited within the Recreational RCA. It is unlawful to take and retain, possess, or land the Rockfish Complex or lingcod taken with recreational gear within the Recreational RCA, unless otherwise authorized in this section. A vessel fishing in the Recreational RCA may not be in possession of any species prohibited by the restrictions that apply

within the Recreational RCA. For example, if a vessel fishes in the recreational salmon fishery within the Recreational RCA, the vessel cannot be in possession of lingcod or any species in the Rockfish Complex while in the Recreational RCA. The vessel may, however, on the same trip, fish for and retain species in the Rockfish Complex shoreward of the Recreational RCA on the return trip to port. If the season is closed for a species or species group, fishing for that species or species group is prohibited both within the Recreational RCA and outside of the Recreational RCA, unless otherwise authorized in this section. In times and areas where a Recreational RCA is in place, vessels may stop, anchor in, or transit through waters closed by the Recreational RCA so long as they do not have any hook-and-line fishing gear in the water. Coordinates approximating boundary lines at the 30 fm (55 m) through 100 fm (183 m) depth contours can be found at §§ 660.71 through 660.73. The recreational fishing season structure and Recreational RCA depth boundaries seaward of California by management area and month are as follows:

(1) Between 42° N lat. (California/Oregon border) and 40°10′ N lat. (Northern Management Area), recreational fishing for the Rockfish Complex and lingcod is closed January 1 through March 31 and is open at all-depths from April 1 through December 31.

(2) Between 40°10′ N lat. and 38°57.50′ N lat. (Mendocino Management Area), recreational fishing for the Rockfish Complex and lingcod is closed from January 1 through March 31 and is open at all-depths from April 1 through December 31.

(3) Between 38°57.50′ N lat. and 37°11′ N lat. (San Francisco Management Area), recreational fishing for the Rockfish Complex and lingcod is closed from January 1 through March 31 and is open at all-depths from April 1 through December 31.

(4) Between 37°11′ N lat. and 34°27′ N lat. (Central Management Area), recreational fishing for the Rockfish Complex and lingcod is closed from January 1 through March 31 and is open at all-depths from April 1 through December 31.

(5) South of 34°27′ N lat. (Southern Management Area), recreational fishing for the Rockfish Complex and lingcod is closed from January 1 through March 31 and is open at all-depths from April 1 through December 31.

(B) *Groundfish exclusion areas (GEAs).* GEAs are closed areas defined by specific latitude and longitude

coordinates (specified at § 660.70) where recreational and/or commercial fishing for groundfish is prohibited unless otherwise noted at § 660.70(t). It is unlawful to fish for, take and retain, possess (except for the purpose of continuous transit) or land groundfish within the GEAs unless otherwise specified at § 660.70(t). Prohibited recreational fishing gear for targeting groundfish, as specified at § 660.70(t), may not be deployed while transiting through a GEA. If fishing for non-groundfish species within a GEA, where all groundfish fishing is prohibited, then no groundfish may be on board the vessel.

(C) *Essential fish habitat conservation areas.* The Essential Fish Habitat Conservation Areas (EFHCAs) are closed areas, defined by specific latitude and longitude coordinates at §§ 660.76 through 660.79, subpart C where specified types of fishing are prohibited. Prohibitions applying to specific EFHCAs are found at § 660.12, subpart C.

(ii) *Rockfish Complex.* The Rockfish Complex includes all rockfish in the genus *Sebastes*. This category does not include California scorpionfish, also known as “sculpin”, cabezon, or kelp greenling.

(A) When recreational fishing for the Rockfish Complex is open, it is permitted only outside of the Recreational RCAs described in paragraph (c)(3)(i) of this section.

(1) Between 42° N lat. (California/Oregon border) and 40°10' N lat. (Northern Management Area), recreational fishing for the Rockfish Complex is closed from January 1 through March 31 and is open April 1 through December 31.

(2) Between 40°10' N lat. and 38°57.50' N lat. (Mendocino Management Area), recreational fishing for the Rockfish Complex is closed from January 1 through March 31 and is open April 1 through December 31.

(3) Between 38°57.50' N lat. and 37°11' N lat. (San Francisco Management Area), recreational fishing for the Rockfish Complex is closed from January 1 through March 31 and is open April 1 through December 31.

(4) Between 37°11' N lat. and 34°27' N lat. (Central Management Area), recreational fishing for the Rockfish Complex is closed from January 1 through March 31 and is open April 1 through December 31.

(5) South of 34°27' N lat. (Southern Management Area), recreational fishing for the Rockfish Complex is closed from January 1 through March 31, and is open April 1 through December 31.

(B) *Bag limits, hook limits.* In times and areas when the recreational season for the Rockfish Complex is open, there is a limit of two hooks and one line when fishing for the Rockfish Complex. The bag limit is 10 Rockfish Complex fish per day, with the following sub-bag limits: two fish for vermilion/sunset rockfish, two fish for canary rockfish, one fish for copper rockfish, one fish for yelloweye rockfish during the month of December only, and one fish for cowcod during the month of December only. These sub-bag limits count towards the bag limit for the Rockfish Complex and are not in addition to that limit. Retention of bronzespotted rockfish and quillback rockfish is prohibited year-round. Retention of yelloweye rockfish and cowcod is prohibited from January 1 through November 30. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the value of days in the fishing trip.

(C) *Dressing/fileting.* Yelloweye rockfish and cowcod must be landed whole. All other Rockfish Complex filets must have the entire skin attached.

(iii) *Cabezon.*

(A) *Seasons.* When recreational fishing for cabezon is open, it is permitted both outside of and within the Recreational RCAs described in paragraph (c)(3)(i) of this section. Recreational fishing for cabezon is open from January 1 through December 31.

(B) *Bag limits, hook limits.* In times and areas when the recreational season for cabezon is open, there is a limit of two hooks and one line when fishing for cabezon. The bag limit is 10 fish per day. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) *Dressing/fileting.* Each cabezon filet must have the entire skin attached.

(iv) *Kelp greenling.*

(A) *Seasons.* When recreational fishing for kelp greenling is open, it is permitted both outside of and within the Recreational RCAs described in paragraph (c)(3)(i) of this section. Recreational fishing for kelp greenling is open from January 1 through December 31.

(B) *Bag limits, hook limits.* In times and areas when the recreational season for kelp greenling is open, there is a limit of two hooks and one line when fishing for kelp greenling. The bag limit is 10 fish per day. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) *Dressing/fileting.* Each kelp greenling filet must have the entire skin attached.

(v) *Lingcod.*

(A) *Seasons.* When recreational fishing for lingcod is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(1) Between 42° N lat. (California/Oregon border) and 40°10' N lat. (Northern Management Area), recreational fishing for lingcod is open from April 1 through December 31 (*i.e.*, recreational fishing for lingcod in the EEZ is closed from January 1 through March 31).

(2) Between 40°10' N lat. and 38°57.50' N lat. (Mendocino Management Area), recreational fishing for lingcod is open from April 1 through December 31 (*i.e.*, recreational fishing for lingcod in the EEZ is closed from January 1 through March 31).

(3) Between 38°57.50' N lat. and 37°11' N lat. (San Francisco Management Area), recreational fishing for lingcod is open from April 1 through December 31 (*i.e.*, recreational fishing for lingcod in the EEZ is closed from January 1 through March 31).

(4) Between 37°11' N lat. and 34°27' N lat. (Central Management Area), recreational fishing for lingcod in the EEZ is open from April 1 through December 31 (*i.e.*, recreational fishing for lingcod in the EEZ is closed from January 1 through March 31).

(5) South of 34°27' N lat. (Southern Management Area), recreational fishing for lingcod in the EEZ is open from April 1 through December 31 (*i.e.*, recreational fishing for lingcod in the EEZ is closed from January 1 through March 31).

(B) *Bag limits, hook limits.* In times and areas when the recreational season for lingcod is open, there is a limit of 2 hooks and 1 line when fishing for lingcod. The bag limit is two lingcod per day. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) *Size limits.* Lingcod may be no smaller than 22 in (56 cm) total length.

(D) *Dressing/fileting.* Lingcod filets may be no smaller than 14 in (36 cm) in length. Each lingcod filet must have the entire skin attached.

(vi) “*Other Flatfish,*” *petrale sole, and starry flounder.* “Other Flatfish” are defined at § 660.11, and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.

(A) *Seasons.* Recreational fishing for “Other Flatfish,” *petrale sole, and starry*

flounder is open from January 1 through December 31. When recreational fishing for “Other Flatfish,” petrale sole, and starry flounder is open, it is permitted both outside and within the Recreational RCA described in paragraph (c)(3)(i) of this section.

(B) *Bag limits, hook limits.* In times and areas where the recreational season for “Other Flatfish,” petrale sole, and starry flounder is open, “Other Flatfish” are subject to the overall 20-fish bag limit for all species of finfish, of which there may be no more than 10 fish of any one species; there is no daily bag limit for petrale sole, starry flounder and Pacific sanddab.

(C) *Size limits.* There are no size limits for “Other Flatfish,” petrale sole, and starry flounder.

(D) *Dressing/Filleting.* “Other Flatfish,” petrale sole, and starry flounder may be filleted at sea. Filets may be of any size, but must bear intact a one-inch (2.6 cm) square patch of skin.

(vii) *California scorpionfish.* California scorpionfish are also known as “sculpin”.

(A) *Seasons.* When recreational fishing for California scorpionfish is open, it is permitted both outside of and within the Recreational RCAs described in paragraph (c)(3)(i) of this section.

Recreational fishing for California scorpionfish is open from January 1 through December 31.

(B) *Bag limits, hook limits.* In times and areas where the recreational season for California scorpionfish is open, there is a limit of 2 hooks and 1 line. The bag limit is 5 California scorpionfish per day. California scorpionfish do not count against the 10 Rockfish Complex fish per day limit. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) *Dressing/fileting.* Each California scorpionfish filet must have the entire skin attached.

* * * * *

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Part IV

The President

Executive Order 14429—Reinvigorating America's Hunting Heritage
Executive Order 14430—Restoring American Saltwater Angling and Recreation

Presidential Documents

Title 3—

Executive Order 14429 of September 17, 2026

The President

Reinvigorating America's Hunting Heritage

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. *Purpose and Policy.* American hunters, anglers, and landowners are the greatest conservationists the world has ever known. Hunting promotes healthy and robust animal populations, conserves our beautiful wildlife for future generations, and ensures that every American can enjoy our rugged, diverse, and untamed frontier areas. Our forefathers looked with awe on our vast prairies, towering mountains, serene deserts, coastal paradises, and rushing rivers. That same awe motivates millions of Americans to invest billions of dollars and countless hours into stewarding our land and conserving our wildlife.

Despite this legacy, accessing Federal lands for hunting has never been harder. Hunting opportunities in our Nation have declined due to the Federal Government's regulatory overreach, confusing and inconsistent access policies, and heavy-handed restrictions on hunter education and recruitment efforts. Reform of these restrictions is long overdue. It is therefore the policy of my Administration to reinvigorate, protect, and expand America's hunting heritage to benefit our people and our land.

Under this order, American hunters, anglers, and landowners will reclaim our Nation's wilderness. My Administration, keeping our promise to Make America Beautiful Again, will conserve and protect America's natural resources by stewarding Federal lands and promoting cooperative federalism. We will apply a presumption of accessibility to federally managed lands, and the next generation of Americans shall once again have the opportunity to share in our Nation's rich sporting heritage.

Sec. 2. *Expanding Access to Federal Lands.* (a) Within 90 days of the date of this order, the Secretary of the Interior is directed to allow for the hunting of species that are not subject to 16 U.S.C. 1533 within Castle Mountains National Monument, established by Proclamation 9394 of February 12, 2016 (Establishment of the Castle Mountains National Monument), and within Craters of the Moon National Monument and Preserve, established by Proclamation 1694 of May 2, 1924 (Craters of the Moon National Monument), and expanded by various Acts of the Congress and Proclamations, most recently Proclamation 7373 of November 9, 2000 (Boundary Enlargement of the Craters of the Moon National Monument). I have determined that appropriately managed hunting would not put the objects of historic and scientific interest that these monuments protect at risk.

(b) Within 180 days of the date of this order, the Secretary of War, the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce shall, consistent with applicable law, propose modifications to policies or regulations that prohibit or restrict access to lands under their respective jurisdictions, with the exception of national parks and national monuments other than as set forth in section 2(a) of this order, to:

- (i) expand Federal hunting, fishing, shooting, and other land access opportunities for recreation, including by generally allowing for hunting unless a specific closure is justified by local resource conditions, except within national parks;

(ii) allow for the construction, repair, and maintenance of infrastructure that provides access to Federal land for the purposes of outdoor recreation and wildlife management;

(iii) improve public access to difficult-to-access Federal lands and waters by prioritizing practical access opportunities, including voluntary access easements, land exchanges, cooperative agreements with States and local governments, and other tools that respect private property rights;

(iv) encourage the use of qualified volunteers to manage wildlife populations and invasive species, consistent with 54 U.S.C. 104909;

(v) authorize the use of assistive technology on access trails and hunting locations; and

(vi) permit the use of traditional lead ammunition and tackle.

(c) Within 60 days of the date of this order, the Secretary of Agriculture shall review high-demand Forest Service-administered river access lotteries, and shall initiate the reform of such lotteries to prioritize United States citizens, including prior unsuccessful applicants, and prohibit the use of automatic computer entries into the lotteries.

(d) Within 90 days of the date of this order, the Department of the Interior shall propose regulations improving the administrative process for authorizing seasonal migratory game bird hunting. These improvements shall continue to engage the Flyway Councils as full partners and shall take special consideration of annual surveys, applicable guidance, and history.

(e) Within 365 days of the date of this order, the Secretary of the Interior shall encourage State fish and wildlife agencies to promote and expand Sunday hunting opportunities on State and Federal lands.

Sec. 3. *Growing a New Generation of Hunters.* (a) Within 90 days of the date of this order, the Secretary of Labor and the Secretary of Education shall issue guidance to clarify the permissibility of Federal education funding for archery and hunter education programs in schools.

(b) Within 180 days of the date of this order, the Secretary of the Interior shall, through the use of existing Federal funding and authorities, identify additional opportunities and incentives to assist States in cultivating the hunting tradition among American youth and veterans.

(c) The Department of Veterans Affairs shall prioritize, to the extent permitted by law, grants to support outdoor hunting and fishing opportunities in its Adaptive Sports Grant Program.

Sec. 4. *Promoting Robust Game Species Populations.* The Secretary of War, the Secretary of the Interior, and the Secretary of Agriculture shall coordinate with State agencies to align management practices and conservation plans to promote the growth of game species populations through the:

(a) voluntary removal or reduction of barriers to wildlife movement and habitat connectivity;

(b) reduction of invasive species, habitat degradation, disease, and other factors contributing to population declines;

(c) targeted management of predators, competing species, and other population-limiting factors;

(d) use of prescribed fire, vegetation management, water development, grazing, agricultural practices, and appropriate habitat-management tools; and

(e) voluntary agreements with private landowners and agricultural producers.

Sec. 5. *Increasing Wild Game Donation.* (a) The Secretary of Agriculture shall issue guidance supporting State-based wild game venison donation programs, including through the Emergency Food Assistance Program.

(b) The Secretary of the Interior shall encourage State wildlife agencies to use Pittman-Robertson funds to manage hyperabundant populations of

wildlife, especially whitetail deer, including through activities that facilitate the donation and processing of wild game meat for consumption in schools and food banks.

Sec. 6. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

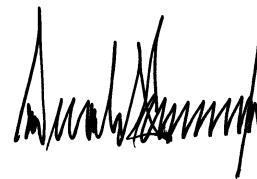
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law, including Executive Order 13443, and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of the Interior.

A handwritten signature in black ink, appearing to be 'Donald Trump', located on the right side of the page.

THE WHITE HOUSE,
September 17, 2026.

Presidential Documents

Executive Order 14430 of September 17, 2026

Restoring American Saltwater Angling and Recreation

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. *Purpose and Policy.* (a) America's outdoor recreation sector generates over \$1.2 trillion annually and supports over 5 million jobs. To ensure America's recreational fishing remains strong, Federal fisheries management must appropriately prioritize both recreational and commercial fishing. From saltwater anglers and offshore boaters to charter operators, the recreational fishing industry is a strong driver of our Nation's outdoor economy. Aligning both with the Make America Beautiful Again (MABA) Commission, established under Executive Order 14313 of July 3, 2025 (Establishing the President's Make America Beautiful Again Commission), and with Executive Order 14276 of April 17, 2025 (Restoring American Seafood Competitiveness), this order modernizes Federal management by shifting the Federal posture from restricting recreational access to fishing to actively empowering affiliated industries and coastal communities.

(b) It is the policy of the United States to elevate the marine recreational fishing industry as an important consideration in all Federal ocean, coastal, and public land decision-making.

Sec. 2. *Agency Implementation.* (a) To effectuate the policy described in section 1 of this order, all relevant executive departments and agencies (agencies) shall partner with States and the private sector to vigorously rebuild, expand, permit, and modernize data collection. All such agencies shall eliminate unnecessary restrictions that harm our coastal economies, burden charter fishing businesses, and limit public access to our marine resources. Furthermore, it is the policy of my Administration to demand accurate cutting-edge data collection and empower State-Federal partnerships to produce the information needed for responsible management.

(b) Within 180 days of the date of this order, pursuant to 16 U.S.C. 1851, the Secretary of Commerce (Secretary) shall review targeted National Standards Guidelines issued under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) for consistency with the purpose of this order. Specifically, the Secretary shall, at a minimum, consider revising the guidelines for National Standard 1 (Optimum Yield) and National Standard 2 (Best Scientific Information Available), to ensure they appropriately account for the unique biological, economic, and social characteristics of the recreational fishery, and to facilitate the rapid integration of State-level data into Federal management decisions, where appropriate.

Sec. 3. *Modernizing Data Collection Infrastructure for Recreational Catch-and-Effort Estimates.* (a) To resolve chronic inaccuracies and latency in Federal recreational catch and effort estimates, the Federal Government must transition away from antiquated data collection and sampling practices. Accordingly, the Secretary, acting through the Administrator of the National Oceanic and Atmospheric Administration (NOAA), shall to the extent feasible and consistent with applicable law, take appropriate action, including through rulemaking pursuant to 16 U.S.C. 1851 and 1855(d), where necessary, to modernize Federal data collection infrastructure.

(b) The Secretary, acting through the NOAA Administrator, shall evaluate the statistical reliability of traditional mail-in survey systems for recreational

catch-and-effort data collection and their adequacy for dynamic fishery management. The results of this analysis should be considered in determining whether, and to what extent, such mail-in survey systems shall be phased out.

(c) The Secretary, acting through the NOAA Administrator, shall harness existing platforms and potential successor platforms and technologies to deploy standardized, user-friendly mobile applications for mandatory and voluntary electronic reporting by recreational anglers and for-hire operators.

(d) To the extent feasible and consistent with applicable law, data collected via mobile applications described in subsection (c) of this section shall be securely aggregated into a modernized Federal data architecture. This data architecture will process real-time catch, effort, and observational data, serving as the primary analytical repository for fishery managers to inform stock assessments, establish seasonal quotas, and make rapid, data-driven regulatory decisions.

Sec. 4. *Restoring Integrity to Fisheries Science and Data.* (a) To further ensure that management decisions made during the modernization transition outlined in section 3 of this order are based on improved data collection practices, I have determined that certain additional measures are necessary.

(b) Along the Gulf of America and the Atlantic Coast, recreational access has been improperly restricted by inaccuracies within NOAA's Marine Recreational Information Program (MRIP) data. To ameliorate these data deficiencies, the Secretary, acting through the NOAA Administrator, shall, consistent with applicable law, including 16 U.S.C. 1801 *et seq.*, consider establishing a data-replacement threshold tethered to the Percent Standard Error (PSE) for MRIP data collected for any seasonal fishery. Where the PSE for MRIP data for a seasonal fishery meets or exceeds such specified data-replacement threshold, and an affected State collects recreational catch-and-effort data with a lower error rate, NOAA shall then consider substituting the relevant State's data in place of MRIP data for management decisions concerning such fishery. This approach will help ensure that, consistent with National Standard 2, conservation and management measures are based upon the best scientific information available.

(c) To address the decline of iconic recreational fisheries, such as the Atlantic striped bass and other depleted stocks, the Secretary shall generate a list of key species to use in partnership with the recreational angling community, charter captains, and State agencies to gather real-time data, deploy advanced tagging technologies, and improve catch-and-release mortality estimates. The Secretary shall develop and initiate at least two new pilot programs for recreational fisheries data collection or management approaches working with the angling community that test innovative solutions for achieving sustainable fisheries management that maximizes fishing access.

(d) Within 180 days of the date of this order, the Secretary shall develop a comprehensive 5-year strategic plan with clear implementation milestones to improve the collection, analysis, and application of recreational fisheries economic data to support fisheries management. This plan shall ensure that the economic impact and value of recreational fishing, including for-hire fisheries and shoreside support industries, is fully accounted for in Federal fishery management decisions and harvest opportunities.

Sec. 5. *Rescission of Regulations that Restrict Marine Infrastructure and Access.* (a) Within 30 days of the date of this order, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and the Assistant Secretary of the Army for Civil Works shall, consistent with applicable law, take steps to initiate action to suspend, revise, or rescind regulations that overly burden boaters, anglers, and outdoor businesses.

(b) Accordingly, the Secretary shall, to the extent feasible and consistent with applicable law, make use of technological advancements for marine mammal avoidance. In so doing, the Secretary, acting through the NOAA Administrator and, where necessary, in consultation with the Commandant

of the United States Coast Guard, shall facilitate coordination with the private sector to integrate key technologies.

(c) To reduce administrative burdens, within 60 days of the date of this order, relevant agencies shall evaluate existing agency permitting authorities to effectuate a transition to multi-year permit terms (minimum of 3 years) that include, to the extent permitted by applicable law, a standard presumption of renewal. To implement this presumption of renewal without creating new information collection burdens, these agencies shall, to the extent feasible and consistent with applicable law, rely on interagency data sharing agreements and internal database verification rather than new applicant submissions. Agencies shall consider whether this presumption of renewal should apply exclusively to permittees in “good standing,” which may be defined as permittees about which agency records confirm:

- (i) are in full compliance with United States Coast Guard safety regulations;
- (ii) have incurred no major environmental or fisheries violations; and
- (iii) maintain a 100-percent compliance rate with the mandatory electronic catch-reporting requirements established in section 3 of this order.

(d) To minimize duplicative applications across Federal agencies, relevant agencies shall, to the extent feasible and consistent with applicable law, establish the infrastructure necessary to develop a single, unified interagency Special Use Permit (SUP) application, with the aim of deploying a unified “One-Stop” joint permit portal within 1 year of the date of this order.

Sec. 6. *Fast-Tracking Artificial Reefs and Habitat Creation.* (a) Within 60 days of the date of this order, the Secretary of the Interior, acting through the Marine Minerals Administration, shall establish a Federal Outer Continental Shelf Reef-in-Place Program (Program) to facilitate the conversion of decommissioned offshore oil and gas and other-use structures, with the exception of infrastructure associated with offshore wind energy facilities, into permanent artificial reefs through reef-in-place, topple-in-place, or other approved reefing methods, where consistent with applicable law.

(b) The Program shall be available to qualifying offshore structures and leaseholders that satisfy all applicable statutory, regulatory, environmental, navigational, and safety requirements. The Secretary of the Interior shall establish criteria and standards for the program that ensure protection of navigation and national security interests.

(c) In establishing the Program, the Secretary of the Interior shall coordinate with the Secretary of Commerce, the Secretary of War, the Commandant of the United States Coast Guard, and the heads of other appropriate agencies to streamline interagency review and permitting to the maximum extent permitted by law, reduce unnecessary administrative delays, and promote timely decisions for qualifying reef projects.

(d) Within 120 days of the date of this order, the Secretary, acting through the NOAA Administrator, in coordination with the Secretary of the Interior, shall review and, as appropriate and consistent with applicable law, revise policies and procedures governing SUPs and other applicable authorizations for the placement and management of artificial reefs within National Marine Sanctuaries and Marine National Monuments. Such revisions shall seek to establish transparent and efficient permitting pathways, identify areas suitable for artificial reef development and other national interest uses, and enhance fisheries, recreational fishing, diving, and other compatible public uses.

Sec. 7. *Managing Predators.* (a) To address the rising rates of shark and pinniped depredation, the Secretary shall establish an Interagency Shark and Pinniped Depredation Task Force. The Secretary of State, the Secretary of the Interior, and the Secretary of Commerce, along with the United States Trade Representative, shall actively address international and domestic barriers to sustainable shark fisheries to the extent permitted by applicable law. Such actions shall include assessing listings under the Convention on International Trade in Endangered Species, directing the United States

Fish and Wildlife Service to expedite Non-Detriment Findings for global export, and reviewing all regional fisheries management organizations, conventions, treaties, and agreements to ensure that their measures and actions promote robust commercial and recreational harvests.

(b) To reduce the economic and ecological impact of shark depredation on the recreational angling sector, the Secretary shall, to the extent permitted by law:

(i) Pursuant to the Secretary's grant-making authority, including under 15 U.S.C. 713c–3(c), give priority to partnerships involving charter boat captains and recreational angling organizations.

(ii) Within 90 days of the date of this order, develop and implement, including through rulemaking as necessary, a standardized “Real-Time Depredation Reporting” protocol. Consistent with applicable law, the Secretary shall integrate this protocol into existing Federal and State-linked mobile data collection platforms to enable the rapid mapping of depredation events and support dynamic fishery management decisions.

Sec. 8. *Projects for Increasing Fish Abundance.* (a) The Secretary of the Interior and the Director of the United States Fish and Wildlife Service shall identify regulatory and administrative hurdles that delay the disbursement from the Sport Fish Restoration and Boating Trust Fund and shall, to the extent consistent with applicable law, remove such hurdles.

(b) Within 60 days of the date of this order, the MABA Commission shall convene a Restoration Coordination Working Group to develop a shared framework to identify and reduce duplicative restoration efforts within the same watersheds, ensuring that Federal resources are used effectively across agencies. Agencies are encouraged to transition habitat restoration metrics toward production-based goals.

Sec. 9. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

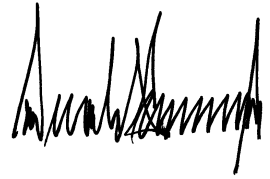
(i) the authority granted by law to an executive department or agency; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(d) The costs for publication of this order shall be borne by the Department of Commerce.

A handwritten signature in black ink, appearing to be a stylized name with a long, sweeping horizontal stroke at the end.

THE WHITE HOUSE,
September 17, 2026.

[FR Doc. 2026-19417
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