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FEDERAL REGISTER

Vol. 91 Monday,
No. 200 October 19, 2026

Pages 65887–66282

OFFICE OF THE FEDERAL REGISTER

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 300, 315, 316, 352, and 410

[Docket ID: OPM–2026–0067]

RIN 3206–AP05

Elimination of Time-in-Grade

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is adopting, substantially as proposed, its proposed rule eliminating the Time-in-Grade (TIG) restriction on advancement to competitive service positions in the General Schedule (GS). Under the prior regulations, a candidate generally could not be advanced to a covered position at GS–6 or above without completing 52 weeks in a position no more than one grade lower—or two grades lower for certain positions in two-grade-interval lines of work. This final rule removes that requirement. Employees remain subject to all applicable occupational qualification standards and any additional job-related qualification requirements established by their employing agency.

DATES: This rule is effective January 19, 2027.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Cuffari (202) 936–2638 or by email at *WPIntake@opm.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

OPM is finalizing its proposal (91 FR 31669; May 28, 2026) to eliminate the Time-in-Grade (TIG) restriction in 5 CFR part 300, subpart F, and to make conforming amendments to 5 CFR parts 315, 316, 352, and 410. This rule removes the requirement that a candidate for advancement to a covered General Schedule position in the competitive service at GS–6 or above have completed 52 weeks in a position no more than one grade lower—or, for positions at GS–6 through GS–11 in lines of work properly classified at two-grade intervals, no more than two grades lower—than the position to be filled.

Employees must continue to meet all applicable OPM qualification standards, agency-established job-related requirements, classification requirements, and merit promotion procedures. This rule does not create an entitlement to promotion, does not waive specialized-experience or education requirements, and does not alter statutory qualification, classification, or competition requirements under 5 U.S.C. chapter 33, 5 CFR part 335, or OPM's qualification standards. By its own terms, the restriction OPM removes in this rule operated ''in addition to the eligibility requirements for promotion in part 335 of this chapter.'' 5 CFR 300.601. Those part 335 requirements—which govern how agencies evaluate, rank, and select candidates for promotion—are unaffected by this rule and remain fully in force.

During the 60-day comment period, OPM received 75 comments. Of those, 41 comments supported eliminating TIG, 22 comments proposed conditions, safeguards, or targeted alternatives rather than opposing elimination outright, and 11 comments opposed elimination. OPM is finalizing the rule substantially as proposed. In response to public comments, OPM confirms the following clarifications, discussed further in the section-by-section analysis.

First, eliminating TIG creates eligibility for consideration; it does not create an entitlement to promotion, does not require agencies to accept or act on promotion requests on demand, and does not alter agency discretion regarding classification, funding, or the existence of higher-level work.

Second, agencies may continue to establish and apply job-related promotion prerequisites—including a specified period of service in grade, demonstrated competencies, required training or certifications, and documentation requirements—provided those prerequisites are job-related, consistently applied, and administered through the agency's written merit promotion plan under 5 CFR 335.103.

Third, this rule does not alter within-grade increase requirements under 5 U.S.C. 5335 and 5 CFR part 531, subpart D; Quality Step Increase authority under 5 CFR part 531, subpart E; veterans' preference under 5 U.S.C. 2108 and the Veterans Employment Opportunities Act (VEOA) under 5 U.S.C. 3304(f); collective bargaining obligations under 5 U.S.C. chapter 71; or the merit system principles and prohibited personnel practices in 5 U.S.C. 2301 and 2302.

Fourth, a number of comments recommended that OPM adopt governmentwide standards, documentation requirements, review boards, or reporting mandates governing accelerated promotions. OPM is not adopting those recommendations in this rule. The requirements that govern how agencies evaluate, rank, and select candidates for promotion are established in 5 CFR part 335, not in the TIG restriction OPM is removing, which by its terms operated ''in addition to the eligibility requirements for promotion in part 335 of this chapter.'' 5 CFR 300.601. A governmentwide change to the promotion process of the kind these comments describe would properly be made through a rulemaking amending part 335, on notice directed to that part, rather than through this rule removing a separate, calendar-based eligibility restriction in part 300.

Fifth, OPM is correcting several technical cross-reference and drafting inconsistencies identified between the proposed rule's preamble narrative and its amendatory instructions, discussed in the section-by-section analysis.

II. Digest of Public Comments

During the 60-day comment period between May 28, 2026, and July 27, 2026, OPM received 75 comments in response to the proposed rule. Comments are individually identified by their docket comment number (*e.g.,* ''Comment 0002'' refers to OPM–2026–0067–0002). OPM has grouped the comments into six general categories based on their predominant content. Considered in the aggregate rather than by category, 41 of the 75 comments supported eliminating TIG on one or more grounds (Parts II.A through II.C); 12 comments opposed elimination (Parts II.D and II.E); and 23 comments neither supported nor opposed elimination outright, instead proposing conditions, safeguards, or targeted alternatives directed principally at how

elimination should be implemented (Part II.F).

Comments touching on more than one theme are grouped according to their primary focus and are cross-referenced in the section-by-section analysis in Part III where relevant. Such comments are discussed in each category to which they pertain, with a bracketed cross-reference, but are counted only once—in the category reflecting the comment's primary focus. The category counts accordingly sum to the 75 comments received.

A. Comments Supporting Elimination Based on Merit and Performance [1]

Comments in this group supported eliminating TIG because they believe promotion should reflect demonstrated performance, capability, and readiness rather than elapsed time. Comment 0011 described being selected as the best-qualified candidate for a position through a structured panel interview, only to have the promotion blocked because 52 weeks had not elapsed in the current grade.

Comment 0027 and Comment 0060 similarly described performing at a higher grade level for extended periods, including receiving a Quality Step Increase and special contribution awards, while remaining ineligible for promotion solely because of the calendar requirement. Comment 0015, submitted by an employee at a Federal correctional complex, and Comment 0053 likewise described high performers being held back by TIG independent of their actual readiness. Additional comments (0005, 0010, 0017, 0018, 0019, 0035, 0037, 0044, 0047, 0049, 0065, and 0066) similarly urged that promotion rest on demonstrated qualifications, skills, and performance rather than on time served. Taken together, these comments describe a consistent pattern in which TIG deferred the advancement of employees whose readiness their agencies had already evaluated—through structured selection, performance appraisal, or the assignment of higher-graded duties. OPM agrees with these comments, and this final rule is intended to permit precisely the kind of merit-based consideration they described.

B. Comments Supporting Elimination Based on Prior Experience and Career Mobility [2]

Comments in this group supported elimination because their prior military service, private-sector employment, education, or experience in a different occupational series exceeded what their current Federal grade would suggest.

Comment 0003 described being capped at a GS–9 despite performing GS–13-equivalent work. Comment 0016 described performing GS–12-level work while remaining a GS–6 because advancement required moving grade-by-grade. Comment 0056 identified specific structural barriers, including employees who have served in a higher-graded position through details or temporary promotions being unable to compete for the next grade because that time was not in a permanent appointment, and employees being unable to move between one-grade-interval and two-grade-interval occupational series despite meeting specialized-experience requirements.

Comment 0058 and Comment 0041 described relevant military and certification-based experience that TIG does not credit. Ten comments (0006, 0021, 0022, 0026, 0029, 0038, 0039, 0043, 0052, and 0055) similarly described prior experience, education, or performance that exceeded the requirements associated with their current grade. OPM agrees. As these comments illustrate, TIG operates to prevent qualified employees from being considered for advancement based solely on the passage of time rather than the nature and level of their experience, and it does so without regard to whether experience acquired in military service, the private sector, another occupational series, or a higher-graded detail has already prepared the employee for the higher-level work.

C. Comments Supporting Elimination Based on Workforce Agility and Retention [3]

Comments in this group, including one from a hiring manager (0009) and others from Federal agency employees, emphasized that TIG creates promotion bottlenecks, particularly where higher-grade vacancies are limited (Comment 0028), and can cause agencies to lose qualified candidates or delay filling mission-critical positions. Comment 0040 explained that the nominal 52-week period, once SF–50 processing and hiring-pipeline timelines are included, regularly extends to 15–18 months or more in practice. Comment 0051 described lower-graded employees who began performing higher-grade duties after more senior colleagues departed under deferred resignation programs and who would otherwise be excluded from future vacancies despite the experience gained.

Comment 0057, a Pathways career-ladder employee, expressed concern about retention absent faster advancement. Comment 0076 expressed definitive support for elimination while raising extensive implementation considerations addressed in Parts III.E through III.G, III.I, and III.K. Three additional comments (0020, 0032, and 0045) expressed general support on workforce-agility and retention grounds.

OPM agrees. Removing TIG will allow agencies to fill higher-graded positions more quickly where a qualified employee is available, the higher-level work exists, and funding permits—and, as Comment 0040 explained, will eliminate a delay that in practice runs well beyond the nominal 52 weeks.

D. Comments Opposing Elimination Based on Fairness, Favoritism, and Merit Safeguards [4]

Comment 0059 suggested that TIG is the strongest guardrail against managers fast-tracking favored employees and that the qualification standards OPM cites would provide no comparable check because the same managers control both selection and grooming of candidates for accelerated advancement. Comment 0012 argued that TIG is a preventive structural safeguard, whereas prohibited personnel practice (PPP) enforcement is reactive, slow, and places the burden on the employee after harm occurs, citing a 2009 comment on a prior TIG rulemaking. Comment 0007 argued that TIG provides predictable career expectations and that removing it would place excessive discretionary authority in supervisors' hands.

Comment 0031 and Comment 0070 argued more generally that removing the 52-week requirement would accelerate unqualified or favored employees. Comment 0024 argued that TIG promotes fairness, consistency, clear expectations, and merit-based progression, and that, because promotion decisions can be subjective, removing TIG could increase the potential for favoritism and arbitrary

[1] This group comprised 17 comments: 0005, 0010, 0011, 0015, 0017, 0018, 0019, 0027, 0035, 0037 (also within Workforce Agility), 0044, 0047, 0049 (also within Workforce Agility), 0053, 0060, 0065, and 0066.

[2] This group comprised 15 comments: 0003, 0006, 0016, 0021, 0022, 0026, 0029, 0038, 0039, 0041, 0043, 0052, 0055, 0056, and 0058.

[3] This group comprised 9 comments: 0009, 0020, 0028, 0032, 0037 (also within Merit/Performance), 0040, 0045, 0049 (also within Merit/Performance), 0051, 0057, 0076 (also addressed at length in Part III).

[4] This group comprised 7 comments: 0004, 0007, 0008 (primarily conditional, cross-referenced in Part III.B), 0012, 0031, 0059, 0070, and 0075.

promotions. Comment 0024 recommended, as an alternative to elimination, adding flexibility for high-performing employees to accelerate advancement while maintaining objective standards, addressed in Part III.B. Comment 0075 opposed the rule in its entirety on the ground that it would replace merit-based competitive examining with a spoils system in violation of the Pendleton Act and multiple constitutional provisions, addressed separately in Part III.J. Comment 0004 objected on the separate ground that the rule overlooks Quality Step Increases as an existing tool for rewarding performance, addressed in Part III.H. OPM addresses the favoritism- and safeguard-related arguments in detail in Part III.A.

E. Comments Opposing Elimination Based on Experience, Readiness, and Institutional Knowledge [5]

Comment 0025 identified potential disadvantages of elimination, including increased perceived favoritism, reduced development time, budget pressure, loss of intermediate-grade experience, and increased competition for advancement. Comments 0033 and 0034 (near-identical submissions) argued that removing TIG before overhauling agency promotion and competency-evaluation processes risks systemic underperformance and loss of accountability. Comment 0048 opposed any change to TIG on the grounds that experience and knowledge would be degraded and favoritism would increase. OPM addresses these comments in Part III.A.

F. Comments Supporting or Not Opposing Elimination Subject to Conditions, Safeguards, or Targeted Alternatives [6]

This category is the largest of the six categories described in this Part, although the 41 comments supporting elimination, considered together across Parts II.A through II.C, substantially exceed it. Comments in this category did not uniformly oppose elimination; several expressly supported repeal or stated that they did not oppose it and directed their recommendations to how elimination should be implemented rather than whether it should occur. Comment 0002 recommended targeted flexibility limited to technical, medical, and scientific occupations rather than governmentwide elimination. Comment 0008 proposed a grade-banded TIG framework scaling from 6 months (GS–1 to GS–5) to 24 months (GS–13 and above), aligned with performance evaluation cycles, together with a narrow waiver process and mandatory pilot testing. Comment 0050 proposed allowing employees to compete for positions up to two grades above their current grade after two or three years in grade.

Comment 0072 proposed a ''Competency-Based Accelerated Promotion Waiver'' retaining the 52-week baseline with a 26-week waiver available only with the highest performance rating, an OPM-certified assessment, and independent review board approval, together with a 24-month phased implementation. Comment 0042 did not oppose revisiting TIG but requested baseline data on the scope of the problem, replacement safeguards, and comparison of graduated alternatives before governmentwide repeal. Comment 0030 did not oppose modernization but expressed concern about the loss of an objective, easily understood standard and recommended written promotion criteria, advance communication, and documentation. Comment 0068 generally supported elimination but recommended governmentwide best practices, promotion review boards, independent audits, and manager training.

Comment 0069 urged withdrawal or substantial revision, framing TIG as an objective, front-end constraint on rapid promotion that the proposed rule would remove without replacement, and recommended written accelerated-promotion standards, contemporaneous justification, objective evidence, HR or panel review, audits, and public reporting. Comment 0074 supported repeal while recommending that agency-specific criteria be objective, published, and consistently applied, with concise documentation and periodic aggregate review rather than a burdensome waiver process. Twelve additional comments (0013, 0014, 0023, 0046, 0054, 0061, 0062, 0063, 0064, 0067, 0071, and 0073) offered varying combinations of these recommendations, including written criteria, HR or classification review, budget review, pilot programs, phased effective dates, and monitoring for disparate impact. Comment 0036 opposed the change absent significant revisions to oversight and qualification-measurement mechanisms, citing HR capacity and structural conflicts of interest. Comment 0076 is discussed primarily in Part II.C and in Parts III.E through III.G, III.I, and III.K. OPM addresses these recommendations in detail in Part III.B through III.D; addresses the effective-date and adjudicatory-capacity recommendations in Part III.A; and addresses the cost recommendations in Part III.I and Part V.D.

III. Section-by-Section Analysis and Response to Comments

A. General Comments on the Decision To Eliminate TIG

Comments supporting elimination as consistent with merit principles. As described in Parts II.A through II.C, 41 comments supported eliminating TIG. OPM does not treat these comments as expressions of preference only. Read together, they describe a consistent set of operational effects bearing directly on whether a uniform 52-week eligibility restriction remains necessary or appropriate: employees identified through competitive or structured selection processes as best qualified for higher-graded work whose promotions were nonetheless deferred solely because 52 weeks had not elapsed (Comment 0011); employees performed the duties of substantially higher-graded positions for extended periods, in some cases while receiving Quality Step Increases and special contribution awards, without becoming eligible for promotion to the grade of the work performed (Comments 0003, 0016, 0027, and 0060); a nominal 52-week period that, once position-processing and hiring-pipeline timelines are accounted for, regularly operates as 15 to 18 months or longer in practice (Comment 0040); and experience acquired through details, temporary promotions, military service, and professional certification that TIG does not credit was not considered because it was not accrued in a permanent appointment at the preceding grade (Comments 0041, 0056, and 0058). See, *e.g.,* 5 CFR 300.605(a) (service while on detail is credited at the grade of the employee's position of record, not the grade of the position to which detailed).

OPM finds these accounts probative. They are consistent with one another, they come from a range of agencies and occupational series, and they describe a mechanism inherent in TIG rather than incidental to how any particular agency administers it: because TIG measures elapsed time in grade and nothing else, it defers consideration of employees whom an agency has already determined, through job-related evaluation, to be prepared for higher-level work. OPM concludes that the

[5] This group comprised 4 comments: 0025, 0033, 0034, and 0048.

[6] This group comprised 23 comments: 0002, 0008, 0013, 0014, 0023, 0024 [counted in Part II.F, reflecting its primary focus], 0030, 0036, 0042, 0046, 0050, 0054, 0061, 0062, 0063, 0064, 0067, 0068, 0069, 0071, 0072, 0073, 0074, and 0076 (cross-referenced from Part II.C).

record in this rulemaking supports its determination that TIG imposes costs on agencies and employees that are not offset by a corresponding merit-protective benefit, for the reasons discussed in the responses that follow.

Comments arguing TIG remains necessary to prevent favoritism and protect merit-system integrity. Comment 0059 argued that the governmentwide qualification standards cited by OPM would provide no impediment to disparately fast-tracking favored employees, particularly where the same managers who make selection decisions also control how employees are groomed for advancement. Comment 0012 defends time-in-grade as a preventive structural safeguard—one that blocks improper promotions before they occur, rather than remedying them afterward. The comment contrasts that with prohibited personnel practice enforcement, which it characterizes as hard to prove, slow to adjudicate, and burdening the employee only after harm is done. It supports the point with a 2009 comment cautioning that promotion schemes built without objective criteria and adequate oversight have in fact produced favoritism, nepotism, and illegal discrimination. Comment 0007 similarly argued that TIG provides predictable, transparent career expectations and that removing it would place excessive discretionary authority in the hands of individual supervisors. Four additional comments (0024, 0031, 0048, and 0070) argued in briefer terms that eliminating the 52-week requirement would allow acceleration of unqualified, favored, or politically connected employees, or that the subjectivity of promotion decisions makes a uniform waiting period necessary.

OPM disagrees that TIG is the primary or most effective safeguard against favoritism in the promotion process. TIG determines only when an employee becomes eligible to be considered for promotion; it does not evaluate whether a candidate is qualified for a higher-graded position, does not identify the best-qualified candidate, does not rank candidates, and does not prevent a supervisor from favoring a particular employee once that employee has completed 52 weeks in grade. An agency's promotion decision remains governed by 5 CFR part 335. Section 335.103(b)(1) (Requirement 1) requires each agency to establish procedures for promoting employees that are based on merit and are available in writing to candidates, requires that those procedures be administered without regard to political affiliation or any other non-merit-based factor, and requires that promotion actions be ''based solely on job-related criteria.'' Section 335.103(b)(3) (Requirement 3) requires that candidates meet the minimum qualification standards prescribed by OPM, that methods of evaluation for promotion be consistent with 5 CFR part 300, subpart A—which in turn requires that employment practices bear a rational relationship to performance in the position and be supported by a job analysis, *see* 5 CFR 300.103—and that due weight be given to performance appraisals and incentive awards. Section 335.103(b)(5) (Requirement 5) requires each agency to maintain a record of each promotion sufficient to allow reconstruction of the promotion action, including documentation of how candidates were rated and ranked. These requirements, together with OPM qualification standards, position classification requirements, and the merit system principles and prohibited personnel practices in 5 U.S.C. 2301 and 2302, provide substantive protection against improper promotion decisions in a way that a calendar requirement does not.

OPM also notes, as Comment 0037 and others acknowledged, that TIG does not apply uniformly across the Federal workforce: it does not apply to Federal Wage System employees, to pay-banded positions, to excepted service employees generally, to competitive service employees seeking positions through open, competitive examination, or—even within its own coverage—to advancement to positions up to GS–5 where the position to be filled is no more than two grades above the lowest grade the employee held within the preceding 52 weeks under the employee's latest nontemporary competitive appointment, see 5 CFR 300.604(c). OPM has considered promotion practices in those portions of the workforce that already operate without any time-in-grade restriction and is not aware of evidence, in the comments received or otherwise available to OPM, that promotion decisions in those settings are subject to materially greater rates of favoritism than promotion decisions covered by TIG. No comment identified such evidence.

OPM addresses separately the more specific contention that qualification standards cannot constrain favoritism because the same managers who select candidates also control the details, developmental assignments, and training through which candidates become qualified. OPM does not dispute that a supervisor may influence both. That influence, however, exists today and is unaffected by TIG: a supervisor who directs developmental opportunities to a favored employee can do so during the 52-week period as readily as after it, and at the end of that period the favored employee is better qualified and the disfavored employee is not. TIG delays the promotion; it does not redistribute the opportunities that produced the disparity. The requirements that do reach that conduct are the requirement that promotion criteria be job-related and supported by job analysis, the requirement that agencies apply their merit promotion plans consistently, the prohibition on granting an unauthorized preference or advantage under 5 U.S.C. 2302(b)(6), and the classification requirements that permit promotion only where higher-graded work actually exists. For the same reason, OPM does not accept the characterization of TIG as preventive and of enforcement as merely reactive. TIG prevents nothing that a supervisor intent on favoritism cannot accomplish by waiting 52 weeks; what it reliably prevents is the timely promotion of employees who are ready.

OPM acknowledges that these requirements operate on the promotion decision rather than on the antecedent assignment of developmental work, and that a uniform 52-week waiting period imposes a delay that those requirements do not. OPM has weighed that consideration. OPM concludes that a delay applied to every employee in the competitive service, including the substantial majority as to whom no favoritism concern arises, is a poorly targeted means of addressing conduct that is already prohibited, that TIG does not prevent, and that the record does not show to be more prevalent in the portions of the workforce already operating without TIG.

The qualification requirements applicable to promotion likewise operate independently of TIG and are unaffected by this rule. Section 335.103(b)(3) (Requirement 3) provides that, to be eligible for promotion or placement, candidates must meet the minimum qualification standards prescribed by OPM, that methods of evaluation for promotion and placement must be consistent with 5 CFR part 300, subpart A, and that due weight must be given to performance appraisals and incentive awards. TIG, by contrast, measured only elapsed time: it provided that a candidate could not be advanced to a covered position unless the candidate had completed 52 weeks in a position no more than one grade lower—or, in two-grade-interval lines of work at GS–6 through GS–11, no more than two grades lower—than the position to be filled. See 5 CFR 300.604.

The governmentwide qualification standards have historically included a comparable one-year service period before an employee could be considered for promotion, so TIG largely duplicated a requirement imposed elsewhere. OPM is separately reviewing that requirement, and OPM's determination in this rule does not depend on its continuation. What the qualification standards require, and will continue to require, is that an employee actually be qualified for the position to which the employee is promoted and demonstrate that qualification through job-related evidence. Eliminating a tenure-based measure of qualification does not eliminate the requirement of qualification; it requires that qualification be shown directly rather than inferred from the passage of time.

Comment 0059 further argued that Federal positions were subject to qualification standards before enactment of the Whitten Amendment, that abuses nonetheless occurred, that those abuses are what prompted the Whitten Amendment, and that human nature has not changed in the interim. OPM does not agree that the comparison holds. The framework on which OPM relies in this rule did not exist in 1950. The governmentwide qualification standards now published in the OPM Operating Manual, Qualification Standards for General Schedule Positions—including the specialized-experience requirements that govern advancement between grades—postdate the Whitten Amendment, as do the merit promotion requirements in 5 CFR part 335, the merit system principles and prohibited personnel practices codified at 5 U.S.C. 2301 and 2302, the Office of Special Counsel, the Merit Systems Protection Board, and the Federal-sector equal employment opportunity complaint process. OPM made the same observation when it eliminated TIG in 2008. See 73 FR 66157, 66158 (Nov. 7, 2008) (''When the time-in-grade restriction was first implemented, procedures for redressing prohibited personnel practices had not yet been enacted, and OPM's qualification standards did not exist.''). The relevant question is not whether favoritism existed before 1950, but whether a uniform waiting period adds protection to the framework that exists now. For all of these reasons, OPM concludes that it does not.

Comment 0059 also argued that the value of TIG lies not in any single promotion decision but in the aggregate: a bright-line rule is perceived as fair by the Federal workforce, and eliminating it would signal that seeking personal favor from managers can be rewarded, with corrosive effects on morale and stability. Two additional comments (0007 and 0025) raised related concerns about predictability and perceived fairness. OPM takes the perception concern seriously. A promotion system that employees do not believe is fair will not retain them, whatever its formal properties. OPM does not agree, however, that a waiting period is what sustains that perception, and the record in this proceeding cuts the other way: 41 comments supported eliminating TIG, and a substantial number of them described TIG itself as a source of perceived unfairness, because it deferred the advancement of employees whose agencies had already evaluated them as ready and, in several instances, had already assigned them the higher-graded work. OPM concludes that perceived fairness is better served by requiring agencies to establish, publish, and consistently apply job-related promotion criteria under 5 CFR 335.103(b)(1) than by a rule that treats every employee identically without regard to qualifications.

Comments arguing that eliminating TIG will increase litigation and complaint activity. Comment 0059 argued that the principal practical advantage of TIG is its simplicity: because a bright-line rule is easy for selecting officials, human resources (HR) staff, and non-selected candidates alike to apply, a non-selected candidate who can verify that the selectee met TIG is less likely to challenge the selection. Removing that reference point, the comment argued, will generate additional equal employment opportunity and prohibited personnel practice litigation, particularly to the extent accelerated promotions correlate with protected characteristics. Comment 0076 raised a related concern that elimination could produce an increase in matters before the Office of Special Counsel and the Equal Employment Opportunity Commission that would be difficult to defend because each case would be highly fact-dependent, and that supervisors may face an increased documentation burden. Comment 0069 made a related argument concerning human capital workload, addressed in Part III.I.

OPM has considered these concerns and does not find them a sufficient basis to retain TIG. As an initial matter, TIG's simplicity is a function of the fact that it measures nothing about the candidate. Verifying that a selectee completed 52 weeks in grade tells a non-selected candidate nothing about whether the selection was job-related, whether the selectee was better qualified, or whether the agency applied its merit promotion plan consistently. OPM is not persuaded that the availability of that verification materially affects the volume of either meritorious or non-meritorious challenges.

More fundamentally, the standards against which promotion decisions are actually adjudicated are unchanged by this rule. A non-selected candidate's claim under the equal employment opportunity statutes or 5 U.S.C. 2302 turns on whether the agency's stated, job-related reasons for the selection are legitimate and consistently applied, not on whether the selectee had been in grade for 52 weeks. Because TIG operated only as an eligibility threshold, satisfying it was never itself a defense to a discrimination or prohibited personnel practice claim, and its removal therefore does not deprive agencies of a defense they previously had. Agencies that comply with 5 CFR 335.103—by establishing written, job-related promotion criteria, making them available to candidates in advance, applying them consistently to similarly situated employees, and maintaining records sufficient to reconstruct the action under § 335.103(b)(5)—will be better positioned to explain and defend a promotion decision than they would be by pointing to the passage of 52 weeks. OPM encourages agencies to use the existing part 335 framework for that purpose, as discussed in Part III.C, and notes that doing so also responds to the documentation concerns raised by three comments (0030, 0074, and 0076).

OPM also notes that this rule creates no entitlement to accelerated promotion and does not require any agency to promote any employee earlier than it otherwise would. Where an agency concludes that a job-related minimum period in grade is appropriate for particular positions or career ladders, it may adopt one under its merit promotion plan, as discussed in Part III.G.

Comments arguing that enforcement mechanisms for merit violations are presently inadequate. Comment 0013 argued that recent disruptions to the leadership and quorum of the Office of Special Counsel (OSC) and the Merit Systems Protection Board (MSPB) undermine OPM's reliance on the merit system principles and prohibited personnel practices. The comment characterized TIG as the last uniform checkpoint remaining on promotion decisions. It recommended that OPM defer the effective date of this rule until it can certify that those bodies have sufficient capacity to adjudicate cases within statutory timeframes.

OPM does not agree that TIG is the only, or even the primary, safeguard

against improper personnel actions or that adjudicatory capacity at OSC or MSPB is a precondition to eliminating a non-merit, calendar-based eligibility restriction. As explained earlier in this Part III.A., the principal protections against improper promotions operate at the point of decision—through qualification standards, classification requirements, and merit promotion procedures—rather than through after-the-fact adjudication. OPM also notes that this comment's premise, which characterizes TIG as a uniform checkpoint, does not account for the fact that TIG does not apply to a substantial portion of the Federal workforce, as discussed previously in this section. OPM is not adopting a delayed or conditional effective date tied to the staffing or caseload of other Federal agencies or components, which OPM does not control and cannot reliably certify.

Comments requesting that OPM withdraw the rule and complete a broader review of pay, performance, and staffing before proceeding. Comment 0012 noted that OPM's 2008 final rule eliminating TIG, published at 73 FR 66157 (Nov. 7, 2008), was withdrawn at 74 FR 40057 (Aug. 11, 2009) pending a more comprehensive review of pay, performance, and staffing issues that was never completed. The comment argued that OPM should not proceed without either completing that review or explaining why it is no longer necessary.

Comment 0072 separately argued that OPM's reliance on the China Lake demonstration project is an invalid premise because demonstration projects operate under customized, locally supervised performance-appraisal matrices that cannot be extrapolated to the full 1.5-million-employee workforce, and that OPM has provided no new empirical data collected since the 2009 withdrawal to justify reversing its prior position, citing *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009).

OPM has explained in the proposed rule and in this final rule the basis for its current determination: governmentwide qualification standards and agency merit promotion procedures under 5 CFR part 335 provide the substantive framework for evaluating promotion decisions independent of TIG. OPM acknowledges Comment 0072's point that pay-banded demonstration projects operate under locally designed performance-appraisal and pay systems, and that outcomes observed in those projects cannot simply be extrapolated to the General Schedule workforce as a whole. OPM does not rely on demonstration-project results as a predictive model of what will occur governmentwide. OPM relies on them, together with the Federal Wage System, pay-banded systems, the excepted service, and competitive examining, for the narrower proposition that substantial portions of the Federal workforce have long operated without any time-in-grade restriction and that neither the comment record nor OPM's oversight experience discloses documented, widespread promotion abuse in those settings. The absence of such evidence does not establish that abuse cannot occur; it does bear on whether a uniform, governmentwide waiting period is necessary to prevent it. No comment identified evidence to the contrary.

OPM notes that it is separately reviewing the service-period requirements contained in the governmentwide qualification standards. That review does not disturb the framework on which OPM relies here. The qualification standards will remain in effect and require that an employee be qualified for the position to which the employee is promoted. Part of this review will assess whether qualification is soundly measured by elapsed time or tenure rather than by demonstrated, job-related capability. The question whether tenure or qualifications should determine an employee's eligibility for promotion is the same question presented by this rule, and OPM's answer is the same: qualifications should be the determining factor.

Finally, OPM does not accept the premise that no evidence postdating the 2009 withdrawal informs this rulemaking. The comments received in this docket are themselves evidence developed since 2009, and they are substantial: 41 comments supported eliminating TIG, and a substantial number of them, submitted from a range of agencies and occupational series, described specific instances in which TIG deferred the promotion of employees whom their agencies had evaluated as qualified and prepared for higher-graded work, as summarized in Parts II.A through II.C. OPM's determination accordingly does not depend on extrapolating demonstration-project results to the Federal workforce as a whole; it rests on the continued operation of qualification standards, classification requirements, and merit promotion procedures, informed by the record developed in this proceeding and by the absence of documented, widespread promotion abuse in the substantial portions of the workforce that already operate without TIG. OPM does not agree that completion of a separate, broader review of pay and staffing policy is a legal or practical precondition to finalizing this narrower rule addressing the TIG eligibility restriction.

OPM further acknowledges expressly that this rule adopts a position contrary to the one OPM took in 2009 and sets out its reasons for doing so. *See FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515 (2009) (an agency changing course must display awareness that it is changing position and provide a reasoned explanation for the new policy but need not demonstrate that the new policy is better than the old one). Three features of the 2009 action bear on what that explanation requires here.

First, the 2009 withdrawal did not rest on a substantive determination that TIG is necessary to protect the merit system. OPM stated that it ''would be more productive to consider the merits of the time-in-grade issue as part of a more comprehensive review of pay, performance, and staffing issues than to regulate this particular issue in piecemeal fashion.'' 74 FR 40057 (Aug. 11, 2009). That was a judgment about sequencing, not a factual finding contrary to the findings OPM makes here, and it followed the governmentwide regulatory review directed by the memorandum of January 20, 2009, which caused OPM to delay the 2008 rule's effective date and reopen the record. See 74 FR 9951 (Mar. 9, 2009); 74 FR 21771 (May 11, 2009); 74 FR 23109 (May 18, 2009). Where an agency's prior position rested on a sequencing judgment rather than on contrary factual findings, the explanation required to depart from it is correspondingly less demanding.

Second, OPM's substantive position in 2008 was the position OPM adopts today. In the 2008 final rule, OPM concluded after notice and comment that qualification standards, merit promotion procedures, and the prohibited personnel practices provide the appropriate framework for evaluating promotion decisions, and that TIG is an eligibility factor measuring the passage of time rather than the ability to perform higher-graded work. 73 FR 66157, 66158 (Nov. 7, 2008). OPM had proposed the same result on three prior occasions. See 59 FR 30717 (June 15, 1994); 60 FR 2546 (Jan. 10, 1995); 73 FR 6857 (Feb. 6, 2008). This rule is therefore not a novel departure but a return, on a fuller record, to a conclusion OPM has reached repeatedly.

Third, OPM is not aware of, and no comment has identified, reliance interests that this rule would disrupt. TIG confers no entitlement and no

vested expectation; it confers eligibility. An employee who has completed 52 weeks in grade retains everything that period produced—the experience gained, the performance record established, and eligibility for consideration—and this rule takes nothing away from that employee. Cf. *Encino Motorcars, LLC* v. *Navarro,* 579 U.S. 211, 221–22 (2016) (an agency must provide a more detailed justification where its new policy rests upon factual findings contradicting those underlying its prior policy or where serious reliance interests are at stake).

OPM notes as well that several implementation questions OPM treated as outside the scope of the 2009 proceeding—including whether agencies retain the option to establish their own service requirements, and how elimination applies to career-ladder positions—are answered in Part III.C, Part III.G, and Part IV of this rule.

Comments arguing that eliminating TIG removes an objective, front-end constraint that after-the-fact enforcement cannot replace. Comment 0069 stated that it does not categorically oppose eliminating TIG and acknowledged that a 52-week period may prevent an agency from promoting an employee who has already demonstrated the knowledge, skills, judgment, and readiness required for higher-graded work. The comment argued, however, that OPM proposes to remove a longstanding objective eligibility constraint without replacing it with prospective, job-related standards governing when accelerated advancement is appropriate, and without explaining how agencies and OPM will monitor promotions across occupations, grades, and organizational units to verify that qualification and merit standards are being applied. The comment further argued that the merit system principles and prohibited personnel practices establish broad standards of conduct and after-the-fact remedies rather than ex ante criteria; that a prohibited personnel practice claim requires evidence that is typically in the agency's possession; and that subjective promotion criteria can reproduce hidden bias, citing Equal Employment Opportunity Commission guidance recommending that employers establish neutral and objective criteria.

The comment recommended that OPM either withdraw the rule or pair elimination with written accelerated-promotion standards, contemporaneous written justification, objective competency evidence beyond a supervisor's conclusory judgment, consistency requirements for similarly situated employees, panel or human resources review, records identifying accelerated promotions, audits and public reporting, an express clarification regarding within-grade increases, and implementation guidance issued before the effective date. Comment 0069 also argued that OPM's account of the historical record is inaccurate because merit principles in Federal employment did not originate with the Civil Service Reform Act of 1978 but with the Pendleton Act of 1883 and subsequent civil service legislation.

OPM agrees with two of the premises underlying this comment. First, criteria applied at the point of decision are more effective than remedies available only after harm has occurred. Second, promotion criteria should be objective, job-related, established in advance, published, and consistently applied to similarly situated employees. OPM's disagreement is with where those criteria belong and with the characterization of what removing TIG actually changes.

The criteria this comment describes already exist, and they exist in 5 CFR part 335 rather than in the restriction OPM is removing. Section 335.103(b)(1) requires each agency to establish written promotion procedures based on merit, available in writing to candidates, administered without regard to political affiliation or any other non-merit-based factor, and based solely on job-related criteria. Section 335.103(b)(3) requires that candidates meet OPM's minimum qualification standards and that evaluation methods conform to 5 CFR part 300, subpart A, which requires that employment practices bear a rational relationship to performance in the position and be supported by a job analysis. *See* 5 CFR 300.103. Section 335.103(b)(5) requires records sufficient to allow reconstruction of each promotion action, including documentation of how candidates were rated and ranked. Section 335.103(d) preserves the right to file a complaint relating to a promotion action and confirms OPM's authority to investigate substantial violations of OPM requirements. Each of these requirements is prospective, job-related, and enforceable, and none is affected by this rule. By its own terms, the restriction OPM removes operated ''in addition to the eligibility requirements for promotion in part 335 of this chapter.'' 5 CFR 300.601. This rule therefore does not leave the promotion process without objective standards; it removes a calendar-based eligibility condition that sat on top of those standards without measuring anything about the candidate.

That allocation also answers the comment's principal recommendation. The safeguards Comment 0069 proposes—written accelerated-promotion standards, contemporaneous written justification, objective competency evidence, consistency requirements, review panels or human resources review, records identifying accelerated actions, and audit and reporting obligations—are all requirements about how agencies evaluate, document, and select candidates for promotion. If OPM were to impose them governmentwide, the appropriate vehicle would be an amendment to 5 CFR part 335, proposed and noticed as such, so that agencies and the public could comment on the specific requirements, their scope, and their cost. It would not be appropriate to adopt them in this final rule, which proposed only the removal of a separate calendar-based eligibility restriction in part 300 and did not give notice that governmentwide promotion procedures were at issue.

OPM accepts the comment's historical correction in part. OPM did not intend to suggest that merit principles in Federal employment originated in 1978. Congress rejected the spoils system in the Pendleton Act of 1883, and the Civil Service Commission administered merit-based examination, promotion, and classification requirements long before 1950. OPM's point is narrower, and OPM has revised the discussion in Part V.A to state it precisely: the specific framework on which this rule relies—the governmentwide qualification standards published in the OPM Operating Manual, the merit promotion requirements in 5 CFR part 335, the codified merit system principles and prohibited personnel practices at 5 U.S.C. 2301 and 2302, and the institutions that enforce them—postdate enactment of the Whitten Amendment.

OPM agrees with the comment's recommendation that a rating of record should not by itself be treated as sufficient evidence of readiness for advancement, and Part III.C describes evaluation methods that go beyond the rating of record. OPM also confirms, as the comment requested, that this rule does not alter the statutory and regulatory requirements governing within-grade increases, including waiting periods and acceptable-level-of-competence determinations under 5 U.S.C. 5335 and 5 CFR part 531, subpart D. See Part III.H. OPM addresses the comment's monitoring and reporting recommendations in Part III.D, its administrative-burden argument in Part III.I, and its request for implementation guidance in Part IV.

Finally, OPM does not agree that this rule should be evaluated on the basis of separate personnel-policy actions that are the subject of their own rulemakings and their own administrative records. This rule addresses whether a 52-week, calendar-based eligibility restriction remains necessary or appropriate. The 5 U.S.C. 2301 and 2302 prohibitions on making promotion decisions based on political affiliation or other non-merit factors continue to apply. This rule does not alter 5 CFR 335.103, which requires that promotion actions be based solely on job-related criteria and administered without regard to political affiliation; and it does not alter the classification requirements that permit promotion only where higher-graded work actually exists. OPM is not aware of a basis in this record to conclude that a 52-week waiting period, as opposed to those requirements, is what stands between the promotion process and the concerns the comment identifies. Comments directed to separate regulatory actions are addressed in Part III.L. OPM is not adopting the recommendation to withdraw this rule.

Comments identifying additional disadvantages of elimination. Comment 0025 identified several potential disadvantages of elimination, including increased perceived favoritism, reduced career-development time, budget pressure from faster promotions, loss of institutional knowledge at intermediate grades, and increased competition for advancement opportunities.

Two additional comments (0033 and 0034) submitted in substantially identical language, argued that removing TIG before agencies overhaul their promotion and competency-evaluation processes risks systemic underperformance.

OPM acknowledges these concerns but does not agree that they require retention of TIG. This rule does not compel rapid promotions; agencies may require additional development time, sustained performance, training, or a service period, and may promote only when higher-level duties and funding are available, as discussed further in Part III.B and III.G. Institutional knowledge and relevant experience may be considered through qualification standards and other job-related criteria. Existing merit promotion procedures, merit system principles, and prohibited personnel practices continue to protect fair and consistent treatment. OPM is not changing the proposed rule in response to these comments.

B. Comments Requesting Retention of TIG in a Modified Form (Grade-Banded, Graduated, or Waiver-Based Alternatives)

Comment 0008 proposed a phased, grade-banded TIG framework with minimums scaling from 6 months (GS–1 to GS–5) to 24 months (GS–13 and above), alignment of TIG with agency performance-evaluation cycles, a narrow waiver process for mission-critical exceptions, and mandatory pilot testing with outcome-data collection before any nationwide change. Comment 0050 proposed allowing employees to become eligible, after two or three years in grade, to compete for positions up to two grades above their current grade, arguing this would reduce promotion bottlenecks while still requiring a period of demonstrated experience before a significant grade jump. Comment 0072 proposed a competency-based accelerated promotion waiver retaining the 52-week baseline governmentwide but authorizing a waiver to 26 weeks only for employees who achieve the highest performance rating, pass an OPM-certified objective assessment, and obtain approval from an independent agency career ladder review board, together with a mandatory 24-month phased implementation. Comment 0002 recommended that OPM limit any elimination to specific technical, medical, and scientific occupations—citing cybersecurity, IT, software development, data science, VA clinical staff, and scientific research roles as examples where outside experience is most likely to exceed grade-level expectations—while retaining TIG for most other Federal positions, particularly those in HR, supervisory, budget, and policy functions. Comment 0042 also referenced a graduated TIG relief approach as a possible middle path, under which an employee could bypass one TIG interval with agency documentation of full qualification, while the following interval would remain fully applicable or only partially reduced.

OPM appreciates these detailed alternatives but is not adopting a grade-banded, graduated, occupation-limited, or waiver-based TIG framework in place of elimination. Each of these alternatives would retain time served as a governmentwide eligibility condition for at least some employees, some occupations, or some portion of the promotion process, which preserves the central defect OPM has identified: an administrative, calendar-based proxy that is not skills-based, does not itself measure competence, and that can exclude an otherwise qualified employee for a reason unrelated to the employee's ability to perform higher-graded work.

The waiver-based framework proposed by Comment 0072, in particular, would recreate an approval process—with a fixed baseline, a review board, and a certified assessment tool—that would likely impose administrative burdens similar to, or greater than, the TIG-related exception and training-agreement approval processes OPM is eliminating in this rule. See 5 CFR 300.603(b)(6) through (b)(8). With respect to Comment 0002's occupation-limited approach, OPM does not agree that the problem identified in this rulemaking is confined to technical, medical, and scientific occupations; the comment record, including comments 0016, 0026, 0040, 0051, and 0056, documents comparable barriers in administrative, correctional, contract-negotiation, and other occupational contexts. OPM also does not agree that a fixed 24-month implementation delay, as proposed by two comments (0008 and 0072), is necessary; as explained in Part V.D, OPM's cost estimate accounts for the time agencies will need to update merit promotion plans and does not indicate that a multi-year transition is required.

OPM notes as well that one of these proposals would provide less flexibility than the restriction it would replace. Comment 0050 proposed permitting employees to compete, after two or three years in grade, for positions up to two grades above their current grade. Two-grade advancement is already available under the existing restriction after 52 weeks rather than two or three years: § 300.604(b)(1) already permits advancement to a position at GS–6 through GS–11 for a candidate who has completed 52 weeks in a position no more than two grades lower, where the position to be filled is in a line of work properly classified at two-grade intervals; § 300.604(b)(3) permits agencies to apply a one- or two-grade measure for mixed-interval promotion patterns; and § 300.604(c) imposes no time restriction on advancement to positions up to GS–5 where the position to be filled is no more than two grades above the lowest grade the employee held within the preceding 52 weeks under the employee's latest nontemporary competitive appointment. The existing restriction is therefore already graduated by grade and by classification pattern, as Comment 0076 observed in noting that the 52-week requirement limits advancement to a single grade except where the occupational series is structured to

support a two-grade progression. That structure has not prevented the barriers described in Parts II.A through II.C, which is a further reason OPM is not persuaded that a differently calibrated schedule of waiting periods would address them.

Comment 0024 recommended, as an alternative to elimination, that OPM add flexibility for high-performing employees to accelerate advancement while maintaining objective standards. OPM agrees with that objective and believes this rule serves it more directly than a high-performer carve-out would. The objective standards the comment seeks to preserve are the governmentwide qualification standards and the job-related promotion criteria required by 5 CFR 335.103(b)(1) and (b)(3), and this rule leaves both fully in force; what it removes is the calendar bar that prevented a demonstrably ready employee from being considered at all. A carve-out limited to high performers would, by contrast, require OPM to define a governmentwide performance threshold for promotion eligibility and would make the rating of record the gateway to advancement—an approach Comment 0069 specifically cautioned against. It would also leave in place, for every employee not meeting that threshold, the same non-merit waiting period OPM has determined is not justified. Agencies that wish to adopt an accelerated-advancement track for high performers may do so under their merit promotion plans, as discussed in Part III.G.

Agencies retain the discretion to adopt internal, job-related service periods, occupation-specific criteria, or progression criteria for their own career ladders (discussed further in Part III.G), which allow agencies that wish to retain a more gradual, banded, or phased internal approach to do so without a governmentwide mandate.

C. Comments Requesting Written, Objective, Job-Related Agency Promotion Criteria and Documentation

Comment 0030 did not oppose modernization or agency flexibility but expressed concern that removing ''one of the few objective standards employees can easily understand'' would shift the balance toward management discretion and recommended that agencies be required to establish clear written promotion criteria, communicate those standards to employees in advance, and document the reasons for promotion decisions. Comment 0063 recommended that any promotion made under this authority be supported by a written certification from the selecting official confirming that the employee meets all qualifications, that the promotion is based solely on merit, and that the action complies with merit system principles, together with review and approval by a higher-level management official and a career human resources official.

Comment 0067 recommended that OPM provide implementation guidance and a template to help agencies establish minimum, job-related promotion criteria and document promotion decisions. Comment 0068 recommended that OPM identify best practices, consider career-level promotion review boards (citing a program-level model used in another part of the Federal Government), and require independent audit or higher-level review to ensure promotions are merit-based. Comment 0074 recommended that agency-specific prerequisites be objective, job-related, established in advance, published in merit promotion plans, and consistently applied to similarly situated employees, supported by concise, standardized documentation for any promotion completed before 52 weeks. Comment 0076 similarly recommended that OPM provide, in the final rule or in implementation guidance, a model merit promotion provision, minimum documentation expectations, and best-practice documentation guidance.

OPM agrees that promotion criteria should be job-related, consistently applied, and based on established agency procedures, and OPM does not disagree with the substance of these recommendations as a matter of sound personnel administration. OPM notes at the outset that much of what these comments recommend is already required. Section 335.103(b)(1) requires each agency to establish procedures for promoting employees that are based on merit, that are available in writing to candidates, and that are based solely on job-related criteria; the requirement that promotion criteria be written, job-related, and communicated to candidates in advance is therefore already governmentwide law. Section 335.103(b)(5) separately requires each agency to maintain a record of each promotion sufficient to allow reconstruction of the promotion action, including documentation of how candidates were rated and ranked. What these comments principally seek is not a new obligation but more specific governmentwide direction about how agencies satisfy obligations they already have. Agencies may, and OPM encourages agencies to, use this existing framework to specify objective, job-related criteria for promotions that would previously have been governed by TIG, including required competencies, performance levels, training, or certifications, and to document how those criteria were applied.

OPM does not believe a new governmentwide template, mandatory certification, or review-board requirement is necessary or appropriate given the wide variation in occupations, missions, and workforce structures across the Federal Government, and is concerned that a one-size-fits-all documentation or review mandate could itself recreate significant elements of the administrative burden this rule is intended to reduce.

There is a further reason OPM does not adopt these recommendations in this rule. Requirements of the kind these comments propose—certifications, higher-level or panel review, standardized documentation, and prescribed evaluation criteria—would govern how agencies conduct promotion actions, and the regulations that govern how agencies conduct promotion actions are in 5 CFR part 335. Thus, if OPM determines that broader governmentwide changes to the promotion process are warranted, the appropriate vehicle is a rulemaking amending part 335. OPM will address implementation questions, including model criteria and documentation practices, through the implementation guidance described in Part IV, consistent with the recommendations in three comments (0067, 0074, and 0076).

Comment 0068 and Comment 0036 emphasized that the added discretion this rule confers will fall on human resources offices that may lack the capacity to absorb it and recommended that OPM pair the rule with investment in training, guidance, and oversight. Comment 0068 also observed that regulatory change without operational change produces uneven implementation. OPM agrees that implementation support matters and addresses it in Part IV. OPM does not agree, however, that agency human capital capacity is a reason to retain a restriction that applies to every covered employee, including the substantial majority as to whom no capacity concern arises. This rule removes an eligibility determination that agencies must currently make and document for every covered internal promotion action, together with the exception-approval processes associated with it; it does not add a determination. To the extent agencies choose to adopt more structured promotion criteria under their part 335 authority, OPM encourages them to scale those criteria

to the capacity of the offices that will administer them.

Consistent with 5 CFR 335.103(b)(3) and 5 CFR part 300, subpart A, an agency may consider the following methods for evaluating an employee's qualifications for promotion under part 335. These include an evaluation of the employee's demonstrated results, and training (with a specific focus on the outcomes of the performance and training and the extent to which they prepare the employee for the higher-level work); technical assessments; a structured interview; and appraisal of the employee's performance and/or assessment of the employee's potential. This last method goes beyond the employee's rating of record and includes judgments and observations of other supervisors, managers, and employees of the candidate's behavior. An assessment of the employee's potential relies on a determination or demonstration (based on observations or evaluation of work products) that the employee has demonstrated higher-level performance required for the higher-level work.

D. Comments Requesting Monitoring, Data Collection, and Public Reporting

Comment 0063 requested that agencies publish annual aggregate reports identifying the number and grade increases of promotions granted under this authority, occupational series, organizational component, and aggregate demographic, veteran, disability, and bargaining-unit data. Comment 0064 recommended that OPM establish a process to monitor promotion rates, demographic trends, retention, workforce mobility, grievances, and appeals during the initial years of implementation, and publish aggregate findings.

Comment 0069 recommended annual agency data collection and OPM review of promotions by agency, grade, series, career ladder, and organizational unit to identify patterns suggesting favoritism, politicization, discrimination, or grade inflation. Comment 0073 requested clear appeal and grievance mechanisms specific to employees passed over in favor of an early-promoted peer, together with agency audits. Comment 0074 recommended that OPM establish baseline promotion-timing data before implementation and conduct a formal three-year retrospective review examining promotion timing, retention, agency-specific waiting periods, administrative costs, and complaints or grievances.

OPM appreciates these recommendations and agrees that monitoring promotion outcomes can be a useful management practice. OPM does not agree, however, that a mandatory governmentwide data collection, aggregate public reporting, or fixed retrospective-review requirement should be included in the regulatory text implementing this rule. As explained in Part III.C, requirements governing how agencies conduct and document promotion actions are beyond the scope of this rulemaking. Agencies already maintain personnel records, including SF–50 actions and the promotion records required by 5 CFR 335.103(b)(5), sufficient to allow OPM and other oversight bodies to analyze promotion patterns as needed, and OPM retains its ongoing authority to review agency personnel practices for consistency with the merit system principles and to investigate substantial violations of OPM requirements under 5 CFR 335.103(d). A new, standing governmentwide reporting requirement tied specifically to promotions completed before 52 weeks would itself function as an administrative burden similar in kind to the TIG-related tracking and approval processes this rule removes.

With respect to Comment 0073's request for new appeal or grievance mechanisms, OPM notes that existing complaint, grievance, and appeal rights under applicable law, including equal employment opportunity and prohibited-personnel-practice procedures and the complaint right preserved by 5 CFR 335.103(d), are unaffected by this rule and remain available where an employee believes a promotion decision was unlawful. OPM will address monitoring practices in the implementation guidance described in Part IV and may review implementation data in the course of its ordinary oversight of agency personnel management programs but declines to codify a specific data collection, reporting, or three-year review mandate in this rule.

E. Comments Regarding Veterans' Preference and the VEOA

Comment 0076 raised a concern that because current Federal ''status'' employees applying under VEOA are subject to TIG while non-status preference-eligible veterans separated from the armed forces after three or more years of continuous active service may compete for merit promotion positions without a TIG restriction, eliminating TIG could allow agencies to rapidly promote favored internal ''status'' employees in a way that disadvantages qualified external veterans competing for the same positions.

OPM has considered this comment carefully. This rule does not alter the statutory framework governing VEOA eligibility under 5 U.S.C. 3304(f), veterans' preference under 5 U.S.C. 2108, or the requirement that agencies conduct fair and open competition consistent with 5 CFR part 335 when filling positions subject to competitive procedures. Eliminating TIG affects only whether an internal candidate must wait 52 weeks in grade before being eligible for consideration for promotion; it does not change the substantive qualification standards, competitive procedures, or veterans' preference requirements applicable to any candidate, internal or external. OPM does not agree that removing an internal eligibility restriction on status employees creates unfairness to preference-eligible veterans competing under VEOA, because both status employees and VEOA-eligible veterans remain subject to the same qualification standards and the same merit promotion or competitive examining procedures for the vacancy in question. OPM will address the interaction between this rule and VEOA-based competition in the implementation guidance described in Part IV but is not making a substantive change to the final rule in response to this comment.

F. Comments Regarding Collective Bargaining Obligations

Comment 0030 and Comment 0076 noted that promotion procedures and eligibility criteria are frequently addressed in collective bargaining agreements and are subject to bargaining obligations under 5 U.S.C. chapter 71. They also requested that OPM address the interaction between this rule and agencies' bargaining obligations, including through a defined transition period of 90 to 180 days.

OPM acknowledges that agencies changing their internal promotion procedures in response to this rule may have bargaining obligations under 5 U.S.C. chapter 71 with respect to procedures and appropriate arrangements for bargaining unit employees affected by the change, to the extent those obligations apply under otherwise applicable law. This rule does not itself alter, expand, or diminish any agency's bargaining obligations, and OPM expects agencies to comply with applicable labor-relations requirements as they revise merit promotion plans and procedures following this rule's effective date. OPM does not agree that a fixed, governmentwide transition period must be prescribed in the regulatory text itself.

OPM has, however, adopted an effective date 90 days after publication, which falls within the 90- to 180-day range these comments recommended and which OPM expects will afford agencies sufficient time to revise merit promotion plans, satisfy any applicable bargaining obligations, and train supervisors and human resources staff. Agencies retain the ability to sequence implementation of internal policy changes, including through bargaining where required, and nothing in this rule requires an agency to make any accelerated promotion on or after the effective date. The 250-hour first-year estimate in Part V.D is an accounting convention for allocating one-time implementation cost to the first year following publication; it does not imply that an agency must complete its revisions before the effective date. Until an agency revises its merit promotion plan, the existing plan continues to govern, less the TIG eligibility restriction removed by this rule.

G. Comments Concerning Career Ladder Positions, Career Ladder Progression, Agency-Retained Time Requirements, and Training Agreements

Comment 0076 sought clarification that eliminating TIG permits, but does not require, accelerated promotion within career ladder (target-grade) positions, and that agencies retain authority to establish their own internal time-based or performance-based progression criteria for career ladders, noting that an agency relies heavily on GS–7/9/11/12 career ladders and that ambiguity on this point could be misread as prohibiting agency-set progression intervals.

OPM confirms that eliminating TIG removes the governmentwide 52-week restriction but does not require agencies to promote career-ladder employees on any particular schedule. Career-ladder promotions remain contingent on the employee meeting the qualification requirements for the target grade, sustained acceptable performance, the existence of higher-level work, supervisory determination of readiness, and the availability of funding, consistent with the position's classification and the agency's career-ladder structure as documented in the position's promotion potential.

Agencies may continue to establish and apply internal career-ladder progression intervals, including a specified minimum period in the lower grade, provided that any such requirement is job-related and consistently applied. This rule addresses the governmentwide TIG eligibility restriction in 5 CFR part 300, subpart F; it does not compel agencies to alter properly established career-ladder promotion potential documented at the time of a position's announcement.

OPM addresses one consequence of the amendatory action that bears directly on this question. The express statement that ''[a]n agency may expand on these restrictions consistent with the intent of this subpart or may adopt similar policies to control promotion rates of employees not covered by this subpart'' appears at 5 CFR 300.606 and is removed along with the remainder of subpart F. Its removal does not withdraw the authority it described. An agency's authority to establish job-related conditions on promotion—including a minimum period of service in grade or in a career-ladder step—derives from 5 CFR 335.103(b)(1), which requires each agency to establish written, merit-based promotion procedures and leaves to the agency the definition of the job-related criteria those procedures apply.

What changes is the character of such a requirement: it now would be an agency requirement adopted through the agency's merit promotion plan and subject to the same conditions as any other promotion criterion—it must be job-related, established in advance, available in writing to candidates, and applied consistently to similarly situated employees—rather than an authorized expansion of a governmentwide floor. Agencies that presently rely on § 300.606 to support agency-specific service requirements should confirm that those requirements are documented in their merit promotion plans under § 335.103(b)(1) before the effective date of this rule.

Comments requesting transition guidance for existing training agreements. Comment 0076 supported removing the requirement for OPM approval of training agreements that provide for consecutive accelerated promotions but observed that the proposed rule does not address the disposition of agreements OPM has already approved. The comment recommended grandfathering or providing conversion guidance to avoid an administrative gap.

OPM agrees that this point warrants clarification. The provisions this rule removes are 5 CFR 300.603(b)(6)—which excepted advancement under a training agreement from the TIG restrictions, limited an employee to no more than two promotions in any 52-week period on the basis of one or more training agreements, and required OPM approval of any agreement providing for consecutive promotions at rates exceeding those permitted by § 300.604—and the cross-reference to that provision at 5 CFR 410.307(a)(3). Both provisions exist only to interact with the TIG restrictions and have no independent operation once subpart F is removed.

Accordingly, on and after the effective date of this rule: no OPM approval of a training agreement is required; no OPM approval previously granted needs to be renewed, converted, or rescinded, and none will lapse by operation of this rule; and the limitation of two promotions in a 52-week period on the basis of one or more training agreements no longer applies. Existing agency training agreements remain valid agency documents, which agencies may continue, modify, or discontinue under their own authority.

The substantive authorities governing training that leads to promotion are unaffected: 5 CFR 410.307(a)(2) continues to authorize agencies to establish training programs that substitute intensive, directly job-related training for all or part of the experience required by OPM qualification standards, but not for education, licensing, certification, or other specific credentials; and 5 CFR 410.307(b) continues to require that an agency follow its competitive procedures under 5 CFR part 335 when selecting a non-temporary employee for training that permits noncompetitive promotion upon successful completion. Agencies should review existing training agreements against those requirements and against their merit promotion plans and should update any agreement provisions that recite the TIG restrictions, the two-promotion limitation, or the OPM-approval requirement. OPM will address this transition in the implementation guidance described in Part IV.

H. Comments Regarding Interaction With Within-Grade Increases, Quality Step Increases, and Other Pay-Setting Authorities

Comment 0004 argued that the proposed rule ignores Quality Step Increases (QSIs) as an existing, widely used mechanism for accelerating the career progression of top performers, and characterized the proposed rule as adding bureaucracy while suppressing earned salary progression. Comment 0054 discussed within-grade step increases and QSI authority under 5 U.S.C. 5336 and 5 CFR part 531, subpart E. The comment also expressed concern about an agency-specific authority for advancement and performance and about how changes to performance-rating distribution might interact with

the automatic pay progression in that authority if TIG is eliminated. Comment 0068 raised a related question, asking how OPM's separate proposal (now finalized) concerning the distribution of performance ratings would allow supervisors to use performance to determine when an employee is ready for promotion.

OPM clarifies that this rule addresses eligibility for promotion to a higher grade; it does not amend within-grade increase requirements under 5 U.S.C. 5335 and 5 CFR part 531, subpart D; Quality Step Increase authority under 5 U.S.C. 5336 and 5 CFR part 531, subpart E; or other agency-specific pay-recognition authorities. Those authorities operate independently of TIG and are unaffected by this rulemaking. OPM confirms, as Comment 0069 requested, that this rule does not alter the waiting periods or acceptable-level-of-competence determinations that govern within-grade increases. OPM appreciates the two comments (0004 and 0054) highlighting these provisions, but recommendations concerning QSI policy, within-grade increase administration, or performance-rating distribution are outside the scope of this rulemaking, which is limited to the TIG eligibility restriction in 5 CFR part 300, subpart F, and conforming amendments.

OPM addresses one point raised by two comments (0054 and 0068) that bears on how this rule will operate in practice. Those comments ask how supervisors are to use performance to determine readiness for promotion if OPM implements a standard distribution of ratings. Three points relevant to this rule should be noted. First, nothing in this rule makes a rating of record either necessary or sufficient for promotion. Section 335.103(b)(3) requires that due weight be given to performance appraisals and incentive awards, but qualification for a higher-graded position is established by the candidate's demonstrated experience, education, and job-related competencies measured against the applicable qualification standard—not by the rating alone.

Second, agencies may use evidence beyond the rating of record when assessing readiness, including the evaluation methods described in Part III.C. Nothing in this rule or in any separate OPM action requires an agency to treat a rating of record as the sole or controlling measure of an employee's readiness for higher-graded work.

Third, OPM expects that imposing a standardized distribution of the highest performance ratings will ensure that agency performance appraisal systems will more reliably distinguish and identify high performers and help eliminate widespread ratings inflation across the Federal Government. That expectation rests on the reasoning OPM set out in the recently finalized appraisal rule. *See* Performance Appraisal for General Schedule, Prevailing Rate, and Certain Other Employees, 91 FR 41521 (July 7, 2026) (RIN 3206–AP06) (effective August 6, 2026). That rule removed the categorical prohibition, formerly codified at 5 CFR 430.208(c), on any method that would ''limit or require the use of particular summary levels (*i.e.,* establish a forced distribution of summary levels),'' and replaces it with authority for OPM to ''establish, and refine as needed, a standardized distribution of some or all rating levels which agencies must apply when rating employees.'' 5 CFR 430.208(c). The companion provision confirms that the method for deriving and assigning a summary level ''may involve comparing, categorizing, and ranking employees or groups on the basis of their performance,'' and that ''[s]uch procedures may also be used, where otherwise authorized by law and regulation, to inform award determinations and promotion decisions.'' 5 CFR 430.208(d).

OPM explained in that rulemaking why a standardized distribution is expected to yield more rigorous and more accurate ratings. Ratings under the prior framework were not meaningfully differentiated: the Government Accountability Office found that 99 percent of permanent, non-SES (Senior Executive Service) employees received ratings at or above ''Fully Successful,'' and agency-submitted data for fiscal years 2022 through 2024 show that only approximately 0.3 percent of non-SES employees under five-level programs received a Level 2 rating and approximately 0.1 percent received an ''Unacceptable'' rating. 91 FR at 41521–22, 41528, 41530. Only 42 to 51 percent of Federal employees report that their supervisors distinguish and recognize performance in a meaningful way. Id. at 41522. OPM concluded that this pattern reflects ''leniency bias whereby supervisors arbitrarily issue inflated performance ratings to avoid confrontation,'' *id.* at 41524, and that ''the current degree of rating inflation has so egregiously undermined the credibility and accountability of performance appraisal systems that implementing a standardized distribution is the best alternative,'' *id.* at 41525–26. OPM further explained that because ''any human judgment is by nature comparative,'' an appraisal method that makes the comparison explicit ''will more accurately and objectively measure individual performance than one that prohibits any comparative judgments between employees and requires that any measurement of employee performance be framed in absolute terms.'' Id. at 41523. The distribution operates only after each employee has been appraised against established, job-related performance standards; it does not displace those standards; it is to be applied at the agency or department level rather than at the work unit level; and OPM has stated that it intends any standardized distribution to limit only the highest rating levels rather than to prescribe limits at or below Level 3. Id. at 41523–24, 41528, 41533; see 5 CFR 430.208(a)(1) (a rating of record ''must be based only on the evaluation of actual job performance for the designated appraisal period'').

The consequence for promotion readiness, which is what the two comments (0054 and 0068) ask about, is direct. By ''establishing a limit on the number of non-SES employees who can receive a rating above the fully successful level,'' the appraisal rule is expected to produce ''a clear distinction of the highest performers across an agency and the Federal Government.'' 91 FR at 41536. That rule also confines the term ''Outstanding'' to a Level 5 rating. 5 CFR 430.208(e)(2)(iv), (e)(3). A rating of record will accordingly carry information about relative performance that it did not carry when nearly all employees were rated at or above ''Fully Successful,'' and a supervisor recommending an employee for higher-graded work will be able to point to a rating that reflects a considered judgment about how that employee's performance compares to the performance of others.

The requirement in 5 CFR 335.103(b)(3) that due weight be given to performance appraisals and incentive awards can do meaningful work only where ratings in fact distinguish among levels of performance. The two rules are therefore complementary rather than in tension: this rule removes a calendar-based barrier that delayed consideration of employees who are ready for higher-graded work, while the appraisal rule improves the quality of the performance information that agencies use, together with the qualification requirements and the evaluation methods described in Part III.C, to identify which employees those are. Neither rule, however, makes any particular rating of record a prerequisite to promotion or entitles an employee who receives a high rating to be promoted; promotion remains contingent on the existence of higher-

graded work, proper classification, and selection under the agency's merit promotion plan.

I. Comments Regarding Cost Estimates and Regulatory Analysis

Comment 0076 argued that OPM's proposed cost estimate—approximately 250 hours and $39,075 per agency in the first year, or approximately $3,126,000 governmentwide, to update merit promotion plans—understates the cost to large, decentralized departments with multiple components and bargaining units, citing its own decentralized merit promotion programs administered across multiple subordinate components with separate bargaining units as an example. Comment 0014 separately argued that OPM's cost analysis does not adequately address possible long-term compensation costs from faster promotions, grade compression, accelerated career-ladder movement, classification disputes, or grievances, and recommended fuller fiscal analysis before finalization.

OPM acknowledges that implementation costs will vary across agencies, and that large, multi-component departments with numerous subordinate organizations and bargaining units may experience higher first-year implementation costs than OPM's governmentwide average estimate reflects. OPM's cost estimate, consistent with the approach used in the proposed rule, is intended to represent an average per-agency cost across the Federal Government for the purpose of governmentwide regulatory analysis; it is not intended to represent the specific cost that any individual department will incur. OPM does not believe this variation warrants revising the governmentwide estimate methodology in this final rule. With respect to Comment 0014's concern regarding long-term compensation costs, OPM notes that promotion under this rule remains discretionary and contingent on the existence of higher-level work, proper classification, and available agency funding; this rule does not require agencies to promote any employee or to accelerate compensation growth, and OPM does not expect the rule, by itself, to produce a predictable or quantifiable increase in aggregate Federal payroll costs. Agencies remain responsible for managing promotion actions within their existing budgetary authority.

Comment 0069 raised a distinct objection to OPM's regulatory analysis: that OPM's assumption that removing a bright-line eligibility requirement will reduce administrative constraints is likely to prove wrong in practice. Because TIG establishes an objective threshold below which a promotion request need not be entertained, the comment argued, its removal leaves no comparable limiting principle; human capital offices would face substantially more promotion requests to evaluate, more supporting documentation to review, and more requests for reconsideration, grievances, equal employment opportunity complaints, and prohibited personnel practice complaints when requests are denied. The comment further argued that agencies faced with that volume may adopt internal waiting periods that replicate TIG's function while producing inconsistent practice across Government and recommended that OPM evaluate the anticipated increase in promotion requests, human resources workload, review requirements, training needs, and litigation risk before finalizing. Comment 0076 raised a related concern about increased supervisor documentation burden, and Comment 0036 raised a related concern about human resources capacity.

OPM has considered these arguments but does not agree that they warrant withdrawing or delaying the rule for three reasons.

First, the premise that TIG limits the volume of promotion requests is only partly correct. TIG does not restrict what an employee may request or what a supervisor may recommend; it restricts what an agency may lawfully do. An agency that receives a request from an employee who has not completed 52 weeks may decline it quickly today, and after this rule takes effect an agency may decline it just as quickly on any other applicable ground—that no higher-graded position exists, that the position is not funded, that the employee does not meet the qualification standard, or that the agency's merit promotion plan requires competition for the vacancy. What changes is that the reason given will be a job-related reason rather than a calendar computation.

Second, this rule removes recurring administrative work as well as creating one-time implementation work. Under the prior regulations, agencies were required to determine and document TIG eligibility for covered internal promotion actions; to compute creditable service under § 300.605, including converting non-General Schedule service to an equivalent General Schedule grade by comparing the candidate's rate of basic pay to representative rates; and, where an exception was needed, to obtain agency-head approval under § 300.603(b)(7), OPM authorization under § 300.603(b)(8), or OPM approval of a training agreement under § 300.603(b)(6). Those determinations, and the recordkeeping and internal appeals associated with them, are eliminated. OPM's cost estimate in Part V.D captures the first-year cost of revising merit promotion plans; it does not attempt to monetize this offsetting reduction in recurring administrative work, which OPM expects to be positive but cannot reliably quantify. The estimate is therefore conservative in that respect.

Third, OPM does not regard the possibility that some agencies will adopt their own job-related service requirements as an unintended consequence to be avoided. As explained in Part III.G, that outcome is permitted, and in some occupations it may be sound personnel administration. The difference between an agency-established requirement and the governmentwide restriction OPM is removing is consequential: the agency requirement must be justified as job-related for the positions to which it applies, must be published in the agency's merit promotion plan and available in writing to candidates under 5 CFR 335.103(b)(1), and may be revised by the agency when it no longer serves the agency's needs. Variation across agencies that reflects genuine differences in occupations and missions is a feature of a merit promotion system administered by agencies subject to governmentwide standards, not a defect in it.

OPM further observes that the substantial portions of the Federal workforce that already operate without a time-in-grade restriction have not produced the pattern of workload or litigation the comment anticipates, and no comment identified data showing otherwise. OPM will consider promotion-related workload and complaint activity in the course of its ordinary oversight of agency personnel management programs.

J. Comments Concerning Constitutional and Statutory Objections

Comment 0075 argued broadly that this rule violates the Pendleton Act of 1883 and multiple provisions of the U.S. Constitution, including the First, Fourth, Fifth, Seventh, Eighth, Ninth, and Fourteenth Amendments, by replacing the merit-based competitive examining system with a spoils system.

OPM disagrees. This rule is limited to removing 5 CFR part 300, subpart F, and making conforming amendments to cross-references to TIG in 5 CFR parts 315, 316, 352, and 410. It does not repeal or amend competitive examining (which is governed by 5 U.S.C. chapter

33), does not eliminate OPM qualification standards, does not remove agency merit promotion procedures under 5 CFR part 335, and does not affect classification requirements, probationary period requirements, personnel recordkeeping requirements, due process protections applicable to adverse actions, equal employment opportunity protections, the merit system principles in 5 U.S.C. 2301, or the prohibited personnel practices in 5 U.S.C. 2302. Comment 0075 has not identified a specific provision of this rule that would remove any of the statutory or constitutional protections referenced, and OPM is not aware of a basis for such a conclusion. OPM is not withdrawing the rule on this basis.

OPM addresses the Pendleton Act argument more fully in Part III.A, in response to Comment 0069, and accepts there that merit principles in Federal employment long predate the Civil Service Reform Act of 1978. OPM notes here the point specific to this rule: neither the Pendleton Act nor 5 U.S.C. chapter 33 prescribes a minimum period of service in grade as a condition of promotion. The TIG restriction is a regulatory requirement that the Civil Service Commission elected to retain after the underlying statutory restriction ceased to operate; removing it does not repeal a statutory merit protection because no statute imposes it.

K. Technical and Drafting Corrections

Comment 0076 identified technical inconsistencies between the proposed rule's preamble narrative and its amendatory regulatory text. OPM has reviewed these items, has separately reviewed the proposed rule for related drafting issues, and is making the corrections in this final rule, which include:

1. The proposed rule's preamble stated that the rulemaking would amend § 315.714(b)(4); however, the amendatory text proposed to revise paragraphs (b)(2) and (b)(3) of § 315.714 and remove paragraph (b)(4). This final rule removes paragraph (b)(4) and revises paragraphs (b)(2) and (b)(3). The preamble narrative in this final rule correctly reflects these changes.

2. The proposed rule's preamble referenced amending § 316.909(a) and (c)(iii); the amendatory text proposed to revise paragraphs (a) and (c) of § 316.909 in their entirety, and the proposed paragraph (c) did not contain a subparagraph (iii). The preamble in this final rule reflects that paragraphs (a) and (c) are revised in full.

3. The proposed rule's preamble referenced amending § 316.910(d)(iv), while the proposed amendatory text revised paragraphs (b) and (c) of § 316.910 and removed paragraph (d) in its entirety. The preamble in this final rule correctly describes the revisions.

4. The proposed rule's preamble described the TIG restriction as requiring employees ''in grades 5 and above'' to serve 52 weeks in grade before becoming eligible for promotion ''to the next grade level.'' That description, which OPM has used in prior rulemakings, is imprecise in two respects: the restriction operates by reference to the grade of the position to be filled rather than the employee's current grade, and it does not uniformly limit advancement to a single grade. *See* 5 CFR 300.604(b)(1) (permitting advancement to GS–6 through GS–11 after 52 weeks in a position no more than two grades lower, where the position to be filled is in a line of work properly classified at two-grade intervals); § 300.604(c) (no time restriction on advancement to positions up to GS–5 where the position to be filled is no more than two grades above the lowest grade held in the preceding 52 weeks under the latest nontemporary competitive appointment). The narrative in this final rule more accurately describes these provisions. This correction is descriptive only; the effect of the rule is unchanged.

5. The authority citations in this final rule reflect updates from other rules and other corrections, as well as amendments to conform to the requirements of 1 CFR part 21, subpart B.

OPM appreciates the specificity of Comment 0076's feedback and confirms that these are non-substantive corrections that do not change the scope or effect of the rule as proposed.

L. Comments Outside the Scope of This Rulemaking

Comment 0004 raised concerns regarding Quality Step Increases, addressed in Part III.H. Comment 0054 raised concerns regarding a separate OPM rulemaking on performance-rating distribution and agency-specific pay authorities, also addressed in Part III.H. Comment 0069 referenced Schedule Policy/Career, the Merit Hiring Plan, a separate proposed rule on performance appraisal, a proposed rule on Reduction in Force (RIF), and proposed rules on probationary and trial period appeals and RIF appeals.

OPM appreciates these comments but notes that they concern separate regulatory actions or authorities not addressed by this rulemaking, which is limited to the TIG eligibility restriction in 5 CFR part 300, subpart F, and conforming amendments. OPM is not making changes in this final rule in response to those comments, but may consider those comments, as applicable, in connection with the separate rulemakings or policies to which they pertain.

IV. Implementation Considerations

This rule is effective 90 days after the date of publication in the **Federal Register**. OPM recognizes that agencies will need to revise merit promotion plans under 5 CFR 335.103, update internal policy guidance, satisfy any applicable collective bargaining obligations under 5 U.S.C. chapter 71 (see Part III.F), and train human resources staff and supervisors. Consistent with the comments addressed in Part III.B through III.D, OPM confirms that agencies may continue to apply TIG-like or other job-related time-based progression criteria within their own merit promotion plans and career-ladder structures during and after this transition, provided such criteria are job-related, established in advance, available in writing to candidates under 5 CFR 335.103(b)(1), and consistently applied.

OPM will issue implementation guidance to support agency implementation of this rule. OPM anticipates that the guidance will address, at a minimum: (1) the disposition of existing training agreements and the removal of the OPM-approval requirement, as described in Part III.G; (2) the documentation of agency-established, job-related service or progression requirements in merit promotion plans following the removal of § 300.606, as described in Part III.G; (3) model job-related promotion criteria and documentation practices, consistent with the recommendations in four comments (0030, 0067, 0074, and 0076) and as described in Part III.C; and (4) the application of this rule to career-ladder positions, as described in Part III.G. This responds to the recommendations in four comments (0067, 0069, 0074, and 0076) that OPM issue implementation guidance in connection with this rule.

V. Regulatory Analysis

A. Statement of Need

The current TIG requirement originated in the Whitten Amendment, section 1302 of the Supplemental Appropriation Act, 1951, Public Law 81–843, 64 Stat. 1044, 1066 (Sept. 27, 1950), enacted during the Korean conflict to prevent a permanent, uncontrolled buildup of higher-graded civil service positions. That statute expired on September 14, 1978. The

Civil Service Commission, OPM's predecessor, elected to preserve the TIG restriction in regulation notwithstanding the statute's expiration, and the restriction has been carried forward in successive recodifications, most recently at 56 FR 23002 (May 20, 1991). Nearly five decades later, OPM has concluded, consistent with Executive Order (E.O.) 14170 and OPM's Merit Hiring Plan, that governmentwide qualification standards, agency merit promotion procedures under 5 CFR part 335, classification requirements, and the merit system principles and prohibited personnel practices codified in the Civil Service Reform Act of 1978 provide a more direct and effective means of ensuring merit-based promotion than a uniform, calendar-based waiting period.

The comment record, summarized in Part II, confirms that TIG frequently operates to exclude employees who are otherwise qualified—based on demonstrated performance (Comments 0011, 0015, 0027, 0053, 0060), prior military or private-sector experience (Comments 0003, 0006, 0016, 0026, 0041, 0043, 0052, 0058), or specialized experience gained in a different occupational series (Comment 0056)—from consideration for promotion for reasons unrelated to their readiness to perform higher-graded work.

As Comment 0069 correctly observed, merit principles in Federal employment did not originate with the Civil Service Reform Act of 1978. Congress rejected the spoils system in the Pendleton Act of 1883, and the Civil Service Commission administered merit-based examination, promotion, and classification requirements well before 1950. OPM's point is narrower. The specific framework on which this rule relies—the governmentwide qualification standards published in the OPM Operating Manual, Qualification Standards for General Schedule Positions; the merit promotion requirements in 5 CFR part 335; the merit system principles and prohibited personnel practices codified at 5 U.S.C. 2301 and 2302; and the institutions that administer them, including the Office of Special Counsel, the Merit Systems Protection Board, and the Federal-sector equal employment opportunity complaint process—postdates enactment of the Whitten Amendment. It is the availability of that framework, rather than the absence of any merit principle in 1950, that supports OPM's conclusion that a uniform calendar-based waiting period is no longer necessary or appropriate.

B. Impact

OPM expects this rule to result in a more efficient, skills-based promotion process for General Schedule competitive service employees. Employees whose demonstrated qualifications, performance, and experience meet the requirements for a higher-graded position will be eligible for consideration without an additional, non-merit waiting period. Agencies will retain full authority to establish job-related promotion criteria, career-ladder progression standards, and documentation practices suited to their occupations and missions, as discussed in Part III.C and III.G. This rule is also expected to reduce administrative burden by eliminating the recurring determinations that TIG required: computation of creditable service under former § 300.605, including the conversion of non-General Schedule service to an equivalent General Schedule grade by comparison of representative rates; agency-head approval of exceptions to avoid hardship to an agency or inequity to an employee under former § 300.603(b)(7); OPM authorization of additional exceptions under former § 300.603(b)(8); and OPM approval of training agreements providing for consecutive accelerated promotions under former § 300.603(b)(6).

C. Regulatory Alternatives

OPM considered and rejected the following alternatives, each addressed in greater detail in Part III:

No-action alternative. OPM considered retaining the current TIG requirement without change. OPM rejected this alternative for the reasons explained throughout Part III and Part V.A.

Grade-banded or graduated TIG schedules (Comments 0008, 0042). OPM considered replacing the uniform 52-week requirement with a schedule of waiting periods that varies by grade level, or with a framework allowing a single accelerated promotion followed by a reduced but still-applicable waiting period. OPM rejected these alternatives for the reasons discussed in Part III.B.

Competency-based and high-performer waiver frameworks (Comments 0024, 0072). OPM considered retaining the 52-week requirement as a governmentwide baseline while creating a formal waiver process requiring the highest performance rating, an OPM-certified assessment tool, and independent review board approval for early promotion, and considered more generally adding a high-performer flexibility to an otherwise retained TIG requirement. OPM rejected these alternatives for the reasons discussed in Part III.B.

Two- or three-year eligibility for multi-grade advancement (Comment 0050). OPM considered a proposal to make employees eligible to compete for positions up to two grades above their current grade after two or three years of service in grade. OPM rejected this alternative for the reasons discussed in Part III.B.

Occupation-limited elimination (Comment 0002). OPM considered limiting elimination to technical, medical, and scientific occupations while retaining TIG elsewhere. OPM rejected this alternative for the reasons discussed in Part III.B.

Mandatory governmentwide documentation, certification, review-board, and reporting requirements (Comments 0030, 0063, 0064, 0067, 0068, 0069, 0073, 0074, 0076). OPM considered requiring, as a condition of eliminating TIG, that agencies adopt standardized written promotion criteria, obtain higher-level or independent review of every promotion occurring before 52 weeks would otherwise have elapsed, certify compliance with merit system principles for each such promotion, and publicly report aggregate data on the use of this flexibility. OPM rejected mandating these requirements in the regulatory text for the reasons discussed in Part III.C and III.D, including that requirements governing how agencies conduct promotion actions belong in 5 CFR part 335 and were not proposed for amendment in this rulemaking.

Retaining TIG for VEOA-based competition only (Comment 0076). OPM considered retaining the TIG restriction solely as applied to current status employees competing for merit promotion positions for which preference-eligible veterans are also eligible to compete under 5 U.S.C. 3304(f). OPM rejected this alternative because it would reintroduce, for a subset of vacancies, the same calendar-based eligibility restriction OPM has determined is not merit-based, and because, as explained in Part III.E, status employees and VEOA-eligible veterans competing for the same vacancy remain subject to the same qualification standards and the same competitive procedures, so removing an internal eligibility restriction does not disadvantage the external candidate.

Delayed, phased, or conditional effective date (Comments 0008, 0013, 0030, 0072, 0076). OPM considered a longer or phased implementation period, a fixed governmentwide

transition window of 90 to 180 days or more prescribed in the regulatory text, a mandatory 24-month phased implementation, and an effective date conditioned on OPM certification regarding the adjudicatory capacity of other Federal agencies. OPM adopted an effective date 90 days after publication and rejected the remaining variants for the reasons discussed in Parts III.A, III.B, and III.F.

D. Costs

Consistent with the proposed rule, OPM estimates that agencies will need an average of 250 hours in the first year following publication of this final rule to review the rule and revise merit promotion plans, policies, and training materials, at an assumed fully loaded labor cost of $156.30 per hour (based on the 2026 GS–14, step 5, Washington-DC locality rate, with total labor costs assumed at 200 percent of the base wage rate). This results in an estimated first-year implementation cost of approximately $39,075 per agency and approximately $3,126,000 governmentwide. OPM acknowledges, in response to Comment 0076, that large multi-component departments with numerous bargaining units may experience implementation costs above this governmentwide average but does not believe this warrants revising the estimate used for governmentwide regulatory analysis purposes. In response to Comment 0014, OPM notes that promotion actions taken under this rule remain subject to existing agency budgetary authority and funding availability, and this rule does not require agencies to promote any employee or to accelerate compensation growth.

OPM's estimate reflects one-time implementation cost and does not monetize the recurring administrative work this rule eliminates. As described in Part III.I and Part V.B, agencies will no longer determine and document TIG eligibility for covered internal promotion actions, compute creditable service under former § 300.605, or process exception approvals under former § 300.603(b)(6) through (b)(8). OPM expects the net effect on recurring administrative burden to be a reduction but does not have data permitting a reliable quantification and therefore does not claim a monetized cost saving. The estimate is conservative in that respect.

In response to Comment 0069, OPM acknowledges that it has not quantified any change in promotion-request volume, human resources workload, grievance activity, or litigation risk associated with this rule. OPM does not possess data that would support a reliable estimate of those quantities, and the portions of the Federal workforce already operating without a time-in-grade restriction do not exhibit the pattern the comment anticipates. OPM will consider promotion-related workload and complaint activity in the course of its ordinary oversight of agency personnel management programs.

E. Benefits

This rule benefits agencies by allowing them to consider and promote qualified employees more quickly when higher-graded work, funding, and a properly classified position are available, improving agencies' ability to retain employees who might otherwise leave Federal service for faster-advancing opportunities elsewhere, consistent with the experience described in four comments (0009, 0040, 0045, and 0076). It benefits employees by ensuring that demonstrated performance, relevant experience, and qualifications—rather than the passage of a fixed calendar period—determine eligibility for consideration. It benefits the public by supporting a more efficient and merit-based Federal workforce.

VI. Regulatory Compliance

1. Regulatory Review

OPM has examined the impact of this rule as required by E.O.s 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if a regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for rules that have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rulemaking does not reach that threshold. It has nonetheless been designated a ''significant regulatory action'' under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and has been reviewed by the Office of Management and Budget (OMB). This rule is considered an Executive Order 14192 deregulatory action.

2. Regulatory Flexibility Act

The Director of the Office of Personnel Management certifies that this regulation will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies and employees.

3. Federalism

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, no Federalism Assessment is required.

4. Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

5. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately $206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

6. Congressional Review Act

OMB's Office of Information and Regulatory Affairs has determined this rule does not meet the criteria for a ''major rule'' as defined in 5 U.S.C. 804(2). In addition, this is a rule relating to agency management or personnel and does not come within the meaning of the term ''rule'' as used in 5 U.S.C. 804(3)(C). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

7. Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), unless that collection of information displays a currently valid OMB Control Number. This final rule does not create a new collection of

information and does not revise an existing one. The existing OMB-approved collection identified in the proposed rule, USAJOBS 3.0 (OMB Control Number 3206–0219), is unaffected, and OPM does not anticipate that implementation of this rule will increase the burden associated with that control number. This rule removes the OPM approval process for training agreements providing for consecutive accelerated promotions under former 5 CFR 300.603(b)(6).

List of Subjects

5 CFR Part 300

Freedom of information, Government employees, Reporting and recordkeeping requirements, Selective Service System.

5 CFR Part 315

Government employees.

5 CFR Part 316

Employment, Government employees.

5 CFR Part 352

Administrative practice and procedure, Government employees.

5 CFR Part 410

Education, Government employees.

Signing Statement

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

U.S. Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

For the reasons set forth in the preamble, the Office of Personnel Management amends 5 CFR parts 300, 315, 316, 352, and 410 as follows:

PART 300—EMPLOYMENT (GENERAL)

■ 1. The authority citation for part 300 is revised to read as follows:

Authority: 5 U.S.C. 552, 2301, 2302, 3301, and 3302; E.O. 10577, 19 FR 7521, 3 CFR 1954–1958 Comp., p. 218, unless otherwise noted.

Subpart A also issued under 5 U.S.C. 7201, 7204, and 7701; E.O. 11478, 34 FR 12985, 3 CFR 1966–1970 Comp., p. 803; E.O. 13087, 63 FR 30097, 3 CFR 1998 Comp., p. 191; and E.O. 13152, 65 FR 26115, 3 CFR 2000 Comp., p. 264.

Subpart C also issued under 5 U.S.C. 3341 and E.O. 13562, 75 FR 82585, 3 CFR 2010 Comp., p. 291.

Subpart D also issued under 5 U.S.C. 1302(c).

Subpart E also issued under 5 U.S.C. 1103(a)(5).

Subpart F—[Removed and Reserved]

■ 2. Remove and reserve subpart F, consisting of §§ 300.601 through 300.606.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

■ 3. The authority citation for part 315 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 19 FR 7521, 3 CFR, 1954–1958 Comp., p. 218; E.O. 14284, 90 FR 17729.

Secs. 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652.

Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104.

Sec. 315.603 also issued under 5 U.S.C. 8151.

Sec. 315.605 also issued under 22 U.S.C. 2051, 42 U.S.C. 2991; E.O. 12034, 43 FR 1917, 3 CFR, 1978 Comp., p. 111.

Sec. 315.606 also issued under E.O. 11219, 30 FR 6381, 3 CFR, 1964–1965 Comp., p. 303.

Sec. 315.607 also issued under 22 U.S.C. 2506.

Sec. 315.608 also issued under E.O. 12721, 55 FR 31349, 3 CFR, 1990 Comp., p. 293.

Sec. 315.610 also issued under 5 U.S.C. 3304(c).

Sec. 315.611 also issued under 5 U.S.C. 3304(f).

Sec. 315.612 also issued under 5 U.S.C. 3330d and E.O. 13473, 73 FR 56703, 3 CFR, 2009 Comp., p. 241.

Sec. 315.613 also issued under 5 U.S.C. 9602.

Sec. 315.614 also issued under 5 U.S.C. 3115.

Sec. 315.710 also issued under E.O. 12596, 52 FR 17537, 3 CFR, 1987 Comp., p. 264.

Subpart I also issued under 5 U.S.C. 3321; E.O. 12107, 44 FR 1055, 3 CFR, 1978 Comp., p. 264.

Sec. 315.714 also issued under 5 U.S.C. 3116.

Subpart G—Conversion to Career or Career-Conditional Employment From Other Types of Employment

■ 4. Amend § 315.714 by revising paragraphs (b)(2) and (3) and removing paragraph (b)(4). The revisions read as follows:

§ 315.714 Conversion based on service in a post-secondary student appointment under part 316, subpart I, of this chapter.

* * * * *

(b) * * *

(2) Have completed not less than 640 hours of current continuous employment in an appointment under § 316.902 of this chapter; and

(3) Meet the OPM qualification standards for the position to which the student will be converted.

* * * * *

PART 316—TEMPORARY AND TERM EMPLOYMENT

■ 5. The authority citation for part 316 continues to read as follows:

Authority: 5 U.S.C. 3301, 3302, 3316. E.O. 10577, 19 FR 7521, 3 CFR, 1954–1958 Comp., p. 218; E.O. 14284, 90 FR 17729. 5 CFR 2.2(c).

Subpart I—Hiring Authority for Post-Secondary Students

■ 6. Amend § 316.909 by revising paragraphs (a) and (c) to read as follows:

§ 316.909 Promotion.

(a) *Students on term appointments.* An agency may promote a student who was appointed for an initial period expected to last more than 1 year but less than 4 years provided the student meets the qualification requirements for the higher graded position, and the public notification for the position filled by the student stated the potential for promotion and specified a career ladder.

* * * * *

(c) *Promotions at the time of conversion.* Students (on temporary or term appointments) may be eligible for non-competitive promotions upon conversion if:

(1) The agency has established a career ladder or promotion potential for the position; and

(2) The public notification for the position filled by the student stated the potential for promotion and specified a career ladder.

■ 7. Amend § 316.910 by revising paragraphs (b) and (c) and removing paragraph (d). The revisions read as follows:

§ 316.910 Conversion.

* * * * *

(b) Has completed not less than 640 hours of current continuous employment in an appointment under § 316.902; and

(c) Meets the OPM qualification standards for the position to which the student will be converted.

PART 352—REEMPLOYMENT RIGHTS

Subpart C—Detail and Transfer of Federal Employees to International Organizations

■ 8. The authority citation for part 352, subpart C, is revised to read as follows:

Authority: 5 U.S.C. 3584, E.O. 11552, 35 FR 13569, 3 CFR 1966–1970 Comp., p. 954.

Section 352.313 also issued under 5 U.S.C. 7701, *et seq.*

■ 9. Amend § 352.311 by revising paragraph (d) to read as follows:

§ 352.311 Reemployment.

* * * * *

(d) The period of separation caused by the employment of the employee with the international organization and the period necessary to effect reemployment are creditable service for all appropriate civil service employment purposes (*e.g.,* tenure, service computation date, retirement). Employees, upon return, are also entitled to restoration of any sick leave.

* * * * *

PART 410—TRAINING

■ 10. The authority citation for part 410 is revised to read as follows:

Authority: 5 U.S.C. 1103(c), 2301, 2302, and 4101, *et seq.;* E.O. 11348, 32 FR 6335, 3 CFR, 1967 Comp., p. 275; E.O. 11478, 34 FR 12985, 3 CFR 1966–1970 Comp., p. 803, unless otherwise noted; E.O. 13087, 63 FR 30097, 3 CFR 1998 Comp., p. 191; and E.O. 13152, 65 FR 26115, 3 CFR 2000 Comp., p. 264.

Subpart C—Establishing and Implementing Training Programs

■ 11. Amend § 410.307 by revising paragraphs (a)(1) and (2) and removing paragraph (a)(3). The revisions read as follows:

§ 410.307 Training for promotion or placement in other positions.

(a) * * *

(1) Agency authority to modify qualification requirements in certain situations as provided in the OPM Operating Manual for Qualification Standards for General Schedule Positions; and

(2) Agency authority to establish training programs that provide intensive and directly job-related training to substitute for all or part of the experience (but not education, licensing, certification, or other specific credentials) required by OPM qualification standards. Such training programs may be established to provide employees with the opportunity to acquire the experience and knowledge, skills, and abilities necessary to qualify for another position (including at a higher grade) at an accelerated rate.

* * * * *

[FR Doc. 2026–21319 Filed 10–16–26; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 351, 430, 451, 534, 537, 630, and 894

[Docket ID: OPM–2025–0011]

RIN 3206–AO88

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Part 1330

RIN 0348–AB92

Managing Senior Professional Performance

AGENCY: Office of Personnel Management and the Office of Management and Budget.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) and the Office of Management and Budget (OMB) are issuing a final rule to strengthen the performance appraisal of senior-level (SL) and scientific or professional (ST) employees, collectively referred to as ''senior professionals.'' This final rule establishes a new subpart dedicated exclusively to senior professional performance appraisal that aligns more closely with Senior Executive Service (SES) performance appraisal regulations. The rule also eliminates senior professional appraisal programs, removes the prohibition of a standardized distribution of performance rating levels, and enhances oversight of the appraisal process.

DATES: Effective November 18, 2026.

FOR FURTHER INFORMATION CONTACT: Aaron Gottesman, Senior Advisor to the Director, 202–606–8046 or by email at *SESpolicy@opm.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Office of Personnel Management (OPM) is issuing this final rule to revise the performance appraisal framework applicable to senior-level (SL) and scientific or professional (ST) employees, collectively referred to as ''senior professionals.'' These positions are established under 5 U.S.C. 5376 and are classified above GS–15 and just below the Senior Executive Service (SES). Senior professionals serve in positions that require a high level of expertise and are expected to exercise significant responsibility and independent judgment in support of agency missions. As such, they play a critical role in advancing agency priorities and delivering mission outcomes comparable in impact to those of SES members.

Although Congress has aligned the pay structure for senior professionals with that of the SES, including through the Federal Employees Pay Comparability Act of 1990 [1] and the Senior Professional Performance Act of 2008, Public Law 110–372 (October 8, 2008), the performance management requirements applicable to senior professionals have remained governed by the general appraisal provisions in 5 CFR part 430, subpart B. These regulations have not been updated since the mid-1990s and were designed to meet the needs of a broad population of federal employees such as prevailing rate employees, seasonal employees, and employees across all grades and steps of the General Schedule. Over time, these regulations have become increasingly incompatible with OPM's efforts to develop a dedicated modern senior professional performance appraisal system. Hence, OPM has determined that this misalignment between pay, responsibilities, and performance appraisal requirements warrants regulatory revision.

In the proposed rule published on February 24, 2026 (91 FR 8763), OPM explained that the current performance appraisal framework does not sufficiently support meaningful differentiation in performance among senior professionals. As noted in the proposed rule, despite prior efforts by OPM to curb ratings inflation through guidance,[2] Governmentwide data showed that, in fiscal years 2023 and 2024, approximately 90 percent of senior professionals received ratings at Levels 4 and 5, while less than a half of one percent of senior professionals received ratings below Level 3 (''Fully Successful'').[3] Additionally, the 2024 Federal Employee Viewpoint Survey (FEVS) results showed that only 47% of federal employees agreed with the statement, ''In my work unit, differences in performance are recognized in a meaningful way.'' [4] This was the lowest

[1] Enacted as Section 529 of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Pub. L. 101–509, 104 Stat. 1427).

[2] *See, e.g.,* Off. of Pers. Mgmt., *Applying Rigor in the Performance Management Process and Leveraging Awards Programs for a High-Performing Workforce,* (July 12, 2019), *available at www.opm.gov/chcoc/transmittals/2019/applying-rigor-performance-management-process-and-leveraging-awards-programs-high-performing_508_0.pdf.*

[3] SL and ST Governmentwide ratings data for fiscal years 2023 and 2024 were obtained from OPM's Enterprise Human Resources Integration-Statistical Data Mart and are on file with OPM.

[4] *See Federal Employee Viewpoint Survey,* U.S. Off. of Pers. Mgmt.,*www.opm.gov/fevs/reports/*

positive response rate for any question and has consistently been the lowest over the past three years.[5] OPM noted that these data raise concerns regarding rating inflation and the effectiveness of existing appraisal systems in holding senior professionals accountable for performance. In this final rule, OPM eliminates the prior prohibition on forced, or standardized, distribution for senior professionals and provides that OPM may establish a standardized distribution of some or all rating levels for agencies to apply with respect to their senior professional cohorts, except that senior professionals appointed under Schedules C and G may be excluded from such requirements.[6]

Consistent with OPM's authority under 5 U.S.C. chapter 43 and the Civil Service Reform Act of 1978, this final rule is intended to strengthen performance management for senior professionals by better aligning appraisal practices with the scope and impact of their duties. The new subpart generally mirrors the provisions and structure of the SES appraisal regulations at 5 CFR part 430, subpart C, but certain elements of the non-SES appraisal regulations at 5 CFR part 430, subpart B, are retained in the new subpart due to the different statutory authorities and requirements that apply to the SES and senior professionals. The reforms in this final rule are designed to promote greater rigor, transparency, oversight, and accountability in the evaluation of senior professional performance.

Digest of Public Comments

In response to the proposed rule, OPM received 12 comments during the 30-day public comment period from various individuals, organizations, and a professional association representing employment law attorneys. Of the 12 comments received, nine were posted to *Regulations.gov*, including one comment that was substantively identical to another submission. Three of the comments received were outside the scope of this rulemaking and therefore not posted. At the conclusion of the public comment period, OPM reviewed and analyzed the comments.

The comments are summarized and discussed in the subsequent sections, beginning with general comments followed by comments specific to each section. A discussion of the suggested revisions that were considered and either adopted, adopted in part, or declined, and the rationale therefor is included.

General Comments

The comments received reflect a range of views, with some expressing support, others acknowledging the need for performance management reforms but disagreeing with OPM's approach, and others strongly objecting to the rule. For example, Commenter 0007 stated ''I support the proposed rule to implement standardized distributions for senior professional performance appraisals. The reasoning is that for too long, 'leniency bias' has led to rating inflation.'' Another individual characterized the rule as ''a step in the wrong direction to ensure high level performers necessary for these positions are willing to become civil servants.'' (Commenter 0011). Most commenters focused their objections on only a few specific provisions of the rule and framed their concerns in terms of the potential impact on the Federal workforce, implementation challenges, and perceived legal issues, which OPM addresses below in the relevant sections of the preamble.

Commenter 0011 argued that OPM failed to provide sufficient time to address the proposed rule and that an additional 60 to 180 days should be provided, citing the complexity of the rule and the fact that OPM has recently issued several other proposed rules. Respectfully, OPM provided sufficient time for the public to review the proposed rule and submit comments. Courts have held that a 30-day comment period is generally sufficient to comply with the Administrative Procedure Act (APA).[7]

Commenters 0010 and 0011 also urged OPM to withdraw the rule based on the broader context in which it was proposed, arguing that other recent personnel actions have destabilized the Federal workforce and that performance data generated in that environment cannot justify reform. Those objections are directed at actions and policies outside the scope of this rulemaking, and OPM does not address them here. OPM notes, however, that the ratings data on which this rule relies are from fiscal years 2023 and 2024, and the FEVS results it cites span 2022 through 2024, largely predating the events the commenters describe. OPM has evaluated this rule on its own record and pursuant to its own statutory authorities, as discussed throughout this preamble.

Part 430—Performance Management

This final rule revises 5 CFR part 430 by establishing a new subpart E dedicated to managing senior professional performance. In the following sections, we address the public comments related to the specific sections of the regulation to which each comment applied.

Section 430.501 General

This section identifies the statutory and regulatory basis for the senior professional performance appraisal subpart. This section also describes the conditions under which agencies and employees not covered by the provisions of this subpart can receive performance evaluations and ratings that are considered ratings of record for reduction in force purposes.

Commenter 0011 asserted that OPM lacks statutory authority for this rulemaking. As described in more detail in the Background and the proposed rule,[8] OPM not only has authority to regulate performance management but is required to do so. Chapter 43 of title 5, U.S. Code, remains the applicable authority for performance appraisal systems and establishes OPM's responsibility to prescribe regulations governing performance management for senior professionals. The commenter's constitutional objections are likewise unavailing. This rule implements an express delegation of rulemaking authority from Congress at 5 U.S.C. 4305, 1103, and 1104; it does not purport to enact, amend, or repeal any statute. Nor does *Loper Bright Enterprises* v. *Raimondo,* 603 U.S. 369 (2024), assist the commenter: that decision concerns judicial deference to agency interpretations of ambiguous statutes and does not diminish an agency's exercise of authority Congress has expressly conferred. Nothing in this

governmentwide-reports (last visited July 31, 2026) (providing FEVS Results for years up to 2024).

[5] *Id.*

[6] As used in this rule, the term ''standardized distribution'' refers to a prescribed allocation of performance rating levels across a rated population—*e.g.,* limits or targets on the percentage of senior professionals who may receive a given rating level. The term is not used in its statistical sense and does not refer to a standard normal (Gaussian) distribution or any other formal probability distribution. Nothing in this rule requires that ratings conform to a bell curve or other statistical model.

[7] *See Chamber of Com. of the U.S.* v. *U.S. Sec. & Exch. Comm'n,* 85 F.4th 760, 779 (5th Cir. 2023) (''[T]he APA generally requires only a minimum thirty-day comment period.''); *see also Riverbend Farms, Inc.* v. *Madigan,* 958 F.2d 1479, 1484 (9th Cir. 1992) (''Although the APA mandates no minimum comment period, some window of time, usually thirty days or more, is . . . allowed for interested parties to comment.''); *Nat'l Lifeline Ass'n* v. *FCC,* 921 F.3d 1102, 1117 (D.C. Cir. 2019) (''When substantial rule changes are proposed, a 30-day comment period is generally the shortest time period sufficient for interested persons to meaningfully review a proposed rule and provide informed comment.'').

[8] 91 FR at 8763–64.

rule purports to limit judicial review otherwise available by law.

Although 5 U.S.C. 4305 provides OPM the authority to prescribe regulations governing performance appraisal under subchapter I of chapter 43 of title 5, U.S. Code, Commenters 0005 and 0008 recommended that OPM instead use the demonstration project authority under 5 U.S.C. 4703 to test the proposed reforms in this final rule before implementing them Governmentwide. These commenters argue that the proposed changes, including the use of a standardized distribution of performance ratings and other structural modifications, are untested in the Federal context and may carry significant risks for workforce morale, retention, and organizational effectiveness. Commenters suggested that pilot programs, randomized trials, or phased implementation approaches would provide an evidence-based foundation for broader adoption and allow OPM to assess potential unintended consequences.

OPM appreciates the commenters' recommendations regarding the use of demonstration project authority and agrees that demonstration projects can be a valuable tool for testing innovative personnel management approaches in appropriate circumstances. However, OPM has determined that the use of a demonstration project under 5 U.S.C. 4703 is not necessary and would create unacceptable delays to the urgently needed reforms adopted in this final rule.

Demonstration projects, by definition, ''must require the waiver of a provision of law, rule, or regulation which is eligible for waiver under the demonstration authority contained in 5 U.S.C. 4703.'' [9] OPM requires no waiver of any provision of law or rule to exercise its statutory authority under 5 U.S.C. 4305 to prescribe non-SES performance appraisal regulations. Many of the provisions in this final rule are grounded in longstanding principles of effective performance management, including the need for meaningful differentiation in performance ratings, clear accountability, and alignment between performance outcomes and organizational goals.

Additionally, senior professionals have already been operating under a new senior professional performance appraisal system and plan [10] since October 1, 2025, which in many ways is similar to the new SES performance appraisal system and plan.[11] OPM also notes that the rule, Assuring Responsive and Accountable Federal Executive Management, published on September 15, 2025 (90 FR 44291), authorized OPM to establish a standardized distribution of rating levels for the SES and this final rule seeks to establish parity with that SES rule. The effects of standardized distribution systems have been extensively studied across multiple organizational contexts,[12] and OPM relied on this robust existing body of evidence in both the SES rulemaking and this current rulemaking. Conducting further study through a demonstration project is, therefore, unlikely to produce novel results that have not been documented elsewhere in the literature. Moreover, OPM will diligently monitor the implementation of all the reforms in this rule and through ongoing oversight, data analysis, and engagement with agencies, continue to refine its senior professional performance appraisal guidance to ensure the final rule achieves its intended objectives.

For these reasons, OPM has determined that proceeding with Governmentwide implementation of the final rule, rather than using demonstration project authority, is appropriate and consistent with the objectives of improving the rigor and effectiveness of senior professional performance appraisal and increased parity with the SES performance appraisal framework. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.502 Coverage

This section addresses coverage under the new subpart. It applies only to senior professionals paid under 5 U.S.C. 5376, which includes all SL positions that are classified above GS–15 pursuant to 5 U.S.C. 5108 and all ST positions established under 5 U.S.C. 3104. It also authorizes OPM to exclude certain excepted service positions where applicable.

OPM received no comments on this section and is adopting the language as proposed.

Section 430.503 Definitions

This section provides definitions necessary for administration. Key defined terms include ''agency,'' ''appraisal period,'' ''critical element,'' ''initial summary rating,'' ''oversight official,'' ''performance standard,'' ''PRB (Performance Review Board),'' ''progress review,'' and ''rating official.'' Certain defined terms in the new subpart are retained from both the SES appraisal framework and non-SES appraisal regulations, tailored for senior professionals to reflect their unique performance management context. Notably, the definition of ''agency'' reflects that, under 5 U.S.C. 5108, OPM determines the maximum number of SL positions that may be established in an Executive agency and, under 5 U.S.C. 3104, OPM determines the maximum number of ST positions in any agency, except for the Library of Congress, which also may establish eight ST positions under 5 U.S.C. 3104.

OPM received no comments on this section and is adopting the language as proposed.

Section 430.504 Senior Professional Performance Appraisal Systems

This section requires agencies to establish performance appraisal systems specifically for senior professionals. OPM proposed to revise these systems to require that they be developed and administered in accordance with the system standards in § 430.505, which more closely align with those applicable to SES appraisal systems. To further align senior professional appraisal with SES appraisal, OPM also proposed to eliminate the requirement that agencies develop separate performance appraisal programs and instead require that senior professional appraisal systems encompass all policies, parameters, procedures, and requirements necessary for OPM approval and be consistent with the criteria for performance appraisal system certification.

Commenter 0006 challenges OPM's underlying authority to change the evaluation system for senior professionals, asserting that OPM's final rulemaking errs in interpreting the Senior Professional Performance Act of 2008 ''as constituting Congressional authority to change the performance evaluation system for SL/ST employees.'' The commenter contends that because Congress did not make substantive changes to senior professional performance appraisal at the time of the 2008 Act, that OPM is

[9] 5 CFR 470.103 (defining ''Demonstration Project'').

[10] Off. of Pers. Mgmt., *New Senior Professional Performance Appraisal System and Plan* (Apr. 3, 2025), *available at www.opm.gov/chcoc/latest-memos/new-senior-professional-performance-appraisal-system-and-plan.pdf.*

[11] Off. of Pers. Mgmt., *New Senior Executive Service Performance Appraisal System and Performance Plan, and Guidance on Next Steps for Agencies to Implement Restoring Accountability for Career Senior Executives* (Feb. 25, 2025), *available at www.opm.gov/policy-data-oversight/latest-memos/new-senior-executive-service-performance-appraisal-system-and-performance-plan-and-guidance-on-next-steps-for-agencies-to-implement-restoring-accountability-for-career-senior-executives.pdf.*

[12] *See, e.g.,* Aniek Wijayanti et al., *What do we know about the forced distribution system: A systematic literature review and opportunities for future research,* 75 Mgmt. Rev. Q. 747 (Feb. 2025), *available at doi.org/10.1007/s11301-023-00396-8.*

precluded from making the regulatory reforms included in this final rule.

OPM respectfully disagrees because the commenter misunderstands OPM's authority. While OPM referenced the Senior Professional Performance Act of 2008 in the proposed rule as an example of legislation that has increased pay parity with the SES, the fact that the legislation did not also make statutory changes to how senior professionals' performance is appraised cannot be interpreted as Congress barring OPM from exercising its statutorily-conferred authority at 5 U.S.C. 4305 to prescribe non-SES performance management regulations. Coverage of senior professionals under subchapter I of chapter 43 of title 5, U.S. Code has not changed. Therefore, OPM is authorized to prescribe regulations affecting the performance management of senior professionals, consistent with statute.

Commenter 0010 argues that OPM has not sufficiently explained why the SES appraisal system is the right comparator to guide the development of the senior professional appraisal system rules, as opposed to constructing a more tailored model that reflects the actual duties of senior professionals. Along a similar line, Commenter 0005 asserts that because senior professionals perform such highly specialized and diverse work across a wide range of competencies, it makes more sense for their performance appraisal systems to align with non-SES appraisal systems as opposed to SES systems—which are focused on executive management competencies.

OPM recognizes and appreciates the broad range of competencies possessed by senior professionals. Using the SES appraisal framework as a model for developing the senior professional appraisal rules in no way equates to senior professionals being evaluated on the same competencies as SES members. The final rule maintains important distinctions that reflect the non-supervisory and highly specialized nature of senior professional roles. Agencies retain the flexibility to tailor senior professional performance plans through inclusion of position-specific performance objectives. Additionally, since senior professionals do not supervise employees other than personal assistants, they do not have ''employee perspectives'' included as a performance factor for their appraisals, nor do their performance plans include a critical element focused on holding others accountable. Although senior professionals do not carry supervisory or executive management responsibilities like SES, they are comparable in terms of their organizational impact, influence on agency mission, and level of accountability. Senior professionals frequently serve as the Federal Government's leading experts in critical fields, provide authoritative technical or scientific advice, and contribute directly to high-level policy, programmatic, or mission outcomes. Thus, given the importance of these positions, OPM continues to believe that a more rigorous and structured appraisal framework—similar to that used for the SES—is appropriate to ensure meaningful differentiation, accountability, and consistency for these positions. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.505 System Standards for Senior Professional Performance Appraisal Systems

This section sets forth the system standards that agencies' senior professional performance appraisal systems must incorporate. Standards include the use of critical elements, alignment of performance requirements with agency mission and strategic planning activities, defined performance standards for each summary rating level, annual performance appraisals, a mathematical method for deriving ratings, establishment of five summary performance levels, and that performance appraisals be used as a basis to adjust pay, reward, retain, develop, and remove senior professionals. OPM also proposed to eliminate the prohibition on a forced, or standardized distribution of rating levels and authorize OPM to establish and refine, as needed, a standardized distribution of some or all rating levels for senior professionals.

Justification of Policy Change

Commenter 0010 asserted that OPM has not provided sufficient justification for departing from its longstanding policy prohibiting pre-established distributions of performance ratings, as reflected in OPM's 1979 regulation.[13] The commenter argued that the prior rule barred forced, or standardized distributions because they could interfere with appraisal of actual performance against standards, and that OPM has not adequately explained its change in position.

OPM respectfully disagrees that it has not articulated a sufficient reason for departing from its prior policy. The APA requires, as relevant here, that OPM provide a reasoned explanation and show awareness that there is, in fact, a change in policy.[14] The Court also held that an agency's reasoning need not prove to be a better solution than the status quo but rather that there are good reasons the agency believes support the change in policy.[15]

In the proposed rule, OPM expressly acknowledged its prior prohibition on pre-established rating distributions and explained that, based on current data, experience, and research, a different approach is warranted to address the persistent lack of meaningful differentiation that exists within senior professional performance ratings. OPM further notes that the 1979 regulatory prohibition was directed at rigid, pre-established ''bell curve'' distributions for fear that requiring a specific distribution of all rating levels would impede appraisal of actual performance against standards. As is common in rulemakings from that time, there is virtually no accompanying preamble explaining the rationale for the provision.

This final rule does not espouse adoption of the rigid ''forced distribution'' approach that animated the prohibition in the 1979 regulation. OPM has explained that it has no intention of imposing any limits on ratings at the Level 3 (''Fully Successful'') level or below and instead, will limit only the highest rating levels. As discussed in the Background, Governmentwide data show that performance ratings for senior professionals are heavily concentrated at the highest levels, with the vast majority of employees receiving top ratings and very few receiving lower ratings.[16] As further explained throughout the proposed rule, this lack of meaningful differentiation limits the effectiveness of performance appraisal systems as tools for accountability, recognition, and workforce management. OPM emphasizes that such rating inflation raises concerns regarding whether existing systems are fully achieving the objectives reflected in 5 U.S.C. 4302 permitting the accurate evaluation of job performance, as systems that do not distinguish among levels of performance fail to meaningfully assess differences in contribution and impact. OPM believes the lack of differentiation in ratings under the current system is so severe that, because previous efforts to normalize ratings through guidance [17] have failed, adoption of a standardized

[13] 44 FR 45587, 45590 (Aug. 3, 1979).

[14] *F.C.C.* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515–16 (2009).

[15] *Id.*

[16] *See supra* text accompanying note 3.

[17] *See supra* note 2.

distribution is a necessary remedy. As such, OPM concludes that it has provided a reasoned explanation for its change in policy, grounded in current data, research, and statutory considerations, and that the final rule represents a permissible exercise of its authority under 5 U.S.C. chapter 43.

Commenter 0010 also asserted that OPM failed to consider narrower alternatives, such as clearer performance standards, stronger supervisory training, or more tailored agency-specific rating systems. OPM considered less sweeping approaches, including continued reliance on guidance, and explains in the Regulatory Alternatives section of this preamble why they are inadequate. Guidance-based efforts to instill rigor have been in place since at least 2019 and have not curbed ratings compression, and clearer standards and training do not address the structural incentives toward leniency documented by GAO. Nor does the final rule displace agency tailoring: agencies continue to design their own performance plans, standards, and position-specific requirements under the new subpart.

Consistency With 5 U.S.C. 4302

Commenters 0003 and 0010 argue that the proposed rule is inconsistent with 5 U.S.C. 4302(c)(1), which requires that performance appraisal systems permit the accurate evaluation of job performance on the basis of objective criteria related to the job in question. These commenters argued that a distribution framework substitutes relative comparisons for job-based standards and may result in ratings that do not reflect actual performance where multiple employees perform at a similarly high level. Commenter 0010 further articulated the argument stating, ''If several employees satisfy the criteria for a high rating, but the system permits only a fixed percentage or number of such ratings, some employees necessarily will receive lower ratings for reasons unrelated to whether they met the requirements of their jobs.''

OPM does not agree that the final rule is inconsistent with 5 U.S.C. 4302. The statute requires that appraisal systems ''to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria . . . related to the job in question for each employee or position under the system'' [18]; it does not prescribe or prohibit a specific rating methodology or preclude the use of a standardized distribution to differentiate among levels of performance. Under this final rule, agencies remain responsible for establishing performance plans with clear, job-related expectations and for evaluating employees against those expectations. The standardized distribution framework provides a structured mechanism to support consistent application of performance distinctions; it does not authorize ratings based on non-performance factors or require agencies to disregard evidence of individual performance.

OPM intends, in exercising its authority to establish a standardized distribution, to instruct that any established rating limits be applied at the appropriate aggregate level as opposed to supervisors applying the rating limits within their own group or team. Thus, the requirement to differentiate between relative levels of performance through the use of a standardized distribution operates only after employees are assessed against established performance standards and does not replace or supplant those standards. The concern put forth by commenters claiming that distributional requirements create tension with statute where multiple employees perform at similarly high levels is misplaced. The final rule does not require the mechanical application of quotas without regard to objective, job-related performance evidence. Rather, it requires agencies to exercise informed judgment within a structured framework designed to support meaningful differentiation.

The final rule also provides sufficient flexibility to accommodate circumstances in which performance is uniformly high, as determined through centralized review and the application of professional judgment, including recommendations from the Performance Review Board (PRB). Where an agency determines that adherence to the limits imposed by the standardized distribution is not appropriate because the performance of its senior professional population was genuinely outstanding, OPM's new senior professional performance appraisal system [19] provides that the President may waive the standardized distribution requirement by certifying that the performance of the agency's senior professionals was outstanding during the relevant time period.

Merit System Principles

Several commenters, including Commenters 0003 and 0010 object to the rule on the basis that it undermines merit system principles at 5 U.S.C. 2301(b). Commenter 0003 specifically claims that a standardized distribution undermines principles calling for ''efficient use of the Federal workforce'' (5 U.S.C. 2301(b)(5)) and that ''Employees should be retained on the basis of the adequacy of their performance.'' (5 U.S.C. 2301(b)(6)). The commenter suggests that because a forced distribution centralizes control over ratings, it creates leverage for an agency to use ratings punitively against experts whose results or conclusions displease political appointees. The commenter argues that this creates an invitation for prohibited personnel practices such as discrimination based on political affiliation (5 U.S.C. 2302(b)(1)(E)) and coercion of political activity (5 U.S.C. 2302(b)(3)). Similarly, a commenter argued that ''OPM's proposed rule creates an unconstitutional loophole and attempts to remove power from established laws, tying employee ''performance'' to political perspectives.'' (Commenter 0011).

OPM does not agree that the final rule undermines the merit system principles or creates an increased risk of prohibited personnel practices. The merit system principles require that employees be managed in a manner that promotes efficiency, effectiveness, and fair treatment based on performance. The final rule specifically includes ''compliance with merit system principles'' as a factor taken into account when appraising senior professionals. 5 CFR 430.508(d)(5). The final rule further advances merit system principles by strengthening the rigor and credibility of performance appraisals and ensuring that ratings meaningfully differentiate between levels of contribution and impact.

Any argument that this final rule negatively affects an employee's ability to be retained on the basis of the adequacy of their performance is unfounded. As previously mentioned, OPM intends that the standardized distribution will apply only to the assignment of the highest performance rating levels (Levels 4 and 5) and will not impose limitations on any of the levels at or below Level 3 (''Fully Successful''), such as a ''quota'' requiring the issuance of a certain amount of Level 1 (''Unacceptable'') ratings. Because Level 3 represents fully adequate performance and remains unrestricted, the application of a standardized distribution will not require a senior professional to receive lower than a Level 3 rating, invalidating concerns over associated performance-based demotion or removal. As such, OPM concludes that a standardized

[18] 5 U.S.C. 4302(c)(1) (emphasis added).

[19] *See supra* note 10.

distribution does not interfere with an employee's ability to be retained on the basis of the adequacy of their performance and, therefore, does not conflict with 5 U.S.C. 2301(b)(6).

OPM also disagrees with the commenter's assertion that the rule invites prohibited personnel practices and will have a chilling effect on the independent professional judgment of experts. Under the final rule, performance ratings remain based on individual merit and individual performance—not on irrelevant factors like race, political affiliation, or religion. Supervisors who assign ratings based on personal favoritism or engage in political coercion would continue to violate merit system principles regardless of the rating structure in place. OPM emphasizes that all existing statutory protections remain fully applicable. Allegations of retaliation, discrimination, or coercion remain subject to review by appropriate oversight bodies, including the Office of Special Counsel (OSC), the Merit Systems Protection Board (MSPB), and equal employment opportunity (EEO) processes. Hence, distinguishing employees based on relative performance does not conflict with the merit system principles or undermine fair and equitable treatment.

Relatedly, Commenter 0010 argued that requiring supervisors to distinguish among similarly performing employees will shift appraisals toward subjective judgments about style, visibility, or personality, increasing the risk of favoritism and implicit bias, and cited Equal Employment Opportunity Commission (EEOC) best-practices guidance recommending neutral and objective criteria. OPM disagrees that the final rule invites such subjectivity. Ratings remain anchored to written, job-related critical elements and performance standards established in advance, and OPM intends for any rating limits to be applied at an aggregate level rather than within a supervisor's own team. Moreover, the multilayered review structure adopted in this rule—higher-level review, centralized PRB review, and the involvement of approving and oversight officials—provides more checks against idiosyncratic or biased judgments than the current framework, under which a rating may rest largely on a single supervisor's unreviewed assessment. These features are consistent with the EEOC guidance the commenter cites, and all EEO protections and remedies remain fully available to senior professionals.

OPM has also taken additional steps in the final rule to ensure that senior professional appraisals under standardized distribution are free from undue political influence. Consistent with the standardized distribution approach adopted for the SES, which excluded noncareer appointees from the standardized distribution requirements, OPM is excluding Schedule C and Schedule G excepted service appointees from these requirements. This exclusion eliminates even the perception that rating distributions could be used in a manner that favors issuing high ratings to political appointees over career employees.

For these reasons, OPM concludes that the final rule is consistent with the merit system principles and continues to support accurate, objective, and job-related evaluation of employee performance.

Differentiation Among High Performers

Commenters 0003, 0005, and 0010 asserted that the use of a standardized distribution is inappropriate for senior professional employees because these positions are, by design, filled by highly qualified experts who are expected to perform at consistently high levels. These commenters argued that the concentration of ratings at the highest levels may not be indicative of rating inflation but rather a reflection of the inherently high caliber performance demonstrated by the senior professional workforce.

OPM recognizes that senior professional employees are selected based on their advanced expertise, qualifications, and ability to perform work of significant difficulty and responsibility. OPM agrees that senior professionals are expected to perform at a high level and that agencies rely on these employees to provide critical technical, scientific, and professional contributions. However, OPM does not agree that the presence of a highly qualified workforce obviates the need for meaningful differentiation in performance ratings.

As discussed in the proposed rule, available data indicate that performance ratings for senior professionals are heavily concentrated at the highest levels across agencies. While this may, in part, reflect the high caliber of the workforce, it also reflects the failure of agencies to distinguish among varying levels of performance, contribution, and impact. Even within a highly skilled population, differences in performance outcomes, innovation, leadership within technical domains, and contributions to mission results can and do exist. A performance appraisal system must be capable of recognizing these distinctions to support accountability and the effective use of performance-based personnel decisions. As mentioned above, OPM's new senior professional performance appraisal system provides an exception to the standardized distribution requirements by Presidential waiver, so as to avoid a situation where truly high performing senior professionals are precluded from receiving appropriately high ratings.

Consideration of Empirical Evidence

Several commenters, including 0003, 0008, and 0010, asserted that the research literature generally does not support the use of standardized distribution in performance management systems and may, in some cases, demonstrate negative effects. Others suggested that such approaches lead to inaccurate ratings, can reduce collaboration, discourage knowledge sharing, and increase perceptions of unfairness. Commenter 0008 argued that OPM needs to consider the limits of the evidence it is relying on and the mixed experience employers have had with strategies like forced ranking.

In the proposed rule, OPM noted that the literature on standardized distribution reflects a broad range of findings with respect to its efficacy and potential impacts on collaboration, morale, and perceptions of fairness. However, OPM does not agree that the existence of contrary or mixed research findings precludes adopting the changes in the final rule. The APA does not require agencies to resolve all disagreements in the academic literature or to demonstrate that a policy is supported by uniform empirical consensus. OPM has considered the evidence cited in the proposed rule and in comments and has determined that the amendments made in the final rule are necessary to address longstanding concerns regarding the lack of meaningful differentiation in performance ratings across the Federal workforce.

Additionally, other research has demonstrated positive outcomes with respect to the accuracy of comparative judgments. Performance appraisal inherently involves human judgment and any human judgment is by nature comparative.[20] Thus, the quality of an evaluation is improved by ensuring that it is comparative in nature (that is, involving relative judgments of a target in comparison to other individuals and groups), instead of absolute (that is, involving judgments on scales that do

[20] Kedia G, Mussweiler T, Linden DE. *Brain mechanisms of social comparison and their influence on the reward system.* Neuroreport. 2014 Nov 12:25.

not reference others).[21] One study, for example, concluded that ''[t]he relatively few studies that have investigated the validity of comparative performance appraisal methods have tended to support their validity.'' [22] It found significant evidence from ''at least three important and quite different domains that comparative evaluative judgments of the self or others may be more advantageous than absolute evaluative judgments.'' [23] These findings suggest that a performance appraisal framework that permits comparative judgments among employees, by utilizing a standardized distribution of ratings, will more accurately and objectively measure individual performance than one that prohibits any comparative judgments between employees and requires that any measurement of employee performance be framed in absolute terms. Moreover, OPM's reforms in this final rule not only address longstanding challenges in Federal performance management with respect to ratings inflation but also provide an approach designed to increase appraisal accuracy.

Use in Private Industry

Other commenters, including Commenters 0008 and 0010, asserted that standardized distribution approaches have been broadly abandoned in the private sector and argued that this trend demonstrates that such systems are ineffective or inappropriate for use in the Federal Government. They cite examples of large individual companies that have moved away from forced ranking systems and suggested that these developments undermine the rationale for adopting a standardized distribution framework.

OPM acknowledges that some private sector organizations have moved away from rigid forced ranking systems. However, the context of the Federal Government differs greatly from the private sector in terms of the relative value that utilizing a standardized distribution framework can provide. For instance, private sector companies have an inherent profit motive to drive distinctions among levels of performance. In contrast, the Federal Government has no such profit motive and instead provides broad procedural and legal protections for employees that discourage supervisors from holding them accountable.

The reluctance of Federal supervisors to identify poor performers has been an issue for decades. In 1990, GAO issued a Governmentwide report on the management of poor performers and found that more than 60% of the personnel officials, managers, and supervisors interviewed believed that not all supervisors were identifying poor performers. According to those officials, supervisors were often reluctant to identify poor performers because the process was too time-consuming, they wanted to avoid confrontation, or they believed they lacked management support. GAO further reported that many supervisors found it especially difficult to address employees performing at the minimally successful level and that the Government had often tolerated less-than-fully-successful performance for extended periods because supervisors had limited options for addressing such employees.[24]

As a result, over time supervisors have defaulted to issuing lenient ratings, thereby avoiding the procedural hurdles and negative personal interactions associated with issuing low ratings. This tendency of supervisors to avoid issuing low ratings and instead issue high ratings inflates the overall ratings distribution and diminishes the value and meaning of a high rating. As previously mentioned, the 2024 FEVS results showed that only 47% of federal employees agreed with the statement, ''In my work unit, differences in performance are recognized in a meaningful way.'' [25] This was the lowest positive response rate for any question and has consistently been the lowest over the past three years.

Impact on Individual Employee Motivation

Commenter 0005 argues that standardized distribution will be demotivating to senior professionals because it will lead to lower ratings and reduced incentives.

On the contrary, because performance ratings for senior professionals are so heavily concentrated at the highest rating levels and agencies have limited awards budgets, the size of performance-based awards has decreased, along with the connection between ratings and rewards. In this environment, modestly sized awards are broadly distributed. However, under the framework established by the final rule, with fewer employees receiving the highest ratings, those ratings will carry greater meaning and warrant more significant recognition and reward. OPM's Governmentwide awards guidance [26] directly supports this approach by calling for agencies to allocate the majority of awards spending for the highest performers. By increasing the magnitude and visibility of rewards for top performance, the standardized distribution approach enables a stronger performance-reward connection and helps to establish a culture of excellence.

Impact on Teamwork

Several commenters contend that standardized distribution may specifically have a negative impact on teamwork. For instance, Commenter 0010 cited an MSPB study [27] as well as a study by Loberg et al. (2021) [28] to argue that standardized distribution may reduce collaboration, discourage knowledge sharing, and negatively affect team performance. The commenter suggests that such findings demonstrate that standardized distribution is not appropriate for the Federal workforce, where work is often collaborative in nature.

OPM acknowledges the studies cited and agrees that performance management systems must be carefully designed to support both individual accountability and effective collaboration. However, OPM does not agree that such findings warrant rejecting the use of a standardized distribution framework for senior professional performance appraisal. The Loberg et al. (2021) study itself found that the effectiveness of standardized distribution systems depends on the work context and, where the need for teamwork is not essential and there exist individual performance measures on which to base performance, that standardized distribution increases performance.[29] OPM acknowledges that the study observed these positive effects only where individuals worked alone and found reduced collaboration and knowledge sharing in team settings; that

[21] Goffin RD, Olson JM. *Is It All Relative? Comparative Judgments and the Possible Improvement of Self-Ratings and Ratings of Others.* Perspect. Psychol. Sci. 2011 Jan; 6(1):48–60.

[22] *Id.* at 50.

[23] *Id.* at 53.

[24] U.S. Gov't Accountability Off., *Performance Management: How Well Is the Government Dealing With Poor Performers,* GGD–91–7, at 3, 32 (Oct. 2, 1990).

[25] *See supra* note 4.

[26] OPM, ''*Guidance on Awards for Federal Employees*'' (August 11, 2025), available at *https://www.opm.gov/chcoc/transmittals/2025/OPM%20Memo%20-%20Awards%20Guidance%208-11-2025.pdf.*

[27] U.S. Merit Sys. Protection Bd., Designing an Effective Pay for Performance Compensation System, 22–25 (Jan. 2006), *available at www.mspb.gov/studies/studies/Designing_an_Effective_Pay_for_Performance_Compensation_System_224104.pdf.*

[28] *See* Linda Loberg et al., *Forced Distribution Rating Systems and Team Collaboration,* 188 J. Econ. Behav. & Org. 18 (2021), *available at www.sciencedirect.com/science/article/pii/S0167268121001827.*

[29] *Id.* at 26, 31.

limitation, however, reinforces rather than undermines the approach adopted here. OPM also notes that senior professionals frequently perform highly specialized, expert-level work that is individually driven and assessed based on the quality and impact of their contributions. In such contexts, a structured approach to differentiating performance will enhance accountability and recognition. To the extent collaboration and teamwork are essential to mission outcomes, agencies retain the ability to incorporate those elements into senior professional performance plans and evaluate employees accordingly. Teamwork and collaboration may also be promoted through team-based awards.

Interaction With Other Rulemakings

Commenter 0010 claims that OPM has not adequately addressed how this rule will interact with other pending rules that give performance ratings greater weight. For instance, OPM has separately finalized a reduction in force rule that prioritizes ratings over tenure or length of service for determining retention standing.[30] The commenter argues that this makes ratings more consequential Governmentwide, given that this final rule will force greater distinctions in performance appraisal.

OPM notes that commenters had an opportunity to submit comments during the public comment period for each of its rulemakings including the proposed rule on reductions in force, and OPM continues to receive higher comment response rates than it has historically received. OPM has since issued a final rule in the reduction in force rulemaking, in which it responded to relevant concerns, and it will respond to comments in its other rulemakings if or when it issues a final rule in each.

OPM observes, however, that performance ratings have long affected retention standing in a reduction in force. Such usage is consistent with 5 U.S.C. 3502(a), which requires that OPM issue regulations that ''give due effect'' to, *inter alia,* ''performance ratings'' in determining retention standing among competing employees in a reduction in force. *See Am. Fed'n of Gov't Emps., AFL–CIO* v. *Off. of Pers. Mgmt.,* 821 F.2d 761, 765 (D.C. Cir. 1987). Further, 5 U.S.C. 4302(a)(3) contemplates using appraisal results as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees. Thus, the interaction between this rulemaking and OPM's reduction in force rulemaking does not represent an unexplained gap in OPM's reasoning, but a longstanding feature of the Title 5 statutory scheme.

Further, this rule is complementary to OPM's reduction in force rule, as it seeks to ensure that performance appraisal systems accurately evaluate employee performance while better distinguishing levels of performance. A rule that makes performance matter more in RIF retention and a rule that seeks to improve the accuracy and differentiation of performance ratings address complementary parts of the same merit-based personnel system. Indeed, the current compression of ratings at the highest levels would deprive any performance-based retention criterion of meaningful content; improving the accuracy and differentiation of ratings makes any lawful downstream use of those ratings more, not less, merit-based.

While OPM recognizes that implementing standardized distribution could involve some risks, the current failure of senior professional appraisal systems to meaningfully distinguish performance presents an even greater risk. Therefore, OPM continues to believe that any potential negative effects in areas such as teamwork or collaboration can be adequately addressed through modifications to performance plans and tailored team-based awards. The increased accuracy and rigor that will be achieved by a standardized distribution directly addresses longstanding issues of leniency bias and rating inflation across the Federal Government, thereby strengthening accountability and the effectiveness of senior professional performance management. Accordingly, OPM adopts the language in this section as proposed.

Section 430.506 Planning and Communicating Performance

This section explains the requirements for planning and communicating performance expectations. OPM proposed that rating officials must consult with senior professionals to develop written performance plans that include critical elements (no non-critical elements or additional performance elements), performance standards, and performance requirements. Performance plans must be communicated to senior professionals on or before the beginning of the appraisal period, or upon appointment to a new senior professional position. OPM also proposed that agencies may require a review of senior professional performance plans by the PRB or another body of the agency's choosing to ensure consistency of agency-specific performance requirements.

OPM did not receive comments specifically addressing this section. However, several commenters raised general concerns regarding the establishment of objective, job-related performance expectations and the challenges of applying standardized approaches to highly specialized senior professional roles. These comments are addressed in the relevant sections of this preamble. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.507 Monitoring Performance

This section establishes expectations for ongoing performance monitoring and feedback throughout the appraisal period. Notably, this section requires that progress reviews be held at least quarterly, during which the rating official must inform senior professionals of how they are performing. Rating officials must also provide advice and assistance to senior professionals on how to improve their performance and may also discuss available development opportunities for the senior professional. The intent of this section is to promote frequent performance-related communication between the rating official and senior professional.

Commenter 0005 objected to the requirement that senior professionals receive progress reviews at least quarterly, claiming that it adds an unnecessary administrative burden. This commenter also noted that if OPM's intention is to align the senior professional appraisal system more closely with the SES performance appraisal system, that the SES regulations only require senior executives to receive at least one progress review per year.

While it is true that the SES regulations require conducting progress reviews at least once during the appraisal period,[31] on February 25, 2025, OPM issued a new Senior Executive Service performance appraisal system and performance plan,[32] requiring that ''[a]t least quarterly, supervisors and executives must meet to discuss, and document, progress toward meeting the critical elements in the senior executive's performance plan.'' Thus, requiring that senior professional progress reviews be conducted at least quarterly aligns with the progress review frequency OPM

[30] Reduction in Force, 91 FR 49178 (August 3, 2026).

[31] 5 CFR 430.304(b)(2).

[32] *See supra* note 10.

expects agencies to be providing for SES members.

OPM believes that frequent feedback is critical to effective performance management and that the benefits of such increased communication outweigh the costs, especially in the context of other changes that are being made in this final rule. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.508 Appraising Performance

This section describes how agencies must appraise senior professionals' performance. It generally parallels the SES appraisal rules, requiring timely communication of expectations, establishment of appraisal timelines, and assessment of both individual and organizational performance. Appraisals must take into account factors such as results achieved, the overall quality of performance, appraisal guidelines based upon assessments of the agency's performance provided by the oversight official, customer perspectives, and compliance with merit system principles. The section clarifies that certain SES-specific factors, such as employee perspectives, are excluded given senior professionals' non-supervisory roles.

OPM received no comments on this section and is adopting the language as proposed. We note that the NPRM contained a typographical error in which the word ''and'' was omitted from the end of proposed § 430.508(d)(4). In this final rule, we correct that error.

Section 430.509 Rating Performance

This section specifies procedures for deriving and finalizing senior professional ratings. It mirrors certain aspects of the SES rating procedures, such as requiring rating officials to prepare initial summary ratings in writing, share them with senior professionals, and provide an opportunity for written response and higher-level review before finalizing ratings of record. OPM also proposed that agencies with ten or more senior professionals use their agency-level Performance Review Board (PRB) to conduct centralized review of the initial summary ratings and corresponding recommended pay actions. OPM additionally proposed that senior professional performance appraisals and ratings are not appealable, beyond what is otherwise provided under applicable law and regulation.

Commenter 0003 claims the final rule eliminates procedural protections by removing appeal rights and replacing mandatory review of Level 1 (''Unacceptable'') ratings with discretionary processes, thereby increasing the risk of arbitrary action.

On the contrary, while § 430.509(e) establishes that senior professional performance appraisals and ratings are not appealable beyond what is otherwise provided under applicable law or regulation, this provision does not limit or eliminate employees' ability to pursue recourse through established statutory or regulatory avenues, such as EEO processes or appeals to the MSPB, where applicable. The final rule simply eliminates the informal grievance process and the mandatory review of Level 1 ratings that previously applied to senior professionals under 5 CFR part 430, subpart B. In place of those mechanisms, the rule establishes a more structured and robust review framework aligned with SES review processes. OPM emphasizes that SES members are similarly prohibited by statute [33] from appealing performance appraisals or ratings, yet the SES rating process is widely recognized as providing strong procedural safeguards through multilayered review. Mirroring these SES provisions, the final rule provides that senior professionals are afforded the opportunity to receive a higher-level review of their initial summary rating regardless of the rating level. In addition, the employee's written response and the findings of the higher-level review are provided to the PRB, which conducts an independent review and makes recommendations to the approving official.

Commenter 0011 further argued that the rule violates the Due Process Clause of the Fifth Amendment, citing *Cleveland Board of Education* v. *Loudermill,* 470 U.S. 532 (1985), by eliminating review by a neutral adjudicator and foreclosing judicial review. OPM disagrees. A performance rating, standing alone, does not deprive an employee of a constitutionally protected property or liberty interest; *Loudermill* concerned the procedures required before removal from employment. Any suspension, reduction in grade or pay, or removal based on performance remains subject to the applicable statutory procedures, including advance notice, an opportunity to respond, and, where provided by law, appeal to the MSPB and judicial review under 5 U.S.C. 7703. Nothing in this rule alters those protections or forecloses any review otherwise available by law.

The final rule adopts a strong oversight framework for senior professional ratings that has proven to be effective for the SES, ensuring that ratings are subject to multiple levels of review and oversight before being finalized. For these reasons, OPM concludes that the final rule maintains appropriate procedural protections, reduces the risk of arbitrary action, and strengthens the consistency and integrity of the senior professional rating process. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.510 Details and Job Changes

This section addresses how performance appraisal systems are to handle senior professionals who experience job changes, such as details, temporary assignments, transfers, or reassignments during the appraisal period. It closely mirrors SES provisions, requiring performance goals and requirements to be established for such assignments and ensuring that written appraisals are completed and transferred appropriately to the receiving organization or agency.

OPM received no comments on this section and is adopting the language as proposed.

Section 430.511 Performance Review Boards (PRBs)

This section refines existing requirements for agency-level centralized review of senior professional performance ratings and pay actions. As discussed in the proposed rule, current senior professional pay regulations at 5 CFR part 534, subpart E, require agencies with 10 or more senior professionals to conduct a centralized review of proposed ratings and pay actions by a panel designated by the agency head. This final rule requires that agencies subject to the SES must use their established agency-level PRB to conduct the centralized review, including providing written recommendations to the approving official on senior professional ratings of record, performance awards, and pay adjustments. However, agencies not subject to the SES must establish a body equivalent to the PRB.

Commenter 0010 argues that the use of PRBs could introduce politicization into the appraisal process, citing a separate directive by the Administration to reconstitute ERBs with a majority of senior noncareer officials. The commenter states, ''If that same approach is extended to PRBs reviewing SL/ST employees, the result would be a more politicized performance-review process at precisely the point where the proposal centralizes more authority in

[33] 5 U.S.C. 4312(d).

PRBs and makes ratings less contestable.''

OPM understands the commenter to be referring to the Presidential Memorandum titled, ''Restoring Accountability for Career Senior Executives,'' [34] which did direct agency heads to terminate their existing ERBs and reconstitute them with a majority of senior noncareer officials. However, the commenter erroneously conflates the ERB and PRB directives. The PRB directive makes no mention of noncareer officials. Rather, it calls for agency heads to reconstitute PRB membership ''with individuals committed to full enforcement of SES performance evaluations that promote and assure an SES of the highest caliber.'' 90 FR at 8482. This directive is specifically intended to strengthen accountability and ensure rigorous, consistent application of performance standards—not to politicize PRBs. OPM notes that both the SES appraisal regulations [35] and this final rule [36] require that the PRB, or equivalent body as appropriate, be comprised of a majority of career appointees when appraising the performance of a career appointee. The Presidential Memorandum does not alter that regulatory requirement: even a reconstituted PRB must consist of a majority of career appointees whenever it appraises the performance of a career senior professional—a structural safeguard that distinguishes PRBs from the ERB directive the commenter cites.

OPM also notes that prior approaches to PRB composition included practices which were determined to be inconsistent with merit-based principles, including the use of ''DEI'' considerations that were addressed in subsequent SES regulatory revisions.[37] Those changes clarified that PRB membership must be based on merit and free from impermissible considerations, reinforcing objectivity in the review process. Thus, reconstituting PRBs with members committed to full enforcement of performance evaluations enhances, rather than diminishes, merit-focused objectivity.

Further, the PRB, or the equivalent body conducting the centralized review, operates alongside higher-level review and other safeguards to ensure that ratings are not determined unilaterally but are subject to structured oversight. For these reasons, OPM concludes that PRBs, as implemented under this rule, strengthen the integrity, consistency, and accountability of the senior professional performance appraisal process. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.512 Using Performance Results

This section requires agencies to use performance results as a basis for making human capital decisions, including pay adjustments, awards, retention decisions, and other personnel actions. OPM reiterates that actions to suspend, demote, or remove senior professionals from the civil service for unacceptable performance remain subject to the provision(s) of applicable law. OPM also proposed that performance appraisals be used as a factor in assessing a senior professional's continuing development needs and that agencies must provide appropriate incentives and recognition for high performance.

OPM received no comments on this section and is adopting the language as proposed.

Section 430.513 Training and Evaluation

To assure effective implementation of performance appraisal systems, this section requires agencies to provide appropriate information and training to individuals involved in the senior professional performance appraisal process, periodically evaluate the effectiveness of their appraisal systems, and implement improvements as needed. OPM proposed that these evaluations must provide for both assessment of effectiveness and compliance with relevant laws, OPM regulations, and OPM performance management policy.

OPM received no comments on this section and is adopting the language as proposed.

Section 430.514 OPM Review of Agency Systems

This section requires agencies to submit senior professional performance appraisal systems to OPM for review and approval. Appraisal systems are reviewed by OPM for compliance with statutory, regulatory, and OPM policy requirements. Consistent with 5 U.S.C. 4304(b)(3), this section also requires that if OPM determines a system does not meet the requirements of the law or regulation, OPM will identify the requirements that were not met and direct the agency to take corrective action, and the agency must comply. This review function supports consistent and compliant performance management practices across the Federal Government.

Commenter 0011 asserted that OPM lacks authority to review agency performance appraisal systems and direct corrective action, arguing that such oversight constitutes an impermissible intrusion into agency personnel management and conflicts with statutory roles assigned to other entities, such as the MSPB and the OSC.

OPM does not agree that the review and oversight provisions in 5 CFR 430.514 exceed its statutory authority or improperly intrude on agency personnel management. OPM's authority to oversee performance appraisal systems derives directly from 5 U.S.C. chapter 43, which authorizes OPM to prescribe regulations governing performance appraisal systems and ensure that such systems comply with statutory requirements. Under 5 U.S.C. 4302, agencies are required to develop performance appraisal systems in accordance with regulations prescribed by OPM. This statutory framework necessarily contemplates that OPM will not only establish requirements for agency systems but also ensure that those systems are implemented in a manner consistent with law and regulation. The authority to review agency systems for compliance and to require corrective action where deficiencies are identified is inherent in OPM's responsibility to administer and enforce these statutory requirements.

OPM also does not agree that its oversight role conflicts with the statutory functions of the MSPB or the OSC. Those entities serve distinct and complementary roles within the Federal personnel system. The MSPB adjudicates appeals and enforces merit system principles in individual cases, while the OSC investigates and prosecutes prohibited personnel practices. In contrast, OPM's role under chapter 43 is to establish Governmentwide performance management policy and ensure that agency systems comply with applicable requirements. The oversight provided in § 430.514 operates at the system level and does not replace or diminish the independent authorities of these entities. Nothing in this rule amends 5 U.S.C. 2302 or the Whistleblower Protection Act, and allegations of prohibited personnel practices remain fully within the jurisdiction of the OSC and the MSPB.

For these reasons, OPM concludes that the review and oversight provisions in § 430.514 are fully consistent with OPM's statutory authority and responsibilities under 5 U.S.C. chapter 43 and are necessary to ensure that

[34] 90 FR 8481 (Jan. 30, 2025).

[35] 5 CFR 430.311(a)(3).

[36] 5 CFR 430.511 requires the PRB or equivalent body to fulfill all requirements of centralized review found in 5 CFR part 534, subpart E, including 5 CFR 534.505(f)(1).

[37] 90 FR 44291 (Sept. 15, 2025).

performance appraisal systems for senior professionals are implemented in a lawful, consistent, and effective manner across the Federal Government. Accordingly, OPM is adopting the language in this section as proposed.

Conforming Amendments

OPM proposed conforming amendments in parts 351, 430, 451, 534, 537, and 630 to harmonize terms, citations, and language to comport with this rule. OPM also proposed an editorial correction to a citation in part 894. OPM did not receive comments on those proposals and is adopting them in this final rule, except for technical updates to the part 351 conforming amendments described below.

After the proposed rule was published, OPM issued a final rule comprehensively revising its reduction in force regulations at 5 CFR part 351, effective September 2, 2026. See Reduction in Force, 91 FR 49178 (Aug. 3, 2026). In this final rule, OPM is accordingly updating the conforming amendments to part 351 to reflect part 351 as amended by that final rule, including the revised authority citation, the revised definition of ''rating of record'' in § 351.203, and the relocation of the performance-credit provisions from former § 351.504 to § 351.503. These updates are technical and conforming in nature; they harmonize terminology and cross-references with the amended part 351 and do not alter the substance of the amendments as proposed.

In addition, OPM is making four technical corrections in subpart B of part 430, which this rule already amends. On July 7, 2026, OPM published a final rule, *Performance Appraisal for General Schedule, Prevailing Rate, and Certain Other Employees,* 91 FR 41521 (effective August 6, 2026), which revised and republished § 430.208 and relocated the patterns of summary levels from § 430.208(d) to § 430.208(e). That rule updated cross-references in §§ 351.504 and 537.108(b) but did not update four references within part 430 itself. This final rule accordingly revises the references to § 430.208(d) in § 430.201(c)(3), in the definitions of ''Performance rating'' and ''Rating of record'' in § 430.203, and in § 430.204(b)(3)(iv) to refer to § 430.208(e).

In revising the definition of ''Rating of record,'' OPM is also correcting a longstanding defective paragraph designation—the definition refers to ''(2)'' with no corresponding ''(1)''—without change in meaning. OPM is further correcting § 430.204(b)(3)(iii), which cites ''§ 430.206(b)(7)(i)(A) and (ii)(A)'' although § 430.206(b)(7) contains no subdivisions; the provisions cited are located in § 430.206(b)(8)(i)(A) and (b)(8)(ii)(A). These corrections are technical and non-substantive: they conform citations and paragraph designations to regulations previously promulgated and do not alter the rights or obligations of any party. To the extent these corrections were not included in the proposed rule, OPM finds good cause under 5 U.S.C. 553(b)(B) to adopt them without prior notice and comment because notice and comment are unnecessary for non-substantive, technical corrections.

Parallel Regulations in Part 1330

The regulations at 5 CFR part 1330, subpart D, are parallel regulations to 5 CFR part 430 subpart D, which govern the performance appraisal system certification requirements for the SES and senior professionals. Performance appraisal system certification is co-regulated by OPM and OMB and, since OPM proposed conforming amendments to 5 CFR part 430, subpart D, OMB proposed identical conforming changes to 5 CFR part 1330, subpart D. Neither OPM nor OMB received comments specific to those proposals and OMB is adopting them with changes consistent with those discussed in this final rule.

Expected Impact of This Rulemaking

A. Statement of Need

OPM is issuing this rule pursuant to its authority to issue regulations governing performance appraisals under subchapter I of chapter 43 of title 5, United States Code. As discussed in the Background, the purpose of this rule is to establish separate regulations that will be better suited to the performance appraisal needs of senior professionals. While many provisions applicable to senior professionals such as pay, aggregate limit on compensation, leave accrual, and leave carryover limit have evolved over the years to match what the SES receive, senior professionals have remained subject to the same general performance appraisal regulations that apply to most non-SES federal employees, including rank-and-file GS and prevailing rate employees. The lack of appraisal rules specifically tailored to senior professionals' important roles and high level of compensation hinders agencies' ability to fully leverage the strategic potential of these positions.

OPM found that, despite its previous efforts to promote rigor in senior professional performance appraisal by encouraging agencies to develop more stringent performance requirements,[38] senior professional ratings distributions come nowhere close to resembling a normal bell curve. As mentioned in the Background, Governmentwide senior professional performance rating data for fiscal years 2023 and 2024 [39] show that approximately 90 percent of senior professionals received a Level 5 (''Outstanding'') or Level 4 (''Exceeds Fully Successful'') rating and less than a half of one percent of senior professionals were rated below Level 3 (''Fully Successful''). The distribution of these ratings suggests there is inflation of senior professional ratings and poor performing employees are likely not being identified or held accountable through a rigorous appraisal process. As such, action must be taken to re-set and infuse rigor into the senior professional performance appraisal process.

OPM recognizes that agencies have operated under a regulatory framework that prohibited pre-established distributions of ratings for several decades. After evaluating Governmentwide ratings data, implementation experience, and academic literature, OPM has concluded that the previous approach has not adequately promoted meaningful distinctions in performance among senior professionals.

B. Impact

OPM is establishing a new subpart specifically dedicated to the performance appraisal of senior professionals and that more closely resembles the SES appraisal system—including changes that allow OPM to establish and enforce a standardized distribution of performance ratings—to enable agencies and senior professionals to be held to a higher standard of accountability and ensure only the truly deserving performers are rewarded for their performance.

Allowing for the establishment of limits on senior professional ratings will result in a more normalized distribution of performance ratings. OPM anticipates that a standardized distribution will incentivize improved performance of senior professionals as they no longer would expect to receive high ratings without demonstrating superior performance relative to the other senior professionals in their agency. Consequently, improved senior professional performance would ultimately improve the performance of the Federal Government in providing services to the American public.

[38] *See* note 2.

[39] *See* note 3.

Establishing senior professional performance appraisal regulations that more closely align with the Senior Executive Service appraisal regulations creates greater opportunities for oversight and review of senior professional ratings. In the final rule, agencies employing 10 or more senior professionals will utilize their agency-level PRB to conduct the centralized review required in subpart E of 5 CFR part 534. Additionally, all senior professionals will now be able to request higher-level review of their initial summary rating, regardless of the rating level, bringing enhanced credibility, transparency, and accountability to the rating process.

C. Costs

This rule will affect the operations of more than 60 Federal agencies—ranging from cabinet-level departments to small independent agencies—that have SL or ST employees. To comply with the regulatory changes, individuals employed by affected agencies will need to spend time updating agency senior professional performance appraisal policies and procedures. For this cost analysis, the assumed average salary rate of federal employees performing this work will be the rate in 2025 for GS–14, step 5, in the Washington, DC, locality pay table ($161,486 annual locality rate and $77.38 hourly locality rate). We assume the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of $154.76 per hour.

Additionally, affected agencies will need to review the rule and update their policies and procedures. We estimate that, in the first year following publication of the final rule, this will require an average of 80 hours of work by employees with an average hourly cost of $154.76 per hour. This will result in estimated one-time costs of about $12,400 per agency and about $744,000 Governmentwide.

Senior professionals revise their performance requirements each year as they develop their performance plans. OPM anticipates that adjusting their specific performance requirements to reflect the updated critical elements may take each senior professional slightly longer than usual in the first year. We estimate that this will require approximately 15 additional minutes in the first year of implementation compared to the time usually spent developing specific performance requirements for the annual performance plan. Based on the average salary of the SL and ST pay plans in September 2024 (most recent available data), we assume an overall average SL/ST salary rate of $204,735, or $98.43 per hour.[40] We assume the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of $196.86 per hour. There are approximately 1,420 employees with an SL or ST pay plan in the executive branch. We estimate this will result in a one-year, transitional increase in costs of about $70,000 Governmentwide.

OPM anticipates that the overall implementation costs would be limited in duration and would total about $814,000. OPM did not receive any comments on its estimates of costs.

D. Benefits

Senior professionals are critical to the effective operation and strategic direction of the Federal Government. The changes in this rule enhance parity between senior professionals and the SES by establishing appraisal rules for senior professionals that are more closely aligned with SES appraisal rules. This relieves agencies from superfluous requirements found in subpart B of part 430 that are not well-suited to managing senior professional performance, such as the requirement to establish one or more performance appraisal programs.

By allowing OPM to establish a limit on the number of senior professionals who can receive the highest ratings, there will be a clear distinction of the highest performers across an agency and the Federal Government. Agencies will no longer be able to rate all of their senior professionals at the highest performance ratings, thus encouraging senior professionals to strive for increased levels of performance and ultimately provide better results for the Federal Government and the American public.

Senior professionals will benefit from increased feedback and oversight under the new subpart, as it requires more frequent progress reviews and provides the opportunity for a higher-level review of an initial summary rating at any level instead of a mandatory review of a Level 1 (''Unacceptable'') rating of record. Agencies employing 10 or more senior professionals will see enhanced oversight by utilizing agency-level PRBs to oversee recommended ratings of record, pay adjustments, and performance awards, thus providing overall increased Governmentwide consistency for senior professional performance appraisal.

[40] Average senior professional pay drawn from Office of Personnel Management FedScope data.

E. Regulatory Alternatives

An alternative to this rulemaking is to not establish a new subpart in part 430 dedicated to senior professional performance appraisal and instead OPM could issue further guidance encouraging agencies to be increasingly rigorous in managing the performance of their senior professionals. However, without the provisions in this subpart, agencies would continue to be prevented from applying a standardized distribution of senior professional ratings by 5 CFR 430.208(c). As mentioned in the Statement of Need, previous attempts to curb rating inflation through guidance have not been successful; instead, it appears that the percentage of senior professionals receiving Level 4 or 5 performance ratings has reached a point where almost all senior professionals (*i.e.,* approximately 90%) are receiving a Level 4 or 5 rating. Without the ability to place limits on senior professional ratings, the pervasive inflation of senior professional ratings will likely continue, resulting in a lack of meaningful rating distinction and thus, lack of accountability.

Another alternative to this rulemaking is for OPM to pursue a different rulemaking that would amend subpart B of part 430 by excluding senior professionals from the forced distribution prohibition contained in that subpart. While this approach would achieve some of the intended purpose of the proposed rule, it would lack the meaningful reforms to senior professional performance appraisal that increase parity with the SES appraisal rules, such as providing for higher-level review of initial summary ratings and the PRB providing centralized review. Failing to establish a separate subpart in part 430 dedicated to senior professional performance appraisal would result in senior professionals continuing to be subject to the cumbersome provisions of subpart B of part 430, which require agencies to establish both appraisal systems and appraisal programs, which is burdensome and not aligned with OPM's vision of centralized, effective senior professional performance management.

Severability

OPM intends that, if any of the provisions of this rule as finalized were held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, that provision would be severable from its respective section(s) and would not affect the remainder thereof or the application of the

provision to other persons not similarly situated or to other dissimilar circumstances. For example, if the implementation of a standardized distribution of ratings were held to be unenforceable, the remaining provisions established by this final rule would be unaffected and could remain in effect.

Regulatory Compliance

A. Regulatory Flexibility Act

The Director of OPM certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities because it will apply only to Federal agencies and employees.

B. Regulatory Review

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rulemaking is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866. This final rule is not an E.O. 14192 regulatory action because it does not impose any more than de minimis regulatory costs.

C. Federalism

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

D. Civil Justice Reform

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

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately $206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

F. Congressional Review Act

The Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs has determined this rule does not meet the criteria listed in 5 U.S.C. 804(2).

G. Paperwork Reduction Act

This regulatory action will not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

5 CFR Part 351

Administrative practice and procedure, Government employees.

5 CFR Parts 430 and 451

Decorations, Government employees.

5 CFR Part 534

Government employees, Hospitals, Students, Wages.

5 CFR Part 537

Administrative practice and procedure, Government employees, Students, Wages.

5 CFR Part 630

Emergency preparedness, Government employees, Reporting and recordkeeping requirements, Wages, Weather.

5 CFR Part 894

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Military personnel, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 1330

Government employees.

Accordingly, for the reasons stated in the preamble, OPM amends 5 CFR parts 351, 430, 451, 534, 537, 630, and 894, and OMB amends 5 CFR part 1330 as follows:

PART 351—REDUCTION IN FORCE

■ 1. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1103, 1104, 1302, 2301, 3502, 3503, 38 U.S.C. 4331; E.O. 14284, 90 FR 17729; 5 CFR 2.2(c). Sec. 351.801 also issued under E.O. 12828, 58 FR 2965, 3 CFR, 1993 Comp., p. 569.

Subpart B—General Provisions

■ 2. Amend § 351.203 by revising the definition of ''Rating of record'' to read as follows:

§ 351.203 Definitions.

* * * * *

Rating of record means the performance rating prepared at the end of an appraisal period for performance of agency-assigned duties over the entire period and the assignment of a summary level within a pattern (as specified in § 430.208(e) of this chapter) or, for an employee covered by subpart E of part 430 of this chapter, a summary level specified in § 430.505(a)(6) of this chapter. For an employee not subject to 5 U.S.C. chapter 43, or part 430 of this chapter, it means the officially designated performance rating, as provided for in the agency's appraisal system, that is considered to be an equivalent rating of record under the provisions of § 430.201(c) or § 430.501(b) of this chapter, as applicable.

* * * * *

Subpart E—Retention Standing

■ 3. Amend § 351.503 by:

■ a. In paragraph (a)(1), adding the words ''or the summary performance levels in § 430.505(a)(6) of this chapter'' after the words ''the patterns of summary level in 5 CFR 430.208(e)''; and

■ b. Revising paragraphs (b)(2) and (3).

The revisions read as follows:

§ 351.503 Performance.

* * * * *

(b) * * *

(2) For competing employees who received ratings of record while covered by part 430, subpart B or E, of this chapter, the summary levels assigned for those ratings of record must be used to establish the employee's performance credit in a reduction in force in accordance with paragraph (a) of this section (as augmented by veterans' preference in accordance with § 351.504).

(3) For competing employees who received performance ratings while not covered by the provisions of 5 U.S.C. chapter 43 and subpart B or E of part 430 of this chapter, those performance ratings must be considered ratings of record with summary levels for designating an employee's performance credit in a reduction in force only when the agency conducting the reduction in force determines, in its sole discretion, that those performance ratings are equivalent to ratings of record under the

provisions of § 430.201(c) or § 430.501(b) of this chapter, as applicable.

* * * * *

PART 430—PERFORMANCE MANAGEMENT

■ 4. The authority citation for part 430 continues to read as follows:

Authority: 5 U.S.C. 2301, chapter 43 and 5307(d).

Subpart B—Performance Appraisal for General Schedule, Prevailing Rate, and Certain Other Employees

§ 430.201 [Amended]

■ 5. Amend § 430.201, in paragraph (c)(3), by removing ''§ 430.208(d)'' and adding in its place ''§ 430.208(e)''.

■ 6. Amend § 430.202 by revising paragraph (a)(2) to read as follows:

§ 430.202 Coverage.

(a) * * *

(2) Section 4301(2) of title 5, United States Code, defines employees covered by statute by this subpart. In addition to General Schedule (GS/GM) employees, coverage includes, but is not limited to prevailing rate employees, and excludes senior-level and scientific and professional employees paid under 5 U.S.C. 5376.

* * * * *

■ 7. Amend § 430.203 by revising the definitions of ''Performance rating'' and ''Rating of record'' to read as follows:

§ 430.203 Definitions.

* * * * *

Performance rating means the written, or otherwise recorded, appraisal of performance compared to the performance standard(s) for each critical and non-critical element on which there has been an opportunity to perform for the minimum period. A performance rating may include the assignment of a summary level within a pattern (as specified in § 430.208(e)).

* * * * *

Rating of record means the performance rating, which constitutes the official rating of record referenced in this chapter, prepared—

(1) At the end of an appraisal period for performance of agency-assigned duties over the entire period, including the assignment of a summary level within a pattern (as specified in § 430.208(e)); or

(2) In accordance with § 531.404(a)(1) of this chapter.

* * * * *

§ 430.204 [Amended]

■ 8. Amend § 430.204 by:

■ a. In paragraph (b)(3)(iii), removing ''§ 430.206(b)(7)(i)(A) and (ii)(A)'' and adding in its place ''§ 430.206(b)(7), (b)(8)(i)(A), and (b)(8)(ii)(A)''; and

■ b. In paragraph (b)(3)(iv), removing ''§ 430.208(d)'' and adding in its place ''§ 430.208(e)''.

Subpart C—Managing Senior Executive Performance

■ 9. Amend § 430.305 by revising paragraph (d) to read as follows:

* * * * *

(d) OPM may establish, and refine as needed, a standardized distribution of some or all SES rating levels which agencies must apply when rating SES members, except that noncareer SES members may be excluded from such standardized distribution requirements, as determined by OPM.

Subpart D—Performance Appraisal Certification for Pay Purposes

■ 10. Amend § 430.402 by revising the definitions of ''Appraisal system'' and ''Performance expectations'' to read as follows:

§ 430.402 Definitions.

* * * * *

Appraisal system means the policies, practices, and procedures an agency establishes under 5 U.S.C. chapter 43 and subparts C and E of this part, or other applicable legal authority, for planning, monitoring, developing, evaluating, and rewarding employee performance. This includes performance management systems as defined at § 430.303 and performance appraisal systems as defined at § 430.503.

* * * * *

Performance expectations means critical elements and performance requirements that constitute the senior executive performance plans (as defined in § 430.303) established for senior executives, the critical elements and performance requirements that constitute the senior professional performance plans (as defined in § 430.503) established for senior professionals, or other appropriate means authorized under performance appraisal systems not covered by 5 U.S.C. chapter 43 for communicating what a senior employee is expected to do and the manner in which he/she is expected to do it, and may include contribution to agency performance, where appropriate.

* * * * *

■ 11. Amend § 430.403 by revising paragraphs (b) through (d) to read as follows:

§ 430.403 System certification.

* * * * *

(b) Except as provided in paragraph (c) of this section, agencies subject to 5 U.S.C. chapter 43 and this part seeking certification of their appraisal systems must submit systems that have been approved by OPM under § 430.314 or § 430.514 as applicable. In some agencies, the performance appraisal system(s) covers employees in many organizations and/or components, and their ability to meet the certification criteria in § 430.404 may vary significantly. In such cases, an agency may establish and/or submit separate performance appraisal systems for each of these distinct organizations and/or components to ensure timely certification of those performance appraisal system(s) that meet the criteria. New appraisal systems established under subpart C or E of this part, as applicable based on the employees covered, must be approved by OPM.

(c) When an agency establishes a new appraisal system for the purpose of seeking certification under this subpart, the agency may submit that system for certification even if it has not yet been approved by OPM under § 430.314 or § 430.514, as applicable. OPM will certify, with OMB concurrence, only those systems that OPM determines meet the approval requirements of subpart C or E of this part, as applicable.

(d) An agency must establish an appraisal system(s), as defined in § 430.402, for its senior professionals that meets the requirements of subpart E of this part, and is separate from the system(s) established to cover its SES members under subpart C of this part. For the purpose of certification under this subpart, such senior professional appraisal system(s) must meet the certification criteria set forth in § 430.404.

* * * * *

■ 12. Amend § 430.404 by revising paragraphs (a)(2), (5), (7), and (8) to read as follows:

§ 430.404 Certification criteria.

(a) * * *

(2) Consultation, so that the performance expectations for senior employees meet the requirements of subparts C and E of this part, as applicable, and/or other applicable legal authority; are developed with the input and involvement of the individual senior employees who are covered thereby; and are communicated to them at the beginning of the applicable

appraisal period, and/or at appropriate times thereafter;

* * * * *

(5) Appropriate assessments of the agency's performance—overall and with respect to each of its particular missions, components, programs, policy areas, and support functions—such as reports of the agency's Government Performance and Results Act (GPRA) goals, annual performance plans and targets, program performance measures, and other appropriate indicators, as well as evaluation guidelines based, in part, upon those assessments, that are communicated by the agency head, or an individual specifically designated by the agency head for such purpose, to senior employees, appropriate senior employee rating and reviewing officials, and PRB members. These assessments and guidelines are to be provided at the conclusion of the appraisal period but before individual senior employee performance ratings are recommended, so that they may serve as a basis for individual performance evaluations, as appropriate. The guidance provided must conform to subpart C or E of this part, as applicable;

* * * * *

(7) Accountability, so that final agency head decisions and any PRB recommendations regarding senior employee ratings consistent with subparts C and E of this part, individually and overall, appropriately reflect the employee's performance expectations, relevant program performance measures, and such other relevant factors as the PRB may find appropriate; in the case of supervisory senior employees, ratings must reflect the degree to which performance standards, requirements, or expectations for individual subordinate employees clearly link to organizational mission, GPRA strategic goals, or other program or policy objectives and take into account the degree of rigor in the appraisal of their subordinate employees;

(8) Performance differentiation, so that the system(s) includes at least one summary level of performance above fully successful, including a summary level that reflects outstanding performance, as defined in § 430.402, and so that its annual administration results in meaningful distinctions based on relative performance that take into account the assessment of the agency's performance against relevant program performance measures, as described in paragraph (a)(6) of this section, employee performance expectations, and such other relevant factors as may be appropriate. For equivalent systems that do not use summary ratings, the performance appraisal system must provide for clear differentiation of performance at the outstanding level; and

* * * * *

■ 13. Amend § 430.405 by revising paragraphs (b)(1)(iii)(B) and (C) and (h)(2) to read as follows:

§ 430.405 Procedures for certifying agency appraisal systems.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(B) For the agency's senior professionals covered by subpart E of this part, five summary levels—an outstanding level, a fully successful level, a level between outstanding and fully successful, an unacceptable level, and a level between fully successful and unacceptable; and

(C) For agencies not subject to subparts C and E of this part, a summary rating level that reflects outstanding performance or a methodology that clearly differentiates outstanding performance, as defined in § 430.402;

* * * * *

(h) * * *

(2) An agency's system certification is automatically suspended when OPM withdraws performance appraisal system approval or mandates corrective action because of misapplication of the system as authorized under §§ 430.314(c), 430.403(e), and 430.514(c).

* * * * *

■ 14. Add subpart E to read as follows:

Subpart E—Managing Senior Professional Performance

Sec.

430.501 General.
430.502 Coverage.
430.503 Definitions.
430.504 Senior professional performance appraisal systems.
430.505 System standards for senior professional performance appraisal systems.
430.506 Planning and communicating performance.
430.507 Monitoring performance.
430.508 Appraising performance.
430.509 Rating performance.
430.510 Details and job changes.
430.511 Performance Review Boards (PRBs).
430.512 Using performance results.
430.513 Training and evaluation.
430.514 OPM review of agency systems.

§ 430.501 General.

(a) *Statutory authority.* Chapter 43 of title 5, United States Code, provides for the establishment of agency performance appraisal systems and requires the Office of Personnel Management (OPM) to prescribe regulations governing such systems. The regulations in this subpart in combination with statute set forth the requirements for managing the performance for senior-level (SL) positions classified above GS–15 pursuant to 5 U.S.C. 5108 and scientific or professional (ST) positions established under 5 U.S.C. 3104, and which are compensated under 5 U.S.C. 5376.

(b) *Equivalent ratings of record.* (1) If an agency has administratively adopted and applied the procedures of this subpart to evaluate the performance of its employees, the ratings of record resulting from that evaluation are considered ratings of record for reduction in force purposes.

(2) Other performance evaluations given while an employee is not covered by the provisions of this subpart are considered ratings of record for reduction in force purposes when the performance evaluation—

(i) Was issued as an officially designated evaluation under the employing agency's performance evaluation system;

(ii) Was derived from the appraisal of performance against expectations that are established and communicated in advance and are work related; and

(iii) Identified whether the employee performed acceptably.

(3) When the performance evaluation does not include five summary levels comparable to those established at § 430.505(a)(6), the agency may identify a level based on information related to the appraisal process.

§ 430.502 Coverage.

(a) *Covered positions.* This subpart applies to the following types of positions:

(1) Senior-level (SL) positions classified above GS–15 pursuant to 5 U.S.C. 5108 and paid under 5 U.S.C. 5376; and

(2) Scientific or professional (ST) positions established under 5 U.S.C. 3104 and paid under 5 U.S.C. 5376.

(b) *Administrative exclusions.* OPM may exclude any position or group of positions in the excepted service under the authority of 5 U.S.C. 4301(2)(G). Excepted service positions for which employment is not reasonably expected to exceed the minimum period established under § 430.504(b)(4) in a consecutive 12-month period are not subject to this subpart.

§ 430.503 Definitions.

In this subpart—

Agency means—

(1) An Executive agency as defined in 5 U.S.C. 105;

(2) Any other entity that is not part of an Executive agency and for which OPM has approved establishment of one or more scientific or professional positions under 5 U.S.C. 3104.

Appraisal period means the established period of time for which a senior professional's performance will be appraised and rated.

Approving official means an agency designated official with authority to make SL or ST appointments and who assigns the rating of record.

Critical element means a key component of a senior professional's work that contributes to organizational goals and results and is so important that unacceptable performance on the element would make the senior professional's overall job performance unacceptable.

Initial summary rating means an overall rating level the rating official derives, from appraising the senior professional's performance during the appraisal period in relation to the critical elements and performance standards and requirements, and forwards to the Performance Review Board as the recommended rating of record.

Oversight official means the agency head or the individual specifically designated by the agency head who provides oversight of the performance management system and issues performance appraisal guidelines.

Performance means the accomplishment of the work described in the senior professional's performance plan.

Performance appraisal means the review and evaluation of a senior professional's performance against critical elements and performance standards and requirements.

Performance appraisal system means the policies, practices, and procedures an agency establishes under 5 U.S.C. chapter 43 and this subpart, or other applicable legal authority, for planning, monitoring, developing, evaluating, and rewarding employee performance.

Performance rating means the written, or otherwise recorded, appraisal of performance compared to the performance standard(s) for each critical element on which there has been an opportunity to perform for the minimum period. A performance rating may include the assignment of a numerical summary performance level.

Performance requirement means a description of what a senior professional must accomplish, or the competencies demonstrated, for a critical element. A performance requirement establishes the criteria to be met to be rated at a specific level of performance and generally includes quality, quantity, timeliness, cost savings, manner of performance, or other factors.

Performance standard means a normative description of a single level of performance within five such described levels of performance ranging from unacceptable performance to outstanding performance. Performance standards provide the benchmarks for developing performance requirements against which actual performance will be assessed.

PRB means Performance Review Board, which for the purposes of this subpart includes a PRB established under § 430.311 or an equivalent body, as described in § 430.511.

Progress review means a review of the senior professional's progress in meeting the performance requirements. A progress review is not a performance rating.

Rating official means the official, generally the supervisor of the senior professional, who develops the initial summary rating and forwards it to the Performance Review Board, as the recommended rating of record.

Rating of record means the final official performance rating at the end of an appraisal period for performance of agency-assigned duties over the entire period after the initial summary rating has been reviewed and approved by the approving official.

Senior professional means an employee in a senior-level (SL) or scientific or professional position (ST) paid under 5 U.S.C. 5376.

Senior professional performance plan means the written critical elements and performance requirements against which performance will be evaluated during the appraisal period by applying the established performance standards. The plan includes all critical elements, performance standards, and performance requirements, including any specific goals, targets, competencies, objectives, or other measures established for the senior professional.

Strategic planning initiatives means agency strategic plans as required by the GPRA Modernization Act of 2010, annual performance plans, organizational work plans, and other related initiatives.

§ 430.504 Senior professional performance appraisal systems.

(a) Each agency must develop and administer one or more performance appraisal systems for its senior professionals in accordance with the system standards established in § 430.505.

(b) Performance appraisal systems must provide for—

(1) Identifying employees covered by the system;

(2) Monitoring progress in accomplishing critical elements and performance requirements and conducting progress reviews at least quarterly during the appraisal period, including informing senior professionals on how well they are performing;

(3) Establishing an official performance appraisal period for which a rating of record must be prepared;

(4) Establishing a minimum appraisal period of at least 90 days;

(5) Establishing criteria and procedures to address performance of senior professionals who are on detail, temporarily reassigned, or transferred as described at § 430.510, and for other special circumstances established by the agency.

§ 430.505 System standards for senior professional performance appraisal systems.

(a) Each agency performance appraisal system must incorporate the following system standards:

(1) Use critical elements to evaluate the quality of the senior professional's job performance for the designated appraisal period;

(2) Align performance requirements with agency mission and strategic planning initiatives;

(3) Define performance standards for each of the summary rating performance levels, which also may be used for the individual elements or performance requirements being appraised;

(4) Appraise each senior professional's performance at least annually against performance requirements based on established performance standards and other measures;

(5) Derive a rating of record through a mathematical method that ensures the senior professional's performance aligns with level descriptors contained in performance standards that clearly differentiate levels above fully successful;

(6) Establish five summary performance levels. Level 1 through Level 5 are ordered categories, with Level 1 as the lowest and Level 5 as the highest, as follows:

(i) An outstanding level (Level 5);

(ii) An exceeds fully successful level (Level 4);

(iii) A fully successful level (Level 3);

(iv) A minimally satisfactory level (Level 2); and

(v) An unacceptable level (Level 1);

(7) Include equivalency statements in the system description for agency-specific terms for the five summary performance levels aligning them with the five performance levels required in paragraph (a)(6) of this section; and

(8) Use performance appraisals as a basis to adjust pay, reward, retain, and develop senior professionals or make other personnel decisions, including removals as described in § 430.512.

(b) An agency must develop and implement a performance appraisal system for its senior professionals in accordance with the requirements of this section and applicable OPM guidance.

(c) OPM may establish, and refine as needed, a governmentwide performance management system incorporating all requirements of this section for agencies to adopt, with limited adaptation, for performance appraisal of its senior professionals.

(d) OPM may establish, and refine as needed, a standardized distribution of some or all rating levels for senior professionals which agencies must apply when rating senior professionals, except that senior professionals appointed under Schedules C or G in the excepted service may be excluded from such standardized distribution requirements, as determined by OPM.

§ 430.506 Planning and communicating performance.

(a) Each senior professional must have a performance plan that describes the individual and organizational expectations for the appraisal period that clearly fall within the senior professional's area of responsibility and control.

(b) Rating officials must develop performance plans in consultation with senior professionals and communicate the plans to them in writing, including through the use of automated systems, on or before the beginning of the appraisal period, or upon appointment to a new SL or ST position.

(c) A senior professional performance plan must include—

(1) *Critical elements.* Critical elements must reflect individual performance results or competencies as well as organizational performance priorities within each senior professional's respective area of responsibility and control.

(2) *Performance standards.* Performance plans must include the performance standards describing each level of performance at which a senior professional's performance can be appraised. Performance standards describe the general expectations that must be met to be rated at each level of performance and provide the benchmarks for developing performance requirements.

(3) *Performance requirements.* At a minimum, performance requirements must describe expected accomplishments or demonstrated competencies for fully successful performance by the senior professional. An agency may establish performance requirements associated with other levels of performance as well. These performance requirements must align with agency mission and strategic planning initiatives. Performance requirements must contain measures of the quality, quantity, timeliness, cost savings, or manner of performance, as appropriate, expected for the applicable level of performance.

(d) Agencies may require a review of senior professional performance plans at the beginning of the appraisal period to ensure consistency of agency-specific performance requirements. Such reviews may be performed by the PRB or another body of the agency's choosing.

§ 430.507 Monitoring performance.

Rating officials must monitor each senior professional's performance throughout the appraisal period and hold at least quarterly progress reviews. At a minimum, rating officials must inform senior professionals during the progress review about how well they are performing with regard to their performance plan. Rating officials must provide advice and assistance to senior professionals on how to improve their performance. Rating officials and senior professionals may also discuss available development opportunities for the senior professional.

§ 430.508 Appraising performance.

(a) Agencies must establish appropriate timelines for communicating performance plans, conducting appraisals, and assigning and communicating ratings of record.

(b) At least annually, agencies must appraise each senior professional's performance in writing, including through the use of automated systems, and assign a rating of record at the end of the appraisal period.

(c) Agencies must appraise a senior professional's performance on the critical elements and performance requirements in the senior professional's performance plan.

(d) Agencies must base appraisals of senior professional performance on both individual and organizational performance as it applies to the senior professional's area of responsibility and control, taking into account factors such as—

(1) Results achieved in accordance with agency mission and strategic planning initiatives;

(2) Overall quality of performance rendered by the senior professional;

(3) Performance appraisal guidelines that must be based upon assessments of the agency's performance and are provided by the oversight official to senior professionals, rating and reviewing officials, PRB members, and approving officials at the conclusion of the appraisal period and before completion of the initial summary ratings;

(4) Customer perspectives; and

(5) Compliance with the merit system principles set forth under 5 U.S.C. 2301.

§ 430.509 Rating performance.

(a) For agencies employing ten or more senior professionals, when rating senior professional performance, each agency must use its agency-level PRB, as described at § 430.511 to fulfill the requirements of centralized review under part 534, subpart E, of this chapter.

(b) The rating of record or performance rating for a disabled veteran shall not be lowered because the veteran has been absent from work to seek medical treatment as provided in Executive Order 5396.

(c) Each rating of record shall cover a specified appraisal period. Agencies are prohibited from carrying over a rating of record prepared for a previous appraisal period as the rating of record for a subsequent appraisal period(s) without an actual evaluation of the employee's performance during the subsequent appraisal period.

(d) When a rating of record cannot be prepared at the time specified, the appraisal period must be extended. Once the conditions necessary to complete a rating of record have been met, a rating of record must be prepared as soon as practicable.

(e) Senior professional performance appraisals and ratings are not appealable, beyond what is otherwise provided under applicable law or regulation.

(f) Procedures for rating senior professionals must provide for the following:

(1) *Initial summary rating.* The rating official must develop an initial summary rating of the senior professional's performance, in writing, including through the use of automated systems, and share that rating with the senior professional. The senior professional may respond in writing.

(2) *Higher-level review (HLR).* A senior professional may ask for a higher-

level official to review the initial summary rating before the rating is given to the PRB. The agency must provide each senior professional an opportunity for review of the initial summary rating by an employee, or (with the consent of the senior professional) a commissioned officer in the uniformed services on active duty in the agency, in a higher level in the agency than the rating official who issued the initial summary rating.

(i) A single review by an official at a higher level who did not participate in determining the senior professional's initial summary rating will satisfy this requirement. An official providing HLR may not change the initial summary rating but may recommend a different rating to the PRB. HLR may be provided by an official who is at a higher level in the agency than the approving official who will approve the final rating under paragraph (f)(4) of this section.

(ii) When an agency cannot provide review by a higher-level official for a senior professional who receives an initial summary rating from the agency head because no such official exists in the agency, the agency must offer an alternative review as it determines appropriate, except that the review may not be provided by a member of the PRB or an official who participated in determining the initial summary rating.

(iii) If a senior professional declines review by agency-designated higher-level officials, the agency may offer an alternative review but is not obligated to do so. The agency must document the senior professional's declination of the HLR opportunity provided by the agency before offering an alternative review.

(iv) Copies of findings and recommendations of the HLR official or the official performing an alternative review under paragraph (f)(2)(ii) through (iii) of this section must be given to the senior professional, the rating official, and the PRB.

(3) *PRB review.* For agencies with ten or more senior professionals, the agency-level PRB must receive and review the initial summary rating, the senior professional's response to the initial rating if made, and findings and recommendations of any HLR or any alternative review under paragraph (f)(2) of this section before making recommendations to the approving official, as provided in § 430.511 and consistent with the requirements in part 534, subpart E, of this chapter pertaining to centralized review. Centralized review is not required for agencies employing fewer than ten senior professionals.

(4) *Rating of record.* The approving official must assign the rating of record of the senior professional's performance after considering the applicable PRB's recommendations. This rating is the official final rating for the appraisal period and must be communicated to the senior professional in writing, including through the use of automated systems, in accordance with the timelines developed under § 430.508(a).

(g) A performance rating may be prepared at such other times as may be necessary, such as for special circumstances including, but not limited to, transfers and performance on details.

§ 430.510 Details and job changes.

(a) When a senior professional is detailed or temporarily reassigned for 120 days or longer, the gaining organization must set performance goals and requirements for the detail or temporary assignment. The gaining organization must appraise the senior professional's performance in writing, including through the use of automated systems, and the rating official must consider this appraisal when deriving the initial summary rating.

(b) When a senior professional is reassigned or transferred to another agency after completing the minimum appraisal period, the rating official must appraise the senior professional's performance in writing, including through the use of automated systems, before the senior professional leaves and provide this information to the senior professional.

(c) The most recent rating of record and any subsequent appraisals must be transferred to the gaining agency or organization. The gaining rating official must consider the rating and appraisals when deriving the initial summary rating at the end of the appraisal period.

§ 430.511 Performance Review Boards (PRBs).

Each agency that employs ten or more senior professionals must use its agency-level PRB established under § 430.311, or an equivalent body if the agency is not subject to the SES, to make written recommendations to the approving official on ratings of record, performance awards, and pay adjustments regarding senior professionals. The agency-level PRB or equivalent body will be responsible for fulfilling all requirements of centralized review found in part 534, subpart E, of this chapter.

§ 430.512 Using performance results.

(a) Agencies must use performance appraisals as a basis for adjusting pay, granting awards, retaining senior professionals, and making other personnel decisions. Performance appraisals must be a factor in assessing a senior professional's continuing development needs.

(b) Agencies must provide appropriate incentives and recognition (including pay adjustments under subpart E of part 534 of this chapter and performance awards under part 451, subpart A, of this chapter) for excellence in performance.

(c) A senior professional may be suspended, demoted, or removed from the civil service for unacceptable performance, subject to the provisions of 5 U.S.C. 4303, 7503, and 7513.

§ 430.513 Training and evaluation.

(a) To assure effective implementation of agency performance appraisal systems, agencies must provide appropriate information and training to agency leadership, rating officials, and senior professionals on performance management, including planning and appraising performance.

(b) Agencies must periodically evaluate the effectiveness of their performance appraisal system(s) and implement improvements as needed. Evaluations must provide for both assessment of effectiveness and compliance with relevant laws, OPM regulations, and OPM performance management policy.

(c) Agencies must maintain all performance-related records for no fewer than 4 years from the date the rating of record is issued, as required in § 293.404(a)(1) of this chapter.

§ 430.514 OPM review of agency systems.

(a) Agencies must submit proposed senior professional performance appraisal systems to OPM for approval. Agency systems must address the system standards and requirements specified in this subpart.

(b) OPM will review agency systems for compliance with the requirements of law, OPM regulations, and OPM performance management policy, including the system standards specified at § 430.505.

(c) If OPM finds that an agency system does not meet the requirements and intent of subchapter I of chapter 43 of title 5, United States Code, or of this subpart, OPM will identify the requirements that were not met and direct the agency to take corrective action, and the agency must comply.

PART 451—AWARDS

■ 15. The authority citation for part 451 continues to read as follows:

Authority: 5 U.S.C. 4302, 4501–4509; E.O. 11438, 33 FR 18085, 3 CFR, 1966–1970 Comp., p. 755; E.O. 12828, 58 FR 2965, 3 CFR, 1993 Comp., p. 569.

Subpart A—Agency Awards

■ 16. Amend § 451.103 by revising paragraph (c)(2) to read as follows:

§ 451.103 Agency award program(s).

* * * * *

(c) * * *

(2) Documenting justification for awards that are not based on a rating of record (as defined in §§ 430.203 and 430.503 of this chapter).

■ 17. Amend § 451.104 by revising paragraph (a)(3) to read as follows:

§ 451.104 Awards.

(a) * * *

(3) Performance as reflected in the employee's most recent rating of record (as defined in §§ 430.203 and 430.503 of this chapter), provided that the rating of record is at the fully successful level (or equivalent) or above, except that performance awards may be paid to SES members only under § 534.405 of this chapter and not on the basis of this subpart.

* * * * *

PART 534—PAY UNDER OTHER SYSTEMS

■ 18. The authority citation for part 534 is revised to read as follows:

Authority: 5 U.S.C. 1104, 3161(d), 5304, 5307, 5351, 5352, 5353, 5376, 5382, 5383, 5384, 5385, 5541, 5550a, 7302; 18 U.S.C. 207.

Subpart D—Pay and Performance Awards Under the Senior Executive Service

■ 19. Amend § 534.402 by revising the definition for ''PRB'' to read as follows:

§ 534.402 Definitions.

* * * * *

PRB means Performance Review Board, as described in § 430.311 of this chapter.

* * * * *

Subpart E—Pay for Senior-Level and Scientific or Professional Positions

■ 20. Amend § 534.503 by revising the definitions for ''Performance appraisal system'', ''Performance rating'', and ''Rating of record'' to read as follows:

§ 534.503 Definitions.

* * * * *

Performance appraisal system means the framework of policies, practices, and procedures an agency establishes under subchapter I of chapter 43 of title 5, United States Code, subpart A of this part, and this subpart for planning, monitoring, developing, evaluating, and rewarding both individual and organizational performance and for using resulting performance information in making personnel decisions.

* * * * *

Performance rating means the written, or otherwise recorded, appraisal of performance compared to the SL or ST employee's performance standard(s) for each critical element on which there has been an opportunity to perform for a minimum of 90 days. A performance rating may include the assignment of a summary level.

* * * * *

Rating of record means the performance rating prepared at the end of an appraisal period for performance of agency-assigned duties over the entire period and the assignment of a summary level that has been reviewed and approved in accordance with § 534.505(a).

* * * * *

■ 21. Amend § 534.505 by revising and republishing paragraph (a)(5) introductory text to read as follows:

§ 534.505 Written procedures.

(a) * * *

(5) The administrative and management controls that will be applied to assure compliance with applicable statutes, OPM regulations, the agency's written procedures established under this section, the applicable maximum rate of basic pay in § 534.504(a), and, where applicable, the certification requirements set forth in part 430, subpart D, of this chapter. In an agency that employs ten or more senior professionals, these controls must include centralized review of ratings proposed under § 430.509 of this chapter and pay actions proposed under § 534.507 by a panel of individuals designated by the agency head to provide advice from an agency-wide perspective for authorized agency officials to consider before approving pay adjustments on whether—

* * * * *

■ 22. Amend § 534.507 by revising paragraphs (c)(2), (f), and (h) to read as follows:

§ 534.507 Annual increases in basic pay.

* * * * *

(c) * * *

(2) A performance rating that covers a period of at least 90 days and is assigned in accordance with subpart E of part 430 of this chapter and the centralized review required by § 534.505(a)(5), but only if a rating of record is not available or does not reflect current performance.

* * * * *

(f) Except as required by paragraph (g) of this section, a pay increase under this section may not be provided to an employee—

(1) Who has a current rating of record below Level 3 (Fully Successful or equivalent), as described in § 430.505(a)(6) of this chapter; or

(2) Who, after receiving a rating of record at Level 3 or above, receives a more recent performance rating as defined at § 430.503 of this chapter that rates performance in a critical element at a level below Level 3 (Fully Successful).

* * * * *

(h)(1) If the rates of basic pay under the General Schedule are increased under 5 U.S.C. 5303 on the date specified in paragraph (a)(1) of this section and the agency head decides upon a zero adjustment for an SL or ST employee who has a current rating of record or applicable performance rating at Level 3 or above, the agency must communicate the reasons for that decision to the employee in writing.

(2) Paragraph (h)(1) of this section does not apply to a senior professional with a rate of basic pay described in § 534.505(c)(1) unless—

(i) The rates of basic pay for the Executive Schedule are also increased on the date specified in paragraph (a)(1) of this section; and

(ii) The senior professional has a current rating of record or applicable performance rating at Level 5.

(3) Paragraphs (h)(1) and (2) of this section may not be construed to require a pay increase for any senior professional employee.

PART 537—REPAYMENT OF STUDENT LOANS

■ 23. The authority citation for part 537 is revised to read as follows:

Authority: 5 U.S.C. 2301, 2302, and 5379(g). E.O. 11478, 3 CFR 1966–1970 Comp., p. 803, unless otherwise noted; E.O. 13087, 63 FR 30097, 3 CFR 1998 Comp., p. 191; and E.O. 13152, 65 FR 26115, 3 CFR 2000 Comp., p. 264.

■ 24. Amend § 537.108 by revising paragraph (b) to read as follows:

§ 537.108 Loss of eligibility for student loan repayment benefits.

* * * * *

(b) For the purpose of applying paragraph (a)(2) of this section, an acceptable level of performance is one that is equivalent to level 3 (''Fully Successful'' or equivalent) or higher, as described in § 430.208(e) or

§ 430.505(a)(6) of this chapter, as applicable. An employee loses eligibility for student loan repayment benefits if his or her most recent official performance evaluation does not meet this requirement.

PART 630—ABSENCE AND LEAVE

■ 25. The authority citation for part 630 continues to read as follows:

Authority: Subparts A through E issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129), 6303(e) and (f), 6304(d)(2), 6306(b), 6308(a) and 6311; subpart F issued under 5 U.S.C. 6305(a) and 6311 and E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G issued under 5 U.S.C. 6305(c) and 6311; subpart H issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129) and 6326(b); subpart I issued under 5 U.S.C. 6332, 6334(c), 6336(a)(1) and (d), and 6340; subpart J issued under 5 U.S.C. 6340, 6363, 6365(d), 6367(e), 6373(a); subpart K issued under 5 U.S.C. 6391(g); subpart L issued under 5 U.S.C. 6383(f) and 6387; subpart M issued under Sec. 2(d), Pub. L. 114–75, 129 Stat. 641 (5 U.S.C. 6329 note); subpart N issued under 5 U.S.C. 6329a(c); subpart O issued under 5 U.S.C. 6329b(h); and subpart P issued under 5 U.S.C. 6329c(d).

Subpart C—Annual Leave

■ 26. Amend § 630.301 by revising paragraph (b)(3) to read as follows:

§ 630.301 Annual leave accrual and accumulation—Senior Executive Service, Senior-Level, and Scientific and Professional Employees.

* * * * *

(b) * * *

(3) Covered positions are subject to a performance appraisal system established under 5 U.S.C. chapter 43 and 5 CFR part 430, subpart B, C, or E or other applicable legal authority, for planning, monitoring, developing, evaluating, and rewarding employee performance.

* * * * *

PART 894—FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM

■ 27. The authority citation for part 894 is revised to read as follows:

Authority: 5 U.S.C. 8962; 5 U.S.C. 8992. Subpart C also issued under 2 U.S.C. 2051. Sec. 894.601(b) also issued under sec. 1111, Pub. L. 116–92, 133 Stat. 1600 (5 U.S.C. 8956 note).

Subpart C—Eligibility

■ 28. Amend § 894.302 by revising paragraph (k)(1) to read as follows:

§ 894.302 What is an excluded position?

* * * * *

(k) * * *

(1) An *employee* appointed to perform ''part-time career employment,'' as defined in 5 U.S.C. 3401(2) and 5 CFR part 340, subpart B; or

* * * * *

PART 1330—HUMAN RESOURCES MANAGEMENT

■ 29. The authority citation for part 1330 continues to read as follows:

Authority: 5 U.S.C. 5307(d).

Subpart D—Performance Appraisal Certification for Pay Purposes

■ 30. Amend § 1330.402 by revising the definitions of ''Appraisal system'' and ''Performance expectations'' to read as follows:

§ 1330.402 Definitions.

* * * * *

Appraisal system means the policies, practices, and procedures an agency establishes under 5 U.S.C. chapter 43 and 5 CFR part 430, subparts C and E, or other applicable legal authority, for planning, monitoring, developing, evaluating, and rewarding employee performance. This includes performance management systems as defined at § 430.303 and performance appraisal systems as defined at § 430.503.

* * * * *

Performance expectations means critical elements and performance requirements that constitute the senior executive performance plans (as defined in 5 CFR 430.303) established for senior executives, the critical elements and performance requirements that constitute the senior professional performance plans (as defined in 5 CFR 430.503) established for senior professionals, or other appropriate means authorized under performance appraisal systems not covered by 5 U.S.C. chapter 43 for communicating what a senior employee is expected to do and the manner in which he/she is expected to do it, and may include contribution to agency performance, where appropriate.

* * * * *

■ 31. Amend § 1330.403 by revising paragraphs (b) through (d) to read as follows:

§ 1330.403 System certification.

* * * * *

(b) Except as provided in paragraph (c) of this section, agencies subject to 5 U.S.C. chapter 43 and 5 CFR part 430 seeking certification of their appraisal systems must submit systems that have been approved by OPM under 5 CFR 430.314 or 430.514, as applicable. In some agencies, the performance appraisal system(s) covers employees in many organizations and/or components, and their ability to meet the certification criteria in § 1330.404 may vary significantly. In such cases, an agency may establish and/or submit separate performance appraisal systems for each of these distinct organizations and/or components to ensure timely certification of those performance appraisal system(s) that meet the criteria. New appraisal systems established under 5 CFR part 430, subpart C or E, as applicable based on the employees covered, must be approved by OPM.

(c) When an agency establishes a new performance appraisal system for the purpose of seeking certification under this subpart, the agency may submit that system for certification even if it has not yet been approved by OPM under 5 CFR 430.314 or 430.514, as applicable. OPM will certify, with OMB concurrence, only those systems that OPM determines meet the approval requirements of 5 CFR part 430, subpart C or E, as applicable.

(d) An agency must establish an appraisal system(s), as defined in § 1330.402, for its senior professionals that meets the requirements of 5 CFR part 430, subpart E, and is separate from the system(s) established to cover its SES members under 5 CFR part 430, subpart C. For the purpose of certification under this subpart, such senior professional appraisal system(s) must meet the certification criteria set forth in § 1330.404.

* * * * *

■ 32. Amend § 1330.404 by revising paragraphs (a)(2), (5), (7), and (8) to read as follows:

§ 1330.404 Certification criteria.

(a) * * *

(2) Consultation, so that the performance expectations for senior employees meet the requirements of 5 CFR part 430, subparts C and E, as applicable, and/or other applicable legal authority; are developed with the input and involvement of the individual senior employees who are covered thereby; and are communicated to them at the beginning of the applicable appraisal period, and/or at appropriate times thereafter;

* * * * *

(5) Appropriate assessments of the agency's performance—overall and with respect to each of its particular missions, components, programs, policy areas, and support functions—such as reports of the agency's GPRA goals, annual performance plans and targets,

program performance measures, and other appropriate indicators, as well as evaluation guidelines based, in part, upon those assessments, that are communicated by the agency head, or an individual specifically designated by the agency head for such purpose, to senior employees, appropriate senior employee rating and reviewing officials, and PRB members. These assessments and guidelines are to be provided at the conclusion of the appraisal period but before individual senior employee performance ratings are recommended, so that they may serve as a basis for individual performance evaluations, as appropriate. The guidance provided must conform to 5 CFR part 430, subpart C or E, as applicable;

* * * * *

(7) Accountability, so that final agency head decisions and any PRB recommendations regarding senior employee ratings consistent with 5 CFR part 430, subparts C and E, individually and overall, appropriately reflect the employee's performance expectations, relevant program performance measures, and such other relevant factors as the PRB may find appropriate; in the case of supervisory senior employees, ratings must reflect the degree to which performance standards, requirements, or expectations for individual subordinate employees clearly link to organizational mission, GPRA strategic goals, or other program or policy objectives and take into account the degree of rigor in the appraisal of their subordinate employees;

(8) Performance differentiation, so that the system(s) includes at least one summary level of performance above fully successful, including a summary level that reflects outstanding performance, as defined in § 1330.402, and so that its annual administration results in meaningful distinctions based on relative performance that take into account the assessment of the agency's performance against relevant program performance measures, as described in paragraph (a)(6) of this section, employee performance expectations, and such other relevant factors as may be appropriate. For equivalent systems that do not use summary ratings, the appraisal system must provide for clear differentiation of performance at the outstanding level; and

* * * * *

■ 33. Amend § 1330.405 by revising paragraphs (b)(1)(iii)(B) and (C) and (h)(2) to read as follows:

§ 1330.405 Procedures for certifying agency appraisal systems.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(B) For the agency's senior professionals covered by 5 CFR part 430, subpart E, five summary levels—an outstanding level, a fully successful level, a level between outstanding and fully successful, an unacceptable level, and a level between fully successful and unacceptable; and

(C) For agencies not subject to 5 CFR part 430, subparts C and E, a summary rating level that reflects outstanding performance or a methodology that clearly differentiates outstanding performance, as defined in § 1330.402;

* * * * *

(h) * * *

(2) An agency's system certification is automatically suspended when OPM withdraws performance appraisal system approval or mandates corrective action because of misapplication of the system as authorized under 5 CFR 430.314(c), 430.514(c), and 1330.403(e).

* * * * *

Office of Personnel Management.

Scott Kupor,

Director.

Office of Management and Budget.

Russell Vought,

Director.

[FR Doc. 2026–21316 Filed 10–16–26; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 351, 630, and 715

[Docket ID: OPM–2026–0397]

RIN: 3206–AP07

Administrative Leave for Workforce Realignment and Other Purposes

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to amend its regulations governing administrative leave for workforce realignment and other purposes. This final rule more fully addresses the appropriate uses of administrative leave, including use in connection with deferred resignation programs and other workforce realignment initiatives, and for other purposes. The final rule also clarifies when an agency may provide administrative leave during a reduction-in-force notice period and accept or deny an employee's request to withdraw a resignation in the context of a deferred resignation program.

DATES: This rule is effective November 18, 2026.

FOR FURTHER INFORMATION CONTACT: Bryce Baker by telephone at (202) 606–2858 or by email at *leavepolicy@opm.gov.*

SUPPLEMENTARY INFORMATION: OPM is issuing a final rule to amend its regulations on administrative leave in 5 CFR part 630, subpart N, and related regulations on reductions in force in 5 CFR 351.806 and on resignations in 5 CFR 715.202. OPM issued a proposed rule on June 29, 2026 (91 FR 39032).

I. Digest of Public Comments

In response to the proposed rule, OPM received 30 comments during the 30-day public comment period from multiple individuals, one agency (0027), two unions (0022 and 0030), and three employee advocacy groups (0025, 0026, and 0029). All comments were posted and made available to the public in the docket at *https://www.regulations.gov/docket/OPM-2026-0397.* A reference to a comment provides the location of the item in the public record (*i.e.,* comments filed in response to the proposed rule are available at *https://www.regulations.gov/comment/OPM-2026-0397-nnnn* where ''nnnn'' is the comment number).

At the conclusion of the public comment period, OPM reviewed and analyzed the comments. In general, the comments on the proposed regulation changes were mixed. The comments are summarized below, including suggestions for revisions that OPM considered and either adopted, adopted in part, or declined to adopt, along with OPM's supporting rationale. Section II of this preamble provides background information. Section III responds to the comments. Section IV provides a section-by-section analysis of the regulatory changes, section V sets forth the regulatory analysis, and section VI addresses regulatory compliance requirements.

II. Background

On December 17, 2024, OPM issued final regulations on administrative leave that added a new subpart N in 5 CFR part 630 (89 FR 102256). The regulations in subpart N govern use of administrative leave authorized for Federal employees under 5 U.S.C. 6329a, which was enacted as part of the Administrative Leave Act of 2016 (section 1138 of Pub. L. 114–328, December 23, 2016). OPM subsequently

identified the need to clarify certain matters in subpart N. On June 29, 2026, OPM issued a proposed rule (91 FR 39032) pursuant to its regulatory authority at 5 U.S.C. 6329a(c). The proposed rule addressed acceptable and unacceptable uses of administrative leave. In particular, OPM proposed to add a list of specific examples of acceptable uses, including use in connection with deferred resignation programs [1] and other workforce restructuring initiatives. These final regulations codify existing OPM policies on administrative leave. The primary OPM policy documents are a ''Fact Sheet: Administrative Leave'' and an OPM memorandum to agency Chief Human Capital Officers entitled ''Template for Agency Administrative Leave Policies'' (CPM 2025–12, July 30, 2025) (''Agency Policy Template'').[2]

In addition, the proposed rule included proposed changes to related regulations. It proposed to amend OPM's reduction-in-force (RIF) regulations at 5 CFR 351.806 to clarify the conditions under which an agency may provide administrative leave during a RIF notice period. It also proposed to amend OPM's resignation regulations at 5 CFR 715.202 to (1) provide that an agency has sole and exclusive discretion in deciding whether to accept or deny an employee's request to withdraw a resignation before the resignation has become effective and (2) specifically address that an employee's receipt of benefits provided under a deferred resignation agreement, such as paid administrative leave, is a valid reason to deny an employee's request to withdraw a resignation.

III. Responses to Comments

A. Use of Administrative Leave in Connection With a Deferred Resignation Program

A number of comments, including 0004, 0006, 0016, 0019, 0025, 0026, and 0029, opposed codifying use of administrative leave in connection with deferred resignation programs (DRP) as an acceptable use, arguing that use of administrative leave for workforce restructuring circumvents RIF procedures in 5 CFR part 351, which includes legal safeguards to ensure that, when necessary, employees are released from employment in an orderly manner. Commenters argued that voluntary early retirement authority (VERA) and voluntary separation incentive payments (VSIP) already provide bounded, accountable mechanisms with statutory caps, and that open-ended administrative leave is designed to escape those limits. Comment 0004 stated that OPM should reject any regulatory framework that treats administrative leave as a preferred alternative to lawful RIF procedures. Comment 0006 objected that administrative leave, traditionally a short-duration tool, is being expanded into a workforce reduction mechanism that departs from established civil service procedures.

Comment 0025 argued that deferred resignation programs require a statutory foundation separate from section 6329a, noting that Congress has separately authorized the VSIP and VERA programs and asserting that section 6329a cannot be used to ''create and fund a massive governmentwide paid separation benefit.'' The commenter cited public reporting estimating the cost of 2025 deferred resignation programs at approximately $11.1 billion and urged OPM to work with Congress on a legislated transition or severance program. The commenter urged OPM to withdraw the proposal in its entirety, begin using administrative leave as intended by Congress, and seek legislation for any broader paid transition or severance program.

Comment 0016 similarly argued that VERA and VSIP already provide bounded, accountable voluntary-reduction tools with statutory caps, making open-ended administrative leave unnecessary, and that codifying open-ended administrative leave as a ''transition-to-separation tool'' invites agencies to route around the disciplined mechanisms Congress enacted, and to do so with public funds and no meaningful oversight. Comment 0026 recommended that OPM work with Congress to raise the statutory cap on voluntary separation incentive payments to make it a more useful tool. An individual commenter argued that the proposed rule weakens the due process protections that have sustained a competent, professional, merit-based civil service, and that it will harm Federal recruitment and retention and requested withdrawal of the proposed rule. Due process concerns are addressed further in section III.F.

OPM disagrees that a separate statutory authorization is required to use administrative leave in conjunction with a DRP. Administrative leave provided in connection with a DRP is administrative leave under section 6329a, provided pursuant to a written agreement in which the employee voluntarily commits to separate on a specified future date. Such leave is not ''placed'' on an unwilling employee; it is a benefit the employee elects to accept as part of a voluntary transition to separation. The concerns that animated the Administrative Leave Act—open-ended, involuntary removal of employees from the workplace during unresolved personnel matters—are not implicated where an employee has voluntarily agreed to separate and to the terms of the transition period.

The existence of VSIP and VERA does not preclude the use of administrative leave as a complementary workforce-shaping tool. Those authorities address different benefits—lump-sum incentive payments and modified retirement eligibility, respectively—and nothing in those statutes states or implies that they are the exclusive means by which agencies may facilitate voluntary separations. Indeed, the new § 630.1403(c)(9) expressly contemplates that administrative leave may be used in conjunction with VSIP and VERA. Section 630.1403(c)(9) is limited to cases where employees sign voluntary written agreements to separate on a specified future date and receive administrative leave as a part of that voluntary agreement. Agencies have long had discretion to determine how employees in a transition-to-separation posture will be utilized, and the final rule confirms that discretion while subjecting it to Governmentwide limits established by OPM and applicable agency limits.

OPM acknowledges that VERA and VSIP are separate authorities with their own limits; the inclusion of those authorities in the same example is descriptive of the range of voluntary transition tools and does not subject administrative leave to, or exempt it from, the statutory conditions governing VERA or VSIP, which continue to apply on their own terms.

OPM does not agree that this final rule expands administrative leave into a workforce reduction tool that circumvents RIF procedures. The final rule does not waive, suspend, or displace any requirement of 5 CFR part 351. Retention registers, retention standing, veterans' preference, and all

[1] See the following OPM memoranda on the 2025 Governmentwide deferred resignation program available at *https://www.opm.gov/chcoc/published-memos/:* ''Guidance on Probationary Periods, Administrative Leave and Details'' (January 20, 2025), ''Guidance Regarding Deferred Resignation Program'' (January 28, 2025), ''Guidance on Collective Bargaining Obligations in Connection with Deferred Resignation Offer'' (February 4, 2025), and ''Legality of Deferred Resignation Program'' (February 4, 2025).

[2] The OPM ''Fact Sheet: Administrative Leave'' is found at *https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/administrative-leave/.* The OPM memorandum ''Template for Agency Administrative Leave Policies'' (CPM 2025–12, July 30, 2025) is available at *https://www.opm.gov/chcoc/published-memos/.*

other RIF requirements continue to apply in full to any involuntary RIF separation. The only change made to part 351 is to § 351.806, which addresses an employee's duty status during the RIF notice period. Paragraph (a) retains the general expectation that an employee will remain in a duty status during the notice period. It replaces the ''when possible'' language with ''under ordinary circumstances,'' which is consistent with the language used in 5 CFR 752.404(b)(3) that addresses duty status during an advanced notice period in connection with a proposed removal or suspension. The new paragraph (b) permits—but does not require—administrative leave for all or part of that period when the agency determines such leave is appropriate. This regulatory clarification is consistent with OPM policy guidance [3] which already provided that an authorized agency official may provide administrative leave between an employee's receipt of a notice of involuntary separation and the effective date of that separation.

New § 630.1403(c)(10) and revised § 351.806 address only whether an employee may be placed in a paid, non-duty status during a RIF notice period. Those provisions do not alter the substantive or procedural requirements governing RIF, which continue to apply in full whenever an agency conducts a RIF. Nothing in this rule authorizes an agency to bypass RIF competition, retention registers, or appeal rights.

As to cost, OPM addresses costs in section III.B and regulatory-impact matters in section III.E. OPM notes here that the DRPs conducted in 2025 were undertaken pursuant to existing regulatory authority and OPM guidance; this rule codifies the availability of administrative leave for DRP programs prospectively, subject to the limits described above. OPM agrees that Congress remains free to enact additional workforce-transition authorities but disagrees that such legislation is a prerequisite to the uses identified in this rule. The sponsors of the Administrative Leave Act were concerned about costs associated with open-ended investigations of employees and did not consider a use of administrative leave that would produce long-term cost savings by facilitating workforce reductions.

OPM declines to withdraw the rule or to make changes based on this line of comments. The final rule is a lawful exercise of OPM's authority under 5 U.S.C. 6329a(c)(1), strengthens the regulatory framework by converting policy guidance into binding prohibitions and clarifying acceptable uses, preserves the duty-status presumption during RIF notice periods, and does not alter the statutory 10-workday limit or the investigative- and notice-leave framework of section 6329b.

B. Cost of Administrative Leave and DRP

Several comments, including 0004, 0016, 0022, and 0025, objected to the cost of using administrative leave in conjunction with a DRP. Comment 0004 stated the 2025 deferred resignation programs showed waste, including paying employees who performed no work and later rehiring. The commenter believes a full accounting of the DRPs should be conducted before similar programs are codified in regulation. Comment 0016 noted that the 2025 DRP placed tens of thousands of employees in paid non-duty status for months while delivering no work to the public, a direct payroll expenditure for zero output, compounded by the loss of institutional knowledge, the collapse of continuity in mission-critical functions, and the documented degradation of agency capacity that followed. Comment 0022 commented that the proposed rule attempts to justify the administration's costly workforce reduction efforts, including widespread use of administrative leave, by promising ''large long-term savings'' without providing concrete support or considering downstream effects of letting employees participate in DRP.

Comment 0022 also stated that OPM failed to provide concrete support that justifies costly workforce reduction efforts, even as it acknowledges the costs of the workforce reduction initiatives that began in early 2025. The organization cited two recent studies that highlight significant expenses tied to these workforce reduction programs: (1) a June 2026 study estimated that deferred resignation programs alone have cost at least $11 billion; and (2) another analysis from April 2026 found that the Government paid approximately $4.5 billion in salary and benefits to employees who were not working under DRP agreements.

OPM respectfully disagrees with the commenters on the costs associated with the original DRP. OPM acknowledged in the proposed rule that there is a temporary cost to providing administrative leave and stated its judgment that use of administrative leave in connection with deferred resignation programs and other workforce restructuring initiatives can generate long-term savings by reducing Federal staffing levels. OPM did not project costs or savings from the proposed regulations themselves because the regulations codify Governmentwide policies already in place, and OPM does not expect codification to produce significant changes in the usage of administrative leave.

Further, OPM policy guidance has stated that use of administrative leave in connection with DRP is in the interest of the agency and of the Government as a whole because it facilitates workforce restructuring and realignment efforts leading to a leaner, less expensive, less wasteful, more efficient, and more mission-focused Federal workforce. OPM also notes that this policy is not open-ended: beginning in calendar year 2026, use of administrative leave by an employee in connection with a workforce realignment initiative is limited to 12 weeks in any individual instance unless a higher threshold has been jointly approved by OPM and the Office of Management and Budget. In addition, § 630.1403(a)(6) requires an authorized agency official to consider the effect on productivity and mission needs and the strength of the justification for using appropriated funds.

OPM calculates that DRP separations in 2025 represented a workforce reduction of over 6 percent, which contributed to the overall reduction of the Federal workforce of over 12 percent from December 2024 to March 2026. Those workforce reductions create significant long-term savings even after accounting for the one-time costs of DRP administrative leave, which represent less than 3 percent of total basic payroll for Federal employees. Because the payroll savings from a smaller workforce recur in every subsequent fiscal year while the administrative leave outlays are one-time transition costs, the long-term savings substantially exceed the short-term costs even under the commenters' own estimates.

OPM makes no changes in the regulations in response to this line of comments.

C. 10-Workday Limit

Comment 0025 asserted that the proposed rule exceeds OPM's authority under the Administrative Leave Act of 2016, 5 U.S.C. 6329a–6329c, by establishing a regulatory exception to the statutory 10-workday calendar year limit. The commenter argued that the section 6329a(b) 10-workday calendar-

[3] See section D.1.b in OPM memorandum ''Template for Agency Administrative Leave Policies'' (CPM 2025–12, July 30, 2025), which is available at *https://www.opm.gov/chcoc/published-memos/*.

year limit reflects Congress's intent to curb extended agency-directed paid non-duty status, that OPM's authority under section 6329a(c)(1) to prescribe acceptable uses does not include authority to override that limit, and that authorizing months of administrative leave for workforce realignment, RIF notice periods, and settlements would render the statutory cap ''optional and meaningless.'' The commenter urged OPM to withdraw the proposal and seek legislation for any broader paid transition or severance program. Similarly, comment 0029 asserted that the proposed rule conflicts with the 10-workday limit Congress enacted in section 6329a(b)(1) by ''re-authorizing exactly the indefinite, uncontestable leave status Congress acted to eliminate.''

However, comment 0029 supported retaining the language found in proposed § 630.1403(b)(3) concerning the use of administrative leave for investigative purposes. A labor organization (0030) similarly argued that the text and structure of the Act—including the separately defined and expressly limited investigative leave authority in 5 U.S.C. 6329b—show that Congress withheld the power to provide unlimited amounts of administrative leave, and cited the sense-of-Congress findings accompanying the Act (5 U.S.C. 6329a note) that agency use of administrative leave had exceeded reasonable amounts and that administrative leave should be used sparingly.

OPM disagrees that the rule exceeds its statutory authority. Congress expressly directed OPM to ''prescribe regulations to carry out'' section 6329a, including regulations governing the ''acceptable agency uses of administrative leave'' and the recording of such leave (5 U.S.C. 6329a(c)(1)). The final rule is an exercise of precisely that delegated authority: it identifies acceptable and prohibited uses of administrative leave and codifies existing Governmentwide policies to promote consistency and accountability across agencies.

The final rule does not waive, extend, or otherwise modify the 10-workday limit in section 6329a(b)(1). As OPM explained in the December 2024 final rule (89 FR 102256), the statutory limit applies where an agency ''place[s]'' an employee on administrative leave for investigative purposes. The 10-workday limit directly connects to a provision in the investigative leave law (section 6329b(b)(3)(A)), which bars placing an employee on investigative leave until the 10-workday limit is reached.

The final rule preserves and indeed strengthens the statutory framework. New § 630.1403(b)(3) provides clarity by expressly prohibiting use of administrative leave for investigative purposes once the employee has reached the 10-workday limit. If necessary, an agency may then use investigative leave under section 6329b, with all of that section's procedural safeguards, approvals, time limits, and reporting requirements. Thus, the final rule gives fuller effect to the statutory scheme Congress designed for the specific problem that motivated the Administrative Leave Act—prolonged, agency-directed removal of employees from the workplace during personnel investigations.

The commenter's reading—under which the 10-workday limit would govern all extended uses of administrative leave—is inconsistent with the position the commenter itself acknowledges: that general administrative leave for purposes such as voting, blood donation, and emergency closures remains outside the cap. The statute does not enumerate acceptable purposes; it delegates that task to OPM. Nothing in the text of section 6329a confines OPM's authority under subsection (c)(1) to brief or de minimis uses, and the enumerated examples in § 630.1403(c) operate within, not around, the statutory limits: uses that fall within the investigative context remain subject to the 10-workday limit, which when reached triggers coverage under section 6329b, while the workforce-realignment uses in paragraphs (c)(9) through (c)(11) address categorically different circumstances, discussed further below. The December 17, 2024, final rule cited by the commenter included this sentence: ''An incidence of administrative leave lasting more than 1 workday may be approved when determined to be appropriate by an agency'' (5 CFR 630.1403(a)(3)). This final rule simply adds specific examples of appropriate uses of administrative leave for periods of more than 1 workday.

The rule does not authorize unlimited administrative leave: the workforce-realignment uses in § 630.1403(c)(9) and (c)(11) are expressly subject to Governmentwide limits established by OPM—currently 12 weeks in any individual instance absent joint OPM and Office of Management and Budget approval of a higher threshold—and to any agency limits, and every use of administrative leave remains subject to the principles and decision factors in § 630.1403(a).

Finally, the ''Sense of Congress'' accompanying the Act—that agencies should use administrative leave ''sparingly'' and manage its costs prudently—is a non-binding statement of policy that informs, but does not displace, the operative statutory text. The final rule is consistent with that policy: it retains the general principles in § 630.1403(a) that administrative leave is discretionary, should be limited to the amount reasonably necessary, and ordinarily should not exceed one workday for a single incidence, while identifying the limited circumstances in which longer periods are appropriate. It also adds new binding prohibitions (§ 630.1403(b)(3)–(5)) that constrain agency use of administrative leave. As noted above, the sponsors of the Administrative Leave Act were concerned about costs associated with open-ended investigations of employees and did not consider a use of administrative leave that would produce long-term cost savings by facilitating workforce reductions.

OPM makes no changes in response to these comments.

D. Mission Capacity

Three individual commenters (comments 0007, 0008, 0009) raised concerns about the consequences of workforce reductions on the delivery of Federal services. Comment 0007 described the impact of workforce reductions on various public health services, communications during emergencies, and technical assistance to states, and argued that the proposed rule facilitates those reductions without accounting for their effect on the public. Comment 0008 noted OPM's analysis should evaluate the cost of reduced program capacity, including reduced preparedness and loss of scientific expertise, rather than treating the cost of administrative leave in isolation. Comment 0009 was concerned about the loss of institutional and technical expertise, especially in specialized topics and areas of work and requested that OPM clarify that administrative leave is not to be used as a tool for permanent downsizing and should not be used as a routine workforce reduction strategy and that agencies should first demonstrate that mission requirements can still be met.

OPM appreciates the comments and does not dispute that changes in agency staffing can affect the delivery of public services. Those effects are addressed in the existing regulatory framework at the point of decision rather than through the list of examples of acceptable uses.

This final rule does not require an agency to provide administrative leave in any workforce realignment scenario and does not state that administrative

leave should be used as a routine workforce reduction strategy. An authorized agency official retains the sole and exclusive discretion to decline to provide it based on agency judgments regarding mission needs (§ 630.1403(a)(2) and (a)(4)). Decisions about the size and composition of an agency's workforce, and about which program functions must remain staffed, are made by the agency under separate authorities and are outside the scope of this rulemaking.

As to the request that agencies first demonstrate that mission requirements can still be met, OPM declines to change the regulatory text. Section 630.1403(a)(6) already requires the authorized agency official to consider the effect on productivity and the agency's ability to meet mission needs. The loss of specialized expertise the commenters describe is a workforce planning consideration for the agency exercising its staffing authorities rather than a matter to be governed by the administrative leave regulations.

E. Economic Impact Analysis

Comment 0025 argued that OPM's cost-benefit analysis is incomplete because it does not disclose amounts already spent on extended administrative leave, quantify affected employees, compare projected savings against service losses and replacement costs, or justify the determination that the rule will not have a $100 million annual economic effect.

Several commenters argued that the no-cost certification is arbitrary and capricious under the Administrative Procedure Act (APA) because it conflates the *act of codifying* with the *substance being codified.* Comment 0004 stated that OPM fails to account for the major economic effects of workforce reductions in its costing of the proposed rule. The commenter suggested that OPM should measure more than the payroll impact of Federal employees and requested that OPM conduct a complete and honest economic impact analysis—that accounts for local economic multiplier effects, the impact on housing markets, and the cost of lost public services—and make that analysis available for a minimum of 60 days of public comment before any rule is finalized.

Comment 0010 argued that extended administrative leave under a DRP operates as a benefit that bridges employees to retirement eligibility or to other employment and that the asserted cost savings are not credible. The same commenter stated the purported reduction in costs is nonsense unless it is accompanied by a legislative reduction in tasking to the affected agency, because the work will just fall to the remaining employees and will either be done with less rigor and attention to detail or will be contracted out to a company that is profit-motivated instead of mission-motivated.

Comment 0016 stated that months of payroll expenditures for tens of thousands of DRP participants performing no work, the loss of institutional knowledge, the collapse of continuity in mission-critical functions, and the documented degradation of agency capacity cannot be a de minimis cost. Comment 0029 stated that real-world impacts of authorizing administrative leave for employees facing a RIF include ''not only billions of dollars in direct financial losses but also serious constraints on agencies' ability to carry out their statutory missions.'' Comment 0004 objected that OPM ''must conduct a complete economic impact analysis that accounts for the multiplier effect of federal employee spending in local economies, the impact on housing markets, the downstream consequences for private sector businesses that depend on stable federal employment in their communities, and the economic value of public services that go undelivered when federal employees are placed on administrative leave rather than deployed productively.'' Comment 0030, a labor organization, further asserted that OPM's claimed cost savings are contrary to publicly available data, citing a June 2026 Public Citizen analysis estimating that the 2025 deferred resignation programs cost approximately $11 billion, and Government Accountability Office (GAO) reports documenting that agencies subsequently rehired employees who had participated in those programs.

OPM disagrees that a more extensive cost analysis is required. The relevant question under E.O. 12866 and E.O. 13563 is the incremental effect of this rule relative to the baseline. The baseline includes the Governmentwide policies already in effect—including the Agency Policy Template—that parallel the rule's provisions. The distinction commenters draw between the act of codifying and the substance being codified is precisely what the baseline concept captures: because the substance is already in effect, the incremental effect of codifying it is the appropriate measure of this rule's costs and benefits. Because the rule primarily codifies those existing policies, OPM does not project that the rule itself will significantly change the usage of administrative leave or result in incremental costs or savings approaching the $100 million significance threshold. Expenditures associated with the 2025 deferred resignation programs were incurred under prior policies and are not costs of this rule; a retrospective accounting of those programs is beyond the scope of this rulemaking.

OPM further notes that decisions to conduct particular workforce realignment initiatives—and their associated costs and savings—are made by individual agencies under separate authorities and processes; this rule does not mandate any such initiative. To the extent the rule has effects, OPM expects them to be beneficial: greater consistency across agencies, a firmer legal foundation for existing policies, and fewer disputes. The rehiring and cost data the commenters cite concern the execution of the 2025 programs under then-existing authorities and policies; those data may inform how agencies design and administer future initiatives, but they do not alter the incremental analysis of a rule that codifies the governing framework and directs no particular program.

The economic analysis accurately reflects the impact of this rule, which applies only to Federal agencies and Federal employees and codifies policies already in effect Governmentwide through the OPM Fact Sheet: Administrative Leave and the Agency Policy Template. The certification under the Regulatory Flexibility Act addresses the absence of a significant economic impact on a substantial number of small entities. The rule does not authorize, fund, or direct any particular workforce reduction; decisions on staffing levels are made by agencies under separate authorities and remain subject to appropriations law.

OPM acknowledges the contributions Federal civilian employees make to the economy and that workforce restructuring may affect their incomes and, in turn, their communities. However, the indirect effects the commenters identify—the multiplier effect of Federal employee spending in local economies, impacts on housing markets, downstream consequences for private-sector businesses, and the economic value of public services—are consequences of agency staffing decisions made under separate authorities, not incremental effects of this rule, and E.O. 12866 does not require quantification of speculative indirect effects of actions that this rule neither mandates nor funds.

OPM notes that the Office of Information and Regulatory Affairs designated this action significant under

E.O. 12866 section 3(f) and that OPM examined the impact of the rule as required by E.O.s 12866 and 13563. An agency must consider the important aspects of the problem before it (see *Motor Vehicle Manufacturers Association of the United States, Inc.* v. *State Farm Mutual Automobile Insurance Co.,* 463 U.S. 29, 43 (1983)), but that obligation does not require quantification of the indirect effects of separate agency staffing decisions that this rule does not direct, and an agency's predictive judgments about the effects of its rules need only be reasonable and reasonably explained (see *FCC* v. *Prometheus Radio Project,* 592 U.S. 414 (2021)).

Section D.1.b of the Agency Policy Template already contemplates that workforce restructuring initiatives such as deferred resignation or VERA may lead to a separation for retirement. Section 630.1403(c)(9) is drafted consistently with that policy: it reaches employees who sign a written agreement to voluntarily separate on a specified future date. OPM does not agree that administrative leave may be provided for the purpose of enabling an employee to obtain other employment. An employee in an administrative leave status remains a Federal employee subject to applicable standards of conduct and to agency requirements governing outside employment.

OPM acknowledged in the proposed rule that there is a temporary cost to providing administrative leave and stated its judgment that these programs can generate long-term savings by reducing Federal staffing levels. Whether an agency's remaining workload should be reduced, redistributed, or performed under contract is a matter for the agency and, where applicable, for Congress, and is outside the scope of this rulemaking. OPM makes no changes in response to these comments.

F. Due Process

Two individual commenters (comments 0019 and 0021) urged OPM to withdraw this proposal and preserve the due process protections that have helped maintain a competent, professional, merit-based civil service for decades. Comment 0019 expressed concern that the rule significantly weakens longstanding due process protections for Federal employees. Comment 0021 expressed concern that expanded and largely unreviewable agency discretion in the proposed rule is inconsistent with the merit system principles in 5 U.S.C. 2301 and with the independence, professionalism, and nonpartisan character of the career civil service. The commenter further stated that regulations should be written to withstand misuse by any future administration by anchoring workforce management authority to merit system principles in 5 U.S.C. 2301.

OPM does not agree that the final rule is inconsistent with the merit system principles in 5 U.S.C. 2301. Agency discretion under these regulations is not unbounded. As the proposed rule states, acceptable uses are those uses, within the bounds of law and regulation, that an agency determines to be appropriate in its sole and exclusive discretion; the merit system principles, appropriations law, and other governing law continue to apply.

The regulatory framework contains the structural safeguards the commenter seeks. A use of administrative leave must satisfy one or more of the four guiding principles in § 630.1403(a)(1); it must be permitted under written agency policy or, if not specifically authorized in policy, be approved on a case-by-case basis by an authorized agency official at least one level higher than the official making the initial determination (§ 630.1403(a)(5); Agency Policy Template (CPM 2025–12, July 30, 2025), section B.3.b); and the authorized agency official must consider the decision factors in § 630.1403(a)(6), which include consistent treatment of similarly situated employees. Each authorized agency official is accountable for the policies he or she establishes and should be prepared to show how due consideration was given to the principles and requirements in law, regulations, and policy (Agency Policy Template, section B.3.a). Use of administrative leave must be recorded as a stand-alone category of leave and reported to OPM's Enterprise Human Resources Integration database (5 U.S.C. 6329a(b)(2); 5 CFR 630.1406(c); Agency Policy Template, section G), and managers are responsible for administering the program with integrity and for identifying, investigating, and correcting leave errors and abuse (Agency Policy Template, section H.1).

These provisions create no new authority to separate, demote, or discipline an employee. Involuntary separations remain governed by 5 CFR part 351 and, where applicable, 5 U.S.C. chapters 43 and 75. OPM declines to withdraw the rule and views these comments as largely outside the scope of the rule.

G. Allegations That the Rulemaking Is Arbitrary and Capricious

A labor organization (comment 0030) objected that OPM's process of codifying policy decisions that OPM has already made renders this rulemaking arbitrary and capricious. The labor organization also asserted that OPM failed to make reasoned conclusions based on objective evidence about the rule's ramifications, and that the supporting analysis is internally inconsistent because it states both that the use of administrative leave in connection with deferred resignation programs and other workforce restructuring initiatives can generate large long-term savings and that OPM does not project that costs or savings will result from the regulations. Similarly, comment 0025 argued that the rule is arbitrary and capricious because OPM did not acknowledge and adequately explain a departure from the December 2024 final rule, citing *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502 (2009).

OPM disagrees with the premise that this rule reverses the 2024 final rule. The final rule leaves the 2024 rule's core interpretive framework intact: the 10-workday limit continues to apply to agency-directed placement for investigative purposes; general administrative leave for civic, operational, and employee-support purposes continues outside that cap; and the general principles of § 630.1403(a)—including the principle that administrative leave ordinarily should not exceed one workday for a single incidence—are retained. What the rule adds are clarifying examples of acceptable uses, three new binding prohibitions, and conforming terminology. The examples largely codify OPM policies issued after the 2024 rule, including the Agency Policy Template (CPM 2025–12, July 30, 2025), and were fully explained in the proposed rule's preamble.

To the extent the rule refines the 2024 framework—for example, by expressly addressing extended leave in transition-to-separation contexts that the 2024 rule did not specifically discuss—OPM has acknowledged the additions and explained the basis for them, including agencies' experience administering the 2024 regulations and the need for greater consistency and a firmer legal foundation for existing policies. That explanation satisfies the standard articulated in *Fox Television,* 556 U.S. at 515, which requires a reasoned explanation for a change, not a heightened one, except in circumstances not present here.

As explained in the Statement of Need, after more than a year of experience applying the December 2024 final regulations, OPM identified the need to clarify certain matters, and

while OPM has issued policy guidance that largely addresses those matters, regulations are needed to achieve greater consistency across agencies and a firmer legal foundation for the policies.

Notice-and-comment rulemaking is the appropriate means of converting Governmentwide policy into binding regulation, and OPM has proposed for public comment both new prohibitions that would bind agencies and new examples of acceptable uses. OPM further notes that CPM 2025–12 described the Agency Policy Template as a living document that would be improved and refined to address issues arising during implementation.

Further, the premise that OPM had already adopted the policies being codified does not render the rulemaking arbitrary and capricious. An agency does not prejudge a rulemaking by proposing to codify its existing policies; the APA requires that the agency maintain an open mind and consider the comments received, not that it begin with an empty one (see *Association of National Advertisers, Inc.* v. *FTC,* 627 F.2d 1151 (D.C. Cir. 1979) (rulemaker may be disqualified only on a clear and convincing showing of an unalterably closed mind)).

This final rule demonstrates that consideration: in response to the comments, OPM is adding a new acceptable-use example for physical fitness activities, adding a regulatory definition of ''sole and exclusive discretion,'' and making other changes described in this preamble. As to the asserted lack of factual support and internal inconsistency, OPM responds in section III.E of this preamble. In brief, the projection that codification will not significantly change the usage of administrative leave rests on the fact that agencies have operated under parallel Governmentwide policies since July 2025, and there is no inconsistency between OPM's judgment that workforce restructuring initiatives can generate long-term savings and its projection that this rule—which neither mandates nor funds any such initiative—will not itself produce significant incremental costs or savings.

OPM makes no changes in response to these comments.

H. ''Sole and Exclusive'' Discretion

Comment 0025 argued that describing agency discretion (in §§ 630.1403(a) and 715.202(b)) as ''sole and exclusive'' is unnecessary and misleading because agency discretion remains bounded by statute, regulation, appropriations law, collective-bargaining obligations, merit system principles, and judicial review. The commenter also stated the ''sole and exclusive discretion'' language ''sits uneasily with OPM's own governmentwide oversight role.''

One labor organization, comment 0030, asserted that the ''sole and exclusive discretion'' language is unlawful and arbitrary in that it removes administrative leave from collective bargaining by reference to OPM's own judgment without a statutory basis (invoking Federal Labor Relations Authority precedent and the right of an exclusive representative to negotiate over conditions of employment under 5 U.S.C. 7102 and 7114). Another labor organization (comment 0022) commented that this amendment would create significant legal consequences because, under the Federal labor statute, ''agencies are not required to bargain over matters over which they have sole and exclusive discretion.'' AFGE National Veterans Affairs Council # 53, 71 F.L.R.A. 410, 412 & n.22 (2019). Similar comments were made by an anonymous commenter (comment 0031).

Comment 0030 asserted that OPM lacks statutory authority to insert ''sole and exclusive discretion'' into 5 CFR 630.1403(a) and 5 CFR 715.202(b). Under the Civil Service Reform Act of 1978 (CSRA), an involuntary resignation or a resignation induced by coercion, duress, or agency misrepresentation constitutes an adverse action (constructive removal) within the mandatory appellate jurisdiction of the Merit Systems Protection Board (MSPB). The commenter states that OPM cannot divest the MSPB of jurisdiction over involuntary-resignation and constructive-removal claims, or foreclose Federal Circuit review, because an involuntary or coerced resignation is an appealable adverse action (citing *Scharf* v. *Department of the Air Force,* 710 F.2d 1572 (Fed. Cir. 1983); *Luecht* v. *Department of the Navy,* 87 M.S.P.R. 297 (2000); and *Lindahl* v. *Office of Personnel Management,* 470 U.S. 768 (1985)). The comment asks that OPM remove ''sole and exclusive discretion'' and explicitly state that resignation withdrawal denials remain subject to MSPB review under 5 U.S.C. chapter 75.

As the preamble to the proposed rule stated, acceptable uses of administrative leave are those an agency determines appropriate ''within the bounds of law and regulation.'' The ''sole and exclusive'' formulation clarifies allocation of decision-making responsibility—that the decision whether to provide administrative leave in a given circumstance rests with the agency, that no use of administrative leave is a mandatory entitlement, and that OPM's enumeration of acceptable uses does not obligate any agency to provide leave in those circumstances. This is consistent with Congress's assignment of leave-management responsibility to agency heads. The phrase does not diminish the binding prohibitions in § 630.1403(b), the statutory limits in sections 6329a and 6329b, applicable appropriations law, or the recording and reporting requirements that continue to apply, and it does not alter any applicable standard of review.

OPM's intent regarding the use of ''sole and exclusive discretion'' in the administrative leave regulations (in § 630.1403(a)(2), (a)(4), and (c)) is to make explicit that the *acceptable-use determination*—whether a given circumstance qualifies for administrative leave at all—rests with the agency and cannot be converted into a mandatory entitlement, including through negotiated agreement. The statutory basis for using the term ''sole and exclusive discretion'' is that the law in 5 U.S.C. 6329a(c)(1) authorizes the OPM Director to prescribe regulations that address the acceptable agency uses of administrative leave. OPM believes the change better reflects the decision of Congress to give this discretionary leave authority to agency heads, who make final decisions on mission needs and the use of limited budget resources, and the sense of Congress that agency heads would be responsible for managing and overseeing the effective and prudent use of the leave.

OPM believes the intent of Congress was for agencies to always retain discretion in providing or not providing administrative leave in any circumstance (subject to law and OPM regulations) and has regulated accordingly. The use of the ''sole and exclusive discretion'' language is consistent with the existing text of § 630.1403(a)(4), which already requires that an agency retain the discretion to provide or not provide administrative leave in any circumstance based on agency judgments regarding mission needs and already prevents an agency from establishing any application of administrative leave as a mandatory entitlement.

In response to the comments invoking Federal Labor Relations Authority precedent, OPM confirms that the ''sole and exclusive discretion'' language is intended to preserve the agency's discretion over acceptable-use determinations, which may not be limited or conditioned by a negotiated agreement or converted into a mandatory entitlement; collective

bargaining obligations under 5 U.S.C. chapter 71 otherwise continue to apply according to their terms. Under 5 U.S.C. 7117(a)(1), the duty to bargain in good faith extends to matters that are the subject of a rule or regulation only if the rule or regulation is not a Governmentwide rule or regulation; the regulations in this subpart are Governmentwide regulations issued under 5 U.S.C. 6329a(c)(1). OPM likewise confirms that nothing in this rule divests the MSPB of jurisdiction over a claim that a resignation was involuntary or the product of coercion, duress, or agency misrepresentation—which remains an appealable constructive removal—or forecloses judicial review of a final Board decision. See section III.R of this preamble.

In the preamble for the proposed regulations issued on June 29, 2026, OPM stated that an agency's use of its sole and exclusive discretion in providing administrative leave must be done ''within the bounds of law and regulation'' (91 FR 39033). Given the comments about the ''sole and exclusive discretion'' language related to administrative leave, we are adding a definition of the term in § 630.1402 to make clear that it is discretion that rests with an agency alone; that is exercised within the bounds of 5 U.S.C. 6329a and other applicable law, applicable Presidential directives, and the regulations in this subpart; and that may not be limited or conditioned by any agreement or established as a mandatory entitlement. Other than that change, OPM is making no changes in response to this line of comments. The term ''sole and exclusive discretion'' in § 715.202(b) should be interpreted in a similar manner.

I. Physical Fitness Activities

OPM's proposed regulations requested ''comments on the policy of allowing limited use of administrative leave for physical fitness activities and on whether this policy should be included in the regulatory examples of acceptable uses.'' OPM received numerous comments on this proposal. See, for example, comments 0012, 0013, 0018, 0020, 0024, 0028, and 0030.

Generally, the comments were favorable for including physical fitness as an acceptable use. Comment 0011 stated that as ''someone who has recommitted to better health, I would appreciate having the administrative leave available'' to make time for physical fitness, which is currently difficult to do outside of duty hours with a three-hour daily commute and home commitments. Comment 0012 recounted substantial personal improvements in weight and blood pressure after adopting a daily walking and gym regimen during Federal service, along with increased energy, no medical issues, and over 2,000 hours of unused sick leave. The commenter recommended authorizing administrative leave for physical fitness, reasoning that duty time to exercise would spur participation, improve employee health, and reduce sick leave usage.

Comment 0013 stated: ''Research has shown that a healthier workforce lowers healthcare & benefit costs, enhances productivity & performance, reduces stress, improves employee engagement, & improves overall mental health.'' The commenter proposed authorizing a total of 3 hours of administrative leave per week (1 hour per day, three days per week, to include time for changing, travel, and showering), depending on workload and agency requirements.

Comment 0015 contended that administrative leave for physical exercise would yield near-immediate improvements in engagement and productivity and, given the connection between physical and mental well-being, would also improve job satisfaction and retention. Comment 0018 stated that permitting a limited amount of duty time for physical fitness is increasingly common across Federal agencies, typically up to one hour per day, three days per week, and recommended that OPM adopt a comparable allowance to align with prevailing practice and support employee health, morale, and readiness.

Comment 0020 described duty-time physical fitness as a strategic ''people first'' initiative, citing improved workforce readiness and resiliency, enhanced productivity and focus, higher morale and reduced burnout, decreased sick leave usage and absenteeism, and—because the benefit would be available annually rather than once in a career—the formation of lasting healthy habits. Noting significant return on investment and widespread private-sector adoption, the commenter urged OPM to retain physical fitness as an authorized use of administrative leave.

Comment 0023 supported the provision authorizing limited administrative leave for physical fitness, endorsing the retention of agency discretion based on mission needs, and stated that the provision would reduce burnout and improve work-life balance, well-being, motivation, and concentration. The commenter also noted that the rule's predictability should reduce disputes.

Comment 0024 recommended permitting and encouraging administrative leave for fitness activities similar to the Civilian Fitness Program, with program goals aligned to Army fitness standards, reasoning that because Federal employees are mobilized to support the Federal Emergency Management Agency (FEMA), immigration efforts, and other demand-based taskings, a physically capable workforce improves contingency readiness. Comment 0028, citing Centers for Disease Control and Prevention (CDC) data on physical inactivity, obesity, diabetes, and heart disease, and CDC's *Physical Activity in the Workplace: A Guide for Employers,* stated that administrative leave for physical activity would support employers and their business needs because engaging in physical activities can result in reduced sick days, increased productivity, lower health care costs, and decreased risk of developing costly chronic diseases. Pointing to existing agency programs offering up to one hour three times per week, the commenter recommended permitting onsite or offsite activity.

A labor organization (comment 0022) stated that it ''supports this policy and recommends including it in the regulatory examples of acceptable uses.'' The commenter explained that it ''has negotiated a Physical Fitness Program into its contract with U.S. Customs and Border Protection (CBP).'' The commenter ''accordingly supports similar programs across the government and supports the idea of OPM including physical fitness activities as an example of acceptable use in the administrative leave regulations.'' Another labor organization (comment 0030), while opposing the proposed rule overall, stated that in the event OPM does not withdraw the rule, it supports allowing administrative leave to be used for physical fitness activities.

Comment 0027 opposed adding physical fitness because under their agency's work schedules policy, employees may elect an unpaid health and wellness break period with supervisory approval, including before and after the lunch period, to participate in health and wellness activities. The commenter further stated: ''Employees must then extend their workday by the equivalent amount of time of the break.'' The agency stated the use of administrative leave for physical fitness activities is unnecessary at their agency, as the unpaid health and wellness break period policy has been successful in balancing employee personal needs with limited agency resources toward accomplishing its critical mission.

Following consideration of the comments, OPM is adding a new

§ 630.1403(c)(8) in this final rule listing approved physical fitness activities as an acceptable use of administrative leave and is redesignating the examples proposed as paragraphs (c)(8) through (c)(10) as paragraphs (c)(9) through (c)(11). OPM is not establishing a minimum or maximum number of hours. Instead, an authorized agency official may provide limited amounts of administrative leave for approved physical fitness activities consistent with OPM regulations on administrative leave, including consideration of the decision factors in § 630.1403(a)(6)—which include consideration of the effect on productivity and the ability to meet mission needs.

Also, as provided in § 630.1403(a)(4), authorized agency officials must retain the discretion to provide or not provide administrative leave based on agency judgments of mission needs. The new § 630.1403(c)(8) allows agencies to provide ''limited amounts of administrative leave for approved physical fitness activities on a conditional basis (consistent with paragraphs (a)(4) and (a)(6) and subject to any Governmentwide policies issued by OPM or the President).'' This paragraph does not apply to employees who have job-related mandatory fitness standards that allow for use of official duty time for physical fitness activities.

J. Employee Geographic Relocation

Three individual commenters (comments 0002, 0003, 0005) proposed that OPM add an example authorizing administrative leave for an employee who must relocate his or her residence to accept a new appointment or assignment. Comment 0002 argued that omitting such a use is inconsistent with providing administrative leave for a civilian employee accompanying a military spouse under 5 CFR 630.1403(c)(7). Comment 0003 argued that a recruitment, relocation, or retention incentive is not the exclusive means of addressing relocation burdens and that administrative leave is needed to avoid a gap in pay status when an employee moves between appointments. Comment 0005 noted administrative leave for employees relocating a significant distance from their current duty station would allow employees to better manage the transition without depleting their earned personal leave. All three of these commenters acknowledged that agencies already have the discretion to offer administrative leave for this purpose. Two of the commenters (comments 0002 and 0003) proposed regulatory text authorizing administrative leave for an employee's own relocation to a new appointment or assignment.

OPM does not support adding an example that allows general use of administrative leave for activities related to an employee's move to a different permanent duty station. Adding such an example would indicate a Governmentwide policy that such use is acceptable. OPM prefers to let agencies adopt their own policies in this area. The example in § 630.1403(c)(7)—allowing use of administrative leave for an employee whose spouse, a member of the uniformed services or a Federal civilian employee, must relocate as a result of military orders or agency direction, as applicable—does reflect an established Governmentwide policy in section D.1.c of the Agency Policy Template (CPM 2025–12, July 30, 2025). That policy implements a specific Presidential directive—E.O. 14100 of June 9, 2023—and OPM's related memorandum of November 9, 2023, to agency heads. There is no comparable Governmentwide directive addressing an employee's own change of residence to accept a new appointment or assignment, and OPM does not view the absence of such an example as an inconsistency in the proposed list.

We note that, if an employee has been approved to receive a house hunting allowance under 41 CFR part 302–5 (which an agency may choose to apply to employees under certain specified conditions), time spent on house hunting activities during regular work hours is treated as official duty time. Also, time spent on activities to accomplish tasks that are directly required in connection with an approved move to a new permanent duty station determined to be in the Government's interest (resulting in payment of relocation expenses)—such as obtaining passports and vaccinations, adhering to government housing authority requirements (if applicable), or being present for packing and receiving of household goods—is considered official duty time. Finally, the list in § 630.1403(c) is noncomprehensive. An agency may adopt its own written policy to allow limited use of administrative leave for move-related activities that are not duty time, if such use is determined to be in the Government's interest and the use satisfies the guiding principles in § 630.1403(a)(1), the authorized agency official considers the decision factors in § 630.1403(a)(6), and the use is approved consistent with § 630.1403(a)(5) and section D.2.h of the Agency Policy Template.

OPM declines to add the suggested example.

K. Reliance Interests

Comment 0025 argued that OPM failed to consider reliance interests, citing *Department of Homeland Security* v. *Regents of the University of California,* 591 U.S. 1 (2020), including agencies' investments in implementing the 2024 rule and operational reliance on employees remaining in duty status through reorganizations and RIF notice periods.

OPM has considered the reliance interests the commenter identifies and concludes they do not counsel against finalizing the rule. First, because the rule largely codifies policies already in effect under the Agency Policy Template since July 2025, agencies, payroll providers, and employees have been operating under substantially these policies for approximately a year; codification reduces, rather than disrupts, transition burdens by confirming the framework agencies have already implemented. The changes required—principally conforming terminology, incorporating the new binding prohibitions, and providing specific examples of acceptable uses—are modest.

Second, as to operational reliance, the rule is permissive, not mandatory. It does not require any agency to place any employee on administrative leave during a workforce realignment or RIF notice period. Agencies retain full discretion to keep employees in duty status—and under revised § 351.806, duty status remains the rule under ordinary circumstances—precisely so that agencies can weigh mission needs, knowledge transfer, records preservation, and service continuity in each case. The judgment about whether an employee's continued presence serves the Government's interests during a particular realignment is one the agency, not OPM, is best positioned to make.

L. Comment Period Length

An individual commenter and a labor organization argued that the 30-day comment period, which included the Independence Day Federal holiday, did not afford a ''meaningful opportunity'' to comment as contemplated by the APA. The labor organization cited *North Carolina Growers' Association, Inc.* v. *United Farm Workers,* 702 F.3d 755, 770 (4th Cir. 2012), in support of that asserted requirement. The commenters also stated that Executive Orders 12866 and 13563 contemplate a 60-day comment period. Comment 0004 requested a minimum 60-day public comment window to review any revised economic analysis. The labor

organization (comment 0030) requested that OPM reopen the comment period for an additional 60 days.

OPM provided a 30-day comment period. The Administrative Procedure Act prescribes no minimum period. Courts have upheld comment periods considerably shorter than the period provided here (see, *e.g., Northwest Airlines, Inc.* v. *Goldschmidt,* 645 F.2d 1309 (8th Cir. 1981) (upholding a 7-day comment period)), and *North Carolina Growers' Association* is not to the contrary: that case involved a 10-day comment period on the suspension of recently promulgated regulations, in which the agency declined to consider comments addressing the merits of the underlying rules.

Here, OPM provided three times that period, placed no limits on the subjects commenters could address, and has considered and responded to the comments received in this preamble. The 60-day period referenced in Executive Orders 12866 and 13563 is not a hard requirement that applies in all cases (see E.O. 12866, section 6(a), 58 FR 51735, 51740 (October 4, 1993); E.O. 13563, section 2(b), 76 FR 3821, 3822 (January 21, 2011)). E.O. 12866 states that the 60-day period should be used in ''most cases.'' In any event, these Executive orders are management directives to agencies that do not create privately enforceable rights (E.O. 12866, section 10; E.O. 13563, section 7(d)).

OPM received 30 comments, including detailed legal and economic submissions from labor organizations and public-interest groups, indicating that interested parties had an adequate opportunity to comment. Moreover, because the rule largely codifies Governmentwide policies that have been publicly available since July 2025, interested parties were already familiar with the substance of the proposals. OPM declines to reopen or extend the comment period.

M. Duty Status Presumption During RIF Notice Periods (§ 351.806)

Comment 0025 urged OPM to preserve the existing duty-status presumption during RIF notice periods, arguing that RIF notices are not disciplinary, that employees perform valuable transition work during notice periods, that existing authorities already address unusual cases, and that OPM has not identified a gap warranting a RIF-specific administrative-leave authorization.

The final rule preserves the duty-status presumption with a minor change in terminology. Revised § 351.806(a) provides that ''[u]nder ordinary circumstances, an employee will remain in a duty status during the notice period.'' The change from ''when possible'' to ''under ordinary circumstances'' conforms the RIF regulation to the parallel standard in 5 CFR 752.404(b)(3) governing notice periods for proposed removals and suspensions, and more accurately reflects that the determination involves an assessment of circumstances rather than literal possibility. Paragraph (b) then confirms—consistent with the Agency Policy Template—that an agency may place a RIF-affected employee on administrative leave for all or part of the notice period when the agency determines that such leave is appropriate and consistent with part 630, subpart N.

OPM agrees that RIF notice periods are not inherently disciplinary and that employees frequently perform valuable work during them; that is why duty status remains the default. But circumstances vary: an agency may determine, for example, that continued systems access during a large-scale reorganization presents security or records-integrity risks, that available work has genuinely ceased for the affected positions, or that other Government interests warrant non-duty status. The rule leaves that judgment to the agency familiar with the facts, rather than requiring agencies to rely on a patchwork of assignment, telework, and leave authorities that may not fit the circumstances of a RIF. Nothing in the revision permits use of administrative leave inconsistent with subpart N of part 630.

N. Nomenclature Change (''Grant'' To ''Provide'') (Part 630, Subpart N)

Comment 0025 objected to replacing ''grant/granted/granting'' with ''provide/provided/providing'' throughout subpart N, arguing that the change extends agency-directed administrative leave beyond the limits of the Act and the 2024 rule by encompassing leave imposed without employee consent.

OPM disagrees that the nomenclature change effects any substantive expansion of authority. As explained in the proposed rule, ''grant'' inaccurately implies that administrative leave is furnished only at an employee's request, which has never been the case—for example, employees have long been placed on administrative leave for investigative purposes without their consent, a practice Congress itself recognized and regulated in sections 6329a and 6329b. ''Provide'' is a neutral term that accurately describes the provision of administrative leave with or without the employee's consent. The statutory 10-workday limit continues to apply to employees ''placed'' on administrative leave for investigative purposes, as provided in § 630.1404(a). For other uses of administrative leave, which may be voluntarily accepted or imposed without the employee's consent, we are using the term ''provide.'' The terminology change harmonizes the regulatory text with existing practice and with the structure of the statute; it does not authorize any use of administrative leave that would otherwise be impermissible.

O. Prohibition on Administrative Leave for Poll Workers (§ 630.1403(b)(5))

Several comments, including 0016, 0022, 0030, and 0031, objected to the prohibition of administrative leave for service as a poll worker or poll observer found in proposed § 630.1403(b)(5). The commenters argued that the prohibition is unrelated to workforce realignment, discourages civic participation amid documented poll-worker shortages, saves little, and reverses OPM's prior guidance that agencies allow up to 4 hours of administrative leave for nonpartisan poll service. A labor organization (comment 0022) characterized limited administrative leave for nonpartisan poll service as an important, pro-democracy policy choice. Another labor organization (comment 0030) argued that OPM offered no reasoned explanation or evidence for the prohibition and characterized it as an attempt to stifle Federal employees' exercise of their constitutional rights.

OPM notes that the changes in the administrative leave regulations are not limited to changes related to workforce realignment. OPM acknowledges that this provision changes OPM's prior policies that agencies could allow limited administrative leave for nonpartisan poll service. However, those prior policies were a departure from longstanding Governmentwide policies that existed before 2020, which focused on administrative leave for voting, not for poll workers. Based on its authority to regulate acceptable uses of administrative leave, OPM has determined that administrative leave should be limited to the purpose of ensuring employees a reasonable opportunity to vote (see § 630.1403(c)(2)). OPM policy (section E.1.d of the Agency Policy Template) already provided that administrative leave may not be used to cover service by poll workers or poll observers in connection with elections, whether that service is partisan or nonpartisan and whether paid or unpaid. Limiting administrative leave to voting itself also avoids placing agencies in the position

of assessing whether particular election-related service is partisan or nonpartisan.

The prohibition does not restrict any employee's ability to serve as a poll worker or poll observer; it addresses only whether that service will be subsidized with paid leave from Federal duty, and a decision not to subsidize an activity does not infringe the right to engage in it (see *Regan* v. *Taxation With Representation of Washington,* 461 U.S. 540, 549 (1983)). Employees who wish to serve as poll workers or poll observers may use other available workforce flexibilities, including annual leave, compensatory time off earned via overtime work, compensatory time off for travel, credit hours under a flexible work schedule, an adjustment of working hours under a flexible work schedule, or leave without pay. OPM makes no change in response to these comments.

P. Administrative Leave Prior to a Holiday (§ 630.1403(c)(5))

Regarding § 630.1403(c)(5), comment 0024 stated that early dismissal before a Federal holiday should not be subject to a hard 2-hour cap and that longer dismissals should be available for particular occasions, including days of national observance.

OPM notes that § 630.1403(c)(5) does not establish a hard cap since it states that the administrative leave should ''generally'' be no more than 2 hours. This regulation should be read with sections D.2.d and E.2.a of the Agency Policy Template (CPM 2025–12, July 30, 2025), which provide that such leave may not exceed 2 hours unless specifically approved by the agency head. The flexibility the commenter seeks for longer periods of dismissal for particular occasions is therefore already available through agency head approval. Presidentially directed closures and days of national observance provided by the President using his or her constitutional authority as head of the Executive branch are not administrative leave under 5 U.S.C. 6329a and are not governed by subpart N or by an agency's administrative leave policy (Agency Policy Template, section A.2.b and Appendix 1). Such occasions are therefore outside this rulemaking. OPM notes separately that proposed § 630.1403(b)(1) continues to prohibit use of administrative leave to mark the memory of a deceased former Federal official (see also 5 U.S.C. 6105).

Q. Settlement Agreement (§ 630.1403(c)(11))

Comment 0025 argued that authorizing extended administrative leave to facilitate the voluntary resignation of employees with documented poor performance or misconduct under a settlement agreement recreates the pre-Act practices Congress sought to control, and that the provision lacks meaningful time limits, approval procedures, or reporting requirements.

Comment 0026 recommended that the settlement agreement example at proposed § 630.1403(c)(10) (redesignated as § 630.1403(c)(11) in this final rule) be removed or relocated to the investigative leave framework so the leave is tracked with specificity and that OPM not conflate administrative leave with the performance and conduct action procedures in 5 U.S.C. chapters 43 and 75.

OPM disagrees. Section 630.1403(c)(11) is a narrow provision subject to multiple conditions: there must be documented allegations of poor performance or misconduct by the employee (see discussion later in this section); the leave must be provided under a settlement agreement; the agency must determine that the settlement is in the Government's best interests; and the agency must first consider all other reasonable alternatives. The leave is also subject to Governmentwide limits established by OPM and any agency-specific limits.

These conditions distinguish the provision from the pre-Act practice GAO documented, in which employees remained in indefinite paid non-duty status during unresolved investigations and adverse actions with no resolution in sight. By contrast, leave under paragraph (c)(11) is tied to a negotiated resolution—a definite separation date—and serves to conclude, not prolong, the personnel matter. Settlement of disputed personnel actions can avoid protracted litigation costs and expedite the removal of employees whose performance or conduct has been identified as unsatisfactory—outcomes consistent with efficient and prudent management of the workforce. Where an agency instead pursues an adverse action, the notice-leave framework of section 6329b continues to apply according to its terms; nothing in this rule alters it.

Accordingly, OPM declines to remove § 630.1403(c)(11) or to relocate this use to investigative leave. Investigative leave under 5 U.S.C. 6329b is available only in connection with an ongoing investigation and only after the 10-workday administrative leave period has been exhausted, and notice leave is available only after an agency has proposed an adverse action. As the commenter recognizes, a settlement may be reached after an investigation has concluded, and it may also be reached where no investigation was opened; in those circumstances neither section 6329b category is available. If an employee is being excused from duty for investigative purposes after reaching the 10-workday limit, § 630.1403(b)(3) forecloses the pre-2016 practice, since it requires that section 6329b be applied. OPM notes that, if administrative leave is used in connection with a settlement agreement, that usage will be documented in the settlement agreement and will be tracked as administrative leave in agency timekeeping and payroll systems. OPM has revised the language in § 630.1403(c)(11) to make clear that, while no final determination of poor performance or misconduct need be found, an agency may apply this provision only where the allegations of poor performance or misconduct are documented.

R. Resignation Withdrawal (§ 715.202(b))

Many commenters opposed treating an employee's acceptance of deferred-resignation benefits as a valid reason to deny a resignation withdrawal. Two individual commenters (comments 0014 and 0016) opposed any proposal that would categorically prohibit employees from withdrawing a resignation before its effective date because they believed an employee who may have decided under duress/short deadlines may feel trapped. Comment 0016 urged OPM to withdraw provisions proposed in § 715.202(b) arguing that an employee's acceptance of deferred-resignation benefits should not by itself justify denying withdrawal of the resignation. The commenter stated that prior practice permitted withdrawal before the effective date absent a concrete agency reason such as a committed replacement hire or administrative disruption and that OPM had offered no principled basis for foreclosing reconsideration before the resignation takes effect. The commenter further argued that recharacterizing the receipt of leave benefits—benefits the employee did not design and the commenter asserted were often accepted under duress and compressed deadlines—as itself a valid reason to deny withdrawal ''inverts the protective purpose of the rule,'' and that resignation should remain a decision an employee can reconsider until it takes effect.

Comment 0014 believes OPM should adopt a policy that balances the interest of both employees and agencies and that an agency be permitted to decline a withdrawal request before its effective

date only where granting it would cause the agency substantial hardship or prejudice. A labor organization (comment 0022) objected to this provision stating it is unfair to employees who frequently make these decisions under needlessly short deadlines, without complete or accurate information. The labor organization suggested that, if OPM insists on making resignation decisions irrevocable, it should at a minimum give employees more time to make these difficult and important choices. In addition, comments 0026 and 0031 argued the change is unnecessary because § 715.202 already says ''may'' and that whether to accept a withdrawal or seek repayment should be left to individual agencies and to collective bargaining, and that OPM failed to consider less-restrictive alternatives and offered two: (1) retaining the traditional operational-disruption standard (committed replacement hire or position abolition, per *Luecht*), and (2) permitting withdrawal conditioned on retroactively reclassifying the administrative leave to annual leave, compensatory time, or leave without pay (LWOP) (recoupment). Comment 0026 stated that changing the resignation regulations is unnecessary because § 715.202(b) is already permissive, with a recommendation that a time component be added within which an employee may withdraw a deferred resignation.

This final rule does not categorically prohibit the withdrawal of a resignation. Revised § 715.202(b) retains the requirement that an agency may decline a request to withdraw a resignation before its effective date only when the agency has a valid reason and explains that reason to the employee, and it retains the rule that avoidance of adverse action proceedings is not a valid reason.

OPM notes that the revision to § 715.202(b) makes two changes. It states that the decision to accept or decline a withdrawal request is made in the agency's sole and exclusive discretion, and it adds one further example to the nonexclusive list of valid reasons—the employee's acceptance of benefits provided under a deferred resignation agreement. The list continues to read ''includes, but is not limited to,'' and continues to identify administrative disruption and the hiring or commitment to hire a replacement, which are the agency-reliance circumstances the commenter describes. Nothing in the final rule requires an agency to decline a withdrawal request in any case, and an agency remains free to accept one where it determines that retaining the employee serves its interests.

OPM identified the need for this example because, when an employee has agreed to resign on a future date and has received paid administrative leave in connection with that agreement, there is no authority to require or permit repayment of the administrative leave benefits after they have been provided. Identifying acceptance of such benefits as a valid reason gives agencies a clear and specific regulatory basis for a determination they may already make under the existing regulation. OPM declines to adopt the additional balancing standard the commenter proposes, which would constrain discretion the existing regulation affords agencies.

In response to comments 0026 and 0031, OPM acknowledges that § 715.202(b) already uses permissive language, and the final rule retains it: an agency may, in its sole and exclusive discretion, accept or decline an employee's request to withdraw a resignation, and may decline only when it has a valid reason and explains that reason to the employee. OPM has also considered the less-restrictive alternatives commenters offered and declines to adopt them. Retaining only the traditional operational-disruption standard is unnecessary because the regulation continues to identify administrative disruption and the hiring or commitment to hire a replacement as valid reasons; the revision adds one further nonexclusive example rather than displacing those reasons. OPM likewise declines to condition withdrawal on retroactive reclassification of administrative leave to annual leave, compensatory time, or leave without pay because, as explained above, there is no authority to require or permit repayment or reclassification of administrative leave benefits after they have been provided. OPM does not agree that a separate statutory authority for deferred resignation is needed to support the provision: the resignation is effected under § 715.202(a), and the paid leave provided before its effective date is administrative leave under 5 U.S.C. 6329a. As to the recommendation to add a time component within which an employee may withdraw a deferred resignation, OPM declines to add a fixed period to § 715.202. That section applies at any time before the resignation becomes effective, and the timing terms of a particular deferred resignation offer, including the length of any decision window, are a matter of program design rather than of this regulation. As to concerns that employees accept deferred resignation offers under compressed deadlines or duress, nothing in this rule prevents an agency from granting a withdrawal request, and an employee who contends that a resignation was involuntary or the product of duress, coercion, or agency misrepresentation retains the right to appeal to the Merit Systems Protection Board; this rule does not affect that review. To the extent comments 0030 and 0031 suggest that these matters be left to case-by-case collective bargaining, § 715.202 is a longstanding Governmentwide regulation, and under 5 U.S.C. 7117(a)(1) the duty to bargain does not extend to matters that are the subject of a Governmentwide rule or regulation. OPM makes no changes in response to these comments.

S. Miscellaneous Comments

Comment 0027 asked how agency limits on workforce realignment leave interact with the Governmentwide limit and whether the regulatory text should state that a longer agency limit requires OPM approval; whether the regulations will address employees in Schedule Policy/Career positions and agency grievance procedures; and whether extended administrative leave is cost-effective relative to reduction-in-force procedures, with a recommendation that deferred resignation leave be limited to 10 days unless the employee is retirement eligible.

Agency limits must operate within the Governmentwide limit; an agency may adopt a more restrictive limit but may not exceed the Governmentwide limit on its own authority. The current Governmentwide limit, stated in section D.1.b of the Agency Policy Template (CPM 2025–12, July 30, 2025), is that beginning in calendar year 2026, use of administrative leave by an employee in connection with a workforce realignment initiative is limited to 12 weeks in any individual instance unless a higher threshold has been jointly approved by OPM and the Office of Management and Budget in a specified set of circumstances. A higher threshold of 6 months was later approved for workforce-restructuring-related DRP agreements that took effect in FY 2026. OPM notes that the phrase ''subject to Governmentwide limits established by OPM or agency limits'' in § 630.1403(c)(9) and (c)(11) specifically incorporates any Governmentwide limit. To clarify that agency limits cannot supersede Governmentwide limits, we are revising the phrase in those two paragraphs by substituting ''and'' for ''or''.

Employees in Schedule Policy/Career positions who have an established work schedule are covered on the same basis

as other covered employees. As the comment notes, agencies retain the sole and exclusive discretion to determine whether to provide administrative leave to any employee or category of employees based on their consideration of agency mission requirements, and an agency may address specific categories or scenarios in its own written policy under § 630.1403(a)(5).

Agency grievance procedures are governed by 5 CFR part 771 and any applicable negotiated grievance procedure and are outside the scope of these leave regulations.

OPM acknowledged in the proposed rule that there is a temporary cost to providing administrative leave and stated its judgment that these programs can generate long-term savings by reducing Federal staffing levels and can reduce the need to apply administratively burdensome and disruptive reduction-in-force procedures. OPM declines to limit administrative leave for deferred resignation participants to 10 days. Agencies need the flexibility to provide longer periods of administrative leave (within the bounds of Governmentwide limits) if they determine a longer period is necessary to incentivize more employees to agree to voluntarily separate and to achieve workforce reduction goals.

On continuity of institutional knowledge, § 630.1403(a)(6) requires an authorized agency official to consider the effect on productivity and the agency's ability to meet mission needs before providing administrative leave, and an agency retains discretion to structure an agency-specific initiative, including the amount of leave provided and any transition or knowledge-transfer expectations, accordingly.

Comment 0017 objected to the provision in subpart H of part 351 under which, in an emergency, an agency that lacks work or funds may place a RIF-affected employee on annual leave during the notice period without the employee's consent, and argued that the employee should be able to choose between annual leave and leave without pay in those circumstances.

This comment is outside the scope of this rulemaking. OPM did not propose any substantive change to that longstanding provision, which appears in this final rule at § 351.806(c) only because § 351.806 is being restructured and republished in full. OPM notes that, under § 351.806(c), an employee may not be placed on leave without pay without the employee's consent, and the emergency annual leave provision applies only when, in an emergency, the agency lacks work or funds for all or part of the notice period.

OPM makes no changes in response to these comments.

IV. Section-By-Section Analysis

In this section IV, we provide descriptions of the regulatory changes by section and paragraph. More detailed explanations and justifications for the regulatory changes may be found in the Supplementary Information for the June 29, 2026, notice of proposed rulemaking (91 FR 39032) and in the responses to comments in this preamble.

Section 351.806 (RIF and Administrative Leave)

OPM is revising § 351.806 to clarify that use of administrative leave during a RIF notice period is permissible, if an agency determines that there is justification for putting the RIF-affected employee in non-duty status. OPM is also revising § 351.806 to state that the general rule of keeping an employee in duty status during a RIF notice period applies in ''ordinary circumstances'' instead of ''when possible,'' consistent with the language in § 752.404(b)(3) (dealing with keeping an employee in duty status during the notice period for a proposed removal or suspension).

Subpart N of Part 630 (Administrative Leave—Nomenclature Changes)

OPM is replacing the word ''grant'' (and associated variations of ''granted'' and ''granting'') with the word ''provide'' (or applicable variations ''provided'' and ''providing'') throughout subpart N. These changes occur in §§ 630.1402, 630.1403, and 630.1405. The word ''provide'' has a broader meaning that would encompass uses of administrative leave with or without the employee's consent.

Section 630.1401 (Administrative Leave—Applicability)

OPM is revising § 630.1401(b) to add another category of employees to which subpart N does not apply—namely, Presidential appointees or other employees who are excluded from coverage under the title 5 leave laws under 5 U.S.C. 6301(2)(x)–(xiii).

Section 630.1402 (Administrative Leave—Definitions)

OPM is removing a no-longer-relevant definition of ''head of the agency'' from § 630.1402. Changes made in the December 17, 2024, final regulations made the definition unnecessary, and it should have been deleted at that time.

OPM is adding a definition of ''sole and exclusive discretion'' to make clear that agency discretion is exercised within the bounds of applicable law, Presidential directives, and the regulations in subpart N, and may not be limited or conditioned by any agreement or established as a mandatory entitlement.

Section 630.1403 (Administrative Leave—Principles, Prohibitions, and Acceptable Uses)

In paragraphs (a)(2) and (4) of § 630.1403, OPM is adding the words ''sole and exclusive'' before the word ''discretion'' to better reflect the decision of Congress to give this new discretionary leave authority to agency heads who make final decisions on mission needs and use of limited budget resources and the sense of Congress that agency heads would be responsible for managing and overseeing the effective and prudent use of the leave. This regulatory change reflects OPM's judgment that acceptable uses are those uses, within the bounds of law and regulation, that an agency determines to be appropriate in its sole and exclusive discretion.

In paragraph (a)(3), OPM is adding a sentence that points to examples of when it is appropriate for an agency to approve an incidence of administrative leave lasting more than 1 workday, which are found in a new paragraph (c).

In paragraph (b), OPM is revising the regulatory prohibitions on use of administrative leave. In paragraph (b)(2), OPM is clarifying that the prohibition on using administrative leave to recognize employee performance or contributions does not prevent an agency from providing administrative leave to the general workforce of the agency (or an organization within the agency) as a morale-boosting special goodwill gesture, even if that action is broadly linked to the accomplishments of the workforce. OPM is also adding three new regulatory prohibitions in paragraphs (b)(3) through (b)(5), which are already addressed in OPM's Agency Policy Template.

Paragraph (b)(3) provides that administrative leave may not be used for the purpose of placing an employee in a non-duty status during an investigation of the employee's conduct or performance once the employee has reached the 10-workday calendar year limit in 5 U.S.C. 6329a(b)(1) and § 630.1404 in connection with a given investigation. Once the 10-workday limit is reached, the agency must use investigative leave under 5 U.S.C. 6329b if it wishes to continue to conduct an investigation and continue to keep the employee in a paid non-duty status.

The language ''in connection with a given investigation'' is intended to cover situations in which an employee was placed on administrative leave due to an investigation, reached the 10-workday limit in that calendar year, and is then placed on section 6329b investigative leave as part of a continuing investigation. Once an employee has reached the 10-workday limit in connection with a given investigation, that limit is no longer applicable in governing the use of section 6329b investigative leave with respect to the same investigation. Thus, if the investigation continues into the next calendar year, the agency can continue to place the employee on section 6329b investigative leave even though the employee has not reached the 10-workday limit on section 6329a administrative leave in the new calendar year. (Section 6329b(b)(3)(A) bars use of section 6329b investigative leave until expiration of the 10-workday period, but this bar applies only in making a decision to start an initial period of investigative leave in connection with a given investigation.)

Paragraph (b)(4) provides that administrative leave may not be used for a purpose for which sick leave could be used under OPM regulations (5 CFR 630.401(a))—unless such use in a particular scenario is specifically approved by Governmentwide policy issued by OPM or the President. The exception to the general bar requires OPM or Presidential approval, which should be provided only in exceptional circumstances.

Paragraph (b)(5) provides that administrative leave may not be used to cover service by poll workers or poll observers in connection with elections. OPM's current policies allow administrative leave to give employees a reasonable opportunity to vote on an election day (see § 630.1403(c)(2)); however, OPM does not believe it is appropriate to use administrative leave for other election-related matters beyond facilitating an opportunity for an employee to vote.

OPM is adding a new paragraph (c) that provides a noncomprehensive list of examples of acceptable uses of administrative leave. This list signals that an agency can provide administrative leave in the covered scenarios without having to be concerned that it may be contrary to Governmentwide policies. At the same time, agencies are not required to provide administrative leave in the listed scenarios. Agencies retain the sole and exclusive discretion to determine whether to provide administrative leave to any employee or category of employees based on their consideration of agency mission requirements—within the bounds of law and regulation. The listed examples are generally consistent with current OPM policies in its Agency Policy Template. Of particular note, the list includes examples of using administrative leave in connection with deferred resignation programs and other workforce restructuring initiatives. Paragraph (c)(8), added in this final rule in response to comments, addresses the limited use of administrative leave for physical fitness activities; the examples proposed as paragraphs (c)(8) through (c)(10) are redesignated as paragraphs (c)(9) through (c)(11). See the discussion of this topic earlier in the preamble.

Technical Corrections

OPM is also making three technical corrections in this final rule that do not alter the substance of the rule as proposed. First, OPM is revising the authority citation for part 630 to restore the authority for subpart Q (Paid Parental Leave), which was added to the citation by the August 10, 2020, final rule implementing the Federal Employee Paid Leave Act (85 FR 48075) as ''subpart Q issued under 5 U.S.C. 6387,'' but was inadvertently omitted when the authority citation was revised in the December 17, 2024, final rule (89 FR 102256). Second, OPM is correcting an internal cross-reference in § 630.1403(a)(5)(ii), which refers to ''paragraph (i) of this paragraph (a)(5)'' rather than to ''paragraph (a)(5)(i) of this section''; the text of paragraph (a)(5)(ii) is otherwise unchanged. Third, OPM is conforming the cross-reference to 5 CFR 610.102 in § 630.1405(b) to the citation style used elsewhere in part 630.

Section 715.202 (Resignations)

OPM is revising § 715.202(b), which deals with employees' requests to withdraw a resignation before its effective date. OPM is making clear that the decision to accept or decline a resignation withdrawal request is made at the agency's sole and exclusive discretion. Also, OPM is adding another example of a valid reason for declining an employee's request—namely, that the employee accepted benefits under a deferred resignation agreement. For example, if an employee received paid administrative leave in connection with a deferred resignation agreement, an agency may determine that it would be inappropriate to allow an employee to withdraw the resignation and keep the paid leave benefits.

Severability

OPM intends the provisions of this final rule to be severable. If any provision, or its application to any person or circumstance, is held invalid or unenforceable, OPM intends that the remaining provisions and their applications remain operative to the fullest extent permitted by law. OPM would have adopted those remaining provisions independent of the provision or application held invalid.

The rule addresses distinct matters, including coverage and agency discretion under the administrative leave regulations, specific prohibited and acceptable uses of administrative leave, employee status during a reduction-in-force notice period, and withdrawal of resignations. Each change serves the purposes explained separately in this preamble. For example, the prohibitions and examples of acceptable uses in § 630.1403 address different circumstances; removing one would not prevent agencies from applying the others under the remaining governing requirements. Likewise, the withdrawal of resignation provisions in § 715.202 can operate independently of the examples authorizing administrative leave because they govern whether an agency may decline a withdrawal request when it has a valid reason. Although § 351.806(b) references part 630, subpart N, that reference does not depend on every provision of subpart N remaining effective. Agencies could continue to apply § 351.806(b) subject to the surviving administrative leave requirements. Accordingly, the remaining provisions would continue to provide useful guidance and function sensibly without any provision held invalid, subject to applicable law and court rulings.

V. Regulatory Analysis

A. Statement of Need

After having over 1 year of experience in applying the final regulations on administrative leave issued in December 2024, OPM has identified the need to clarify certain matters in the regulations. While OPM has issued policy guidance (see footnote 2) that largely addresses these matters, regulations are needed to achieve greater consistency across agencies and a firmer legal foundation for the policies. OPM is adding certain prohibited uses of administrative leave so that the prohibitions are binding on agencies. OPM is adding examples of acceptable uses of administrative leave so that agencies can be assured those uses have a regulatory foundation. For example, OPM is including the extended use of administrative leave in connection with a deferred resignation program as an acceptable use of administrative leave. Also, through

these regulations, OPM is better fulfilling its statutory charge to prescribe regulations that address agency uses of administrative leave (5 U.S.C. 6329a(c)(1)). OPM also identified the need to clarify that agencies have sole and exclusive discretion in making decisions to provide or not provide administrative leave, subject to governing law and regulations.

OPM is amending the RIF regulation in 5 CFR 351.806 to clarify when administrative leave may be provided during a RIF notice period.

OPM is also amending the resignation regulation in 5 CFR 715.202 to identify the acceptance of benefits, such as administrative leave, as a valid reason for an agency to deny an employee's request to withdraw a resignation commitment made as part of a deferred resignation agreement. This gives agencies a clearer regulatory basis for denying a resignation withdrawal request by a participant in a deferred resignation program.

B. Regulatory Alternatives

OPM considered the alternative of not adding additional regulatory prohibitions or examples of acceptable uses of administrative leave and instead relying on OPM policies. For the reasons given in the Statement of Need section, OPM concluded that various policies should be codified in regulation. With respect to the revision of the resignation regulation, OPM considered the possibility of not making the change but determined agencies would be better served by a regulation that gives them a clear and specific legal basis for denying a resignation withdrawal request by an employee participating in a deferred resignation program.

C. Impact

Since OPM is codifying in regulation existing policies on administrative leave, OPM does not expect significant changes in the usage of administrative leave. Agencies generally follow OPM policies even if they are not legally binding in the way regulations are. Codifying policies in regulations provides a firmer legal foundation for those policies, promotes consistency across agencies, and avoids disputes between employees and agencies. Since this final regulation affects only Federal agencies and employees, it will have no substantial impact on local economies or labor markets.

D. Costs

As explained in the Impact section, OPM does not expect the regulations to result in significant changes in the usage of administrative leave. Governmentwide policies that parallel the final regulations are already in place. OPM is simply giving its policies an enhanced legal standing by incorporating them in regulation. Accordingly, OPM does not project that costs or savings will result from the regulations. OPM believes the administrative burdens associated with implementing these final regulations will be de minimis, since agencies are already operating under parallel OPM policies. There could be minor administrative cost savings to the extent that codifying policies in regulations reduces disputes. Several commenters challenged this assessment, arguing that OPM must account for the costs of the 2025 deferred resignation programs and for broader economic effects of workforce reductions. As explained in section III.E of this preamble, the relevant measure under E.O. 12866 and E.O. 13563 is the incremental effect of this rule against a baseline that includes the Governmentwide policies already in effect. Expenditures associated with the 2025 programs were incurred under existing authorities and policies and are part of that baseline, and decisions to undertake particular workforce realignment initiatives are made by agencies under separate authorities that this rule neither mandates nor funds.

Similarly, OPM does not expect the change to the resignation regulation to have a significant effect on the number of resignation withdrawals. The existing regulation already allows an agency to deny an employee's request to withdraw a resignation for a valid reason. The regulation simply identifies an employee's acceptance of benefits (such as administrative leave) as part of a deferred resignation agreement as a specific example of a valid reason. The final regulation could result in fewer or less lengthy disputes, but the number of affected cases would be very small.

E. Benefits

This rule has important benefits. The regulations provide more transparency and accountability, provide a firmer legal foundation for allowing or prohibiting certain uses of administrative leave, promote consistency across agencies, clarify the authority of agencies, and reduce potential disputes. With respect to the revision of the RIF regulation, it clarifies when it is appropriate to provide administrative leave during a RIF notice period. With respect to the revision of the resignation regulation, it will provide a regulatory basis for denying a resignation withdrawal request and set clear expectations for employees who enter into a deferred resignation agreement.

VI. Regulatory Compliance

A. Regulatory Flexibility Act

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

B. Regulatory Review

The Office of Information and Regulatory Affairs in the Office of Management and Budget has designated this as a significant regulatory action under E.O. 12866 section 3(f). Accordingly, OPM has examined the impact of this rule as required by E.O.s 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for rules that have an annual effect on the economy of $100 million or more in any one year or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rulemaking does not reach that threshold. This rule is not considered a regulatory action under E.O. 14192 because it imposes no more than de minimis costs. This rule has been reviewed by the Office of Information and Regulatory Affairs in the Office of Management and Budget.

C. Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, the Director of OPM certifies that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Civil Justice Reform

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

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold is currently approximately $206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

F. Paperwork Reduction Act

This rulemaking does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act (44 U.S.C. chapter 35).

G. Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, known as the Congressional Review Act (5 U.S.C. 801 *et seq.*), requires that agencies submit final rules to Congress and the Comptroller General of the United States for review before the rules can take effect. OPM will submit this final rule and other required materials to Congress and the Comptroller General. The Office of Information and Regulatory Affairs has determined that this rule is not a ''major rule'' as defined by the Congressional Review Act (5 U.S.C. 804(2)).

List of Subjects

5 CFR Part 351

Administrative practice and procedure, Government employees.

5 CFR Part 630

Emergency preparedness, Government employees, Reporting and recordkeeping requirements, Wages, Weather.

5 CFR Part 715

Government employees.

Signing Statement

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

Office of Personnel Management

Jerson Matias,

Federal Register Liaison.

For the reasons stated in the preamble, OPM amends 5 CFR parts 351, 630, and 715 as follows:

PART 351—REDUCTION IN FORCE

■ 1. The authority citation for part 351 is revised to read as follows:

Authority: 5 U.S.C. 1103, 1104, 1302, 2301, 3502, 3503; 38 U.S.C. 4331; E.O. 14284, 90 FR 17729; 5 CFR 2.2(c). Sec. 351.801 also issued under E.O. 12828, 58 FR 2965, 3 CFR, 1993 Comp., p. 569.

Subpart H—Notice to Employee

■ 2. Revise § 351.806 to read as follows:

§ 351.806 Status during notice period.

(a) *General.* Under ordinary circumstances, an employee will remain in a duty status during the notice period.

(b) *Administrative leave.* Nothing in this section precludes an agency from placing an employee on administrative leave for all or part of the notice period when the agency determines that such leave is appropriate and the use of administrative leave is consistent with part 630, subpart N, of this chapter.

(c) *Emergency lack of work or funds.* When, in an emergency, the agency lacks work or funds for all or part of the notice period, it may place the employee on annual leave with or without the employee's consent, on leave without pay with the employee's consent, or in a nonpay status without the employee's consent.

PART 630—ABSENCE AND LEAVE

■ 3. The authority citation for 5 CFR Part 630 is revised to read as follows:

Authority: Subparts A through E issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129), 6303(e) and (f), 6304(d)(2), 6306(b), 6308(a) and 6311; subpart F issued under 5 U.S.C. 6305(a) and 6311 and E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G issued under 5 U.S.C. 6305(c) and 6311; subpart H issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129) and 6326(b); subpart I issued under 5 U.S.C. 6332, 6334(c), 6336(a)(1) and (d), and 6340; subpart J issued under 5 U.S.C. 6340, 6363, 6365(d), 6367(e), 6373(a); subpart K issued under 5 U.S.C. 6391(g); subpart L issued under 5 U.S.C. 6383(f) and 6387; subpart M issued under Sec. 2(d), Pub. L. 114–75, 129 Stat. 641 (5 U.S.C. 6329 note); subpart N issued under 5 U.S.C. 6329a(c); subpart O issued under 5 U.S.C. 6329b(h); subpart P issued under 5 U.S.C. 6329c(d); and subpart Q issued under 5 U.S.C. 6387.

Subpart N—Administrative Leave

■ 4. In subpart N:
■ a. Remove the word ''grant'', wherever it appears, and add, in its place, the word ''provide'';
■ b. Remove the word ''granted'', wherever it appears, and add, in its place, the word ''provided''; and
■ c. Remove the word ''granting'', wherever it appears, and add, in its place, the word ''providing''.

■ 5. Amend § 630.1401 by revising paragraph (b) to read as follows:

§ 630.1401 Purpose and applicability.

* * * * *

(b) This subpart applies to an employee as defined in 5 U.S.C. 2105 who is employed in an agency, but does not apply to—

(1) An intermittent employee who, by definition, does not have an established regular tour of duty during the administrative workweek; or

(2) A Presidential appointee or other employee who is excluded from coverage under title 5 leave laws (5 U.S.C. 6301(2)(x)–(xiii)) and who is entitled to the pay of his or her office solely because of status as an officer (5 U.S.C. 5508).

* * * * *

■ 6. Amend § 630.1402 by removing the definition of ''Head of the agency'' and adding, in alphabetical order, the definition of ''Sole and exclusive discretion'' to read as follows:

§ 630.1402 Definitions.

* * * * *

Sole and exclusive discretion means discretion that rests with an agency alone; that is exercised within the bounds of 5 U.S.C. 6329a and other applicable law, applicable Presidential directives, and the regulations in this subpart; and that may not be limited or conditioned by any agreement or established as a mandatory entitlement to administrative leave.

■ 7. Amend § 630.1403 by:
■ a. Revising the section heading;
■ b. In paragraph (a)(2), adding the words ''sole and exclusive'' before the word ''discretion'';
■ c. Revising paragraph (a)(3);
■ d. In paragraph (a)(4), adding the words ''sole and exclusive'' before the word ''discretion'';
■ e. Revising paragraph (a)(5)(ii);
■ f. Revising paragraph (b); and
■ g. Adding paragraph (c).

The revisions and addition read as follows:

§ 630.1403 Principles, prohibitions, and examples of acceptable uses.

(a) * * *

(3) Administrative leave is appropriately used for brief or short periods of time—usually for not more than 1 workday. An incidence of administrative leave lasting more than 1 workday may be approved in applicable circumstances described in paragraph (c) of this section or when otherwise determined to be appropriate by an agency.

* * * * *

(5) * * *

(ii) Reviewed and approved by an official of the agency who is (or is acting) at a higher level than the official making the determination, if the specific type of use and amount of leave for that use has not been authorized under established written policy as described in paragraph (a)(5)(i) of this section.

* * * * *

(b) *Specific prohibited uses.* An agency may not provide administrative leave—

(1) To mark the memory of a deceased former Federal official (see also 5 U.S.C. 6105);

(2) As a reward to recognize the performance or contributions of an employee or group of employees (*i.e.,* in lieu of a cash award or a time-off award), except that an agency may provide administrative leave to all employees of an organization as a morale-boosting goodwill gesture, even if it is broadly linked to the accomplishments of the organization;

(3) For investigative purposes (*i.e.,* involving an ''investigation'' as defined in § 630.1502) after an employee has reached the 10-workday calendar year limit described in § 630.1404 in connection with a given investigation;

(4) For a purpose for which sick leave could be used (§ 630.401(a))—unless such use in a particular scenario is specifically approved by Governmentwide policy issued by OPM or the President; however, an employee who is eligible to use sick leave may be provided administrative leave on the same basis it is provided to an employee who is not so eligible when the administrative leave is provided for some other purpose; or

(5) To cover service by poll workers or poll observers in connection with elections.

(c) *Examples of acceptable uses.* An agency may, at its sole and exclusive discretion, provide administrative leave in circumstances that satisfy the requirements in paragraph (a) of this section, including in the following circumstances:

(1) For investigative purposes until the employee has reached the 10-workday calendar year limit described in § 630.1404;

(2) To provide an employee who has not voted early with a reasonable opportunity to vote on a regular election day;

(3) To allow an employee to donate blood during the employee's tour of duty;

(4) To allow an employee to participate in an agency's employee assistance program for problem identification and referral to an outside resource and for general employee orientation or education activities;

(5) To provide for early dismissal (generally no more than 2 hours) on the scheduled workday immediately before a Federal public holiday as a morale-boosting goodwill gesture;

(6) To allow an employee to rest and recover following unusually lengthy tours of duty or extended travel for work purposes (for example, the U.S. Forest Service in the Department of Agriculture or the Department of the Interior may provide 2 to 3 days of administrative leave to employees who have completed an extended deployment to fight a wildland fire);

(7) To provide up to 5 days of administrative leave for a civilian employee who needs time off to effectuate a change in his or her residence to a different geographic area in order to accompany a qualifying spouse—that is, a spouse who is a member of one of the uniformed services or a civilian Federal Government employee—when the qualifying spouse's residence change is the result of military orders or agency direction, as applicable;

(8) To provide limited amounts of administrative leave for approved physical fitness activities on a conditional basis (consistent with paragraphs (a)(4) and (6) and subject to any Governmentwide policies issued by OPM or the President) for employees who do not have job-related mandatory fitness standards that allow for use of official duty time for such activities;

(9) To provide extended periods of administrative leave (subject to Governmentwide limits established by OPM and agency limits) to employees who sign a written agreement to voluntarily separate on a specified future date as a transition-to-separation tool that supports workforce restructuring and realignment initiatives that are based on agency and Governmentwide interests, including voluntary deferred resignation programs, use of voluntary separation incentive payments, or use of voluntary early retirement authorizations;

(10) To provide administrative leave to employees subject to an involuntary separation via a reduction in force (RIF) during the period between receipt of the RIF notice and the RIF separation when the agency determines it is in the Government's best interests; or

(11) To provide extended periods of administrative leave (subject to Governmentwide limits established by OPM and agency limits) to facilitate the voluntary resignation of employees with documented allegations of poor performance or misconduct under a settlement agreement that the agency determines is in the Government's best interests after considering all other reasonable alternatives.

§ 630.1405 [Amended]

■ 8. Amend § 630.1405 by removing, in paragraph (b), the words ''5 CFR 610.102'' and adding in their place the words ''§ 610.102 of this chapter''.

PART 715—NONDISCIPLINARY SEPARATIONS, DEMOTIONS, AND FURLOUGHS

■ 9. The authority citation for 5 CFR Part 715 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, 3302, 7301; E.O. 10577, 19 FR 7521, 3 CFR, 1954–1958 Comp., p. 218.

Subpart B—Voluntary Separations

■ 10. Revise § 715.202 to read as follows:

§ 715.202 Resignation.

(a) *General.* An employee is free to resign at any time, to set the effective date of his or her resignation, and to have his or her reasons for resigning entered in his or her official records.

(b) *Withdrawal of resignation.* An agency may, in its sole and exclusive discretion, accept or decline an employee's request to withdraw his or her resignation at any time before it has become effective. An agency may decline a request to withdraw a resignation before its effective date only when the agency has a valid reason and explains that reason to the employee. A valid reason includes, but is not limited to, administrative disruption, the hiring or commitment to hire a replacement, or the employee's acceptance of benefits provided under a deferred resignation agreement. Avoidance of adverse action proceedings is not a valid reason.

[FR Doc. 2026–21320 Filed 10–16–26; 8:45 am]

BILLING CODE 6325–39–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 15, 170, and 171

[NRC–2023–0212]

3150–AL 12

Fee Schedules; Fee Recovery for Fiscal Year 2026

Correction

In rule document 2026–12067 beginning on page 36470 in the issue of Tuesday, June 16, 2026, make the following corrections:

On pages 6504 and 6505, § 171.16 7.C in Table 2 to Paragraph (d) should read as follows:

C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9 17 19] Number of locations of use: 1–5. [Program Code(s): 02120, 02121, 02200, 02201, 02210,02220, 02230, 02231,02240, 221601 $23,300

(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9 17 19] Number of locations of use: 6–20. [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826,048281 $33,000

(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9 17 19] Number of locations of use: more than 20. [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829]

[FR Doc. C1–2026–12067 Filed 10–16–26; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–0004; Project Identifier AD–2024–00094–T; Amendment 39–23486; AD 2026–20–13]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This AD was prompted by a report that some passenger service unit (PSU)-mounted video monitors became detached from the PSU rails during a hard landing. This AD requires replacing PSU-mounted video monitors that do not have secondary retention lanyards. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 23, 2026.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 23, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–0004; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For the material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com*.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2025–0004.

FOR FURTHER INFORMATION CONTACT: Julie Linn, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3584; email: *julie.linn@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. The NPRM was published in the **Federal Register** on January 17, 2025 (90 FR 5751). The NPRM was prompted by a report that some PSU-mounted video monitors became detached from the PSU rails during a hard landing that did not exceed the emergency load requirements for the PSUs. In the NPRM, the FAA proposed to require replacing PSU-mounted video monitors that do not have secondary retention lanyards. The FAA is issuing this AD to address PSU-mounted video monitors that could become fully detached or be held at an unsafe height, which, if not addressed, could result in injury to passengers and impede passenger and crew egress during emergency evacuation.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from Boeing, who supported the NPRM without change.

The FAA received additional comments from five commenters, including All Nippon Airways Co., Ltd. (ANA), Aviation Partners Boeing, Delta Air Lines, Inc. (Delta), Panasonic Avionics Corporation (Panasonic), and an individual. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Clarify Method for Determining Applicability

Delta requested that the FAA clarify that they can accomplish either a physical inspection for the existence of PSU-mounted video monitors or accomplish a review of Delta's PSU Layouts (Delta's PSU drawing configuration) to determine if this AD applies.

The FAA agrees to clarify that operators can determine if their airplanes are equipped with PSU-mounted video monitors by performing a physical inspection or a records check, provided the presence of PSU-mounted video monitors can be conclusively

determined from that review; either method is acceptable to determine if this AD applies. The FAA did not change this AD in response to this comment.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of blended or split scimitar winglets per supplemental type certificate (STC) ST00830SE does not affect compliance with the mandated actions in the proposed rule.

The FAA agrees with the commenter that STC ST00830SE does not affect compliance with this AD. Therefore, the installation of STC ST00830SE does not affect the ability to accomplish the actions required by this AD. The FAA did not change this AD in response to this comment.

Request To Revise Paragraph (e) To Clarify Safety Concerns

Panasonic requested that the FAA revise paragraph (e) of the proposed AD to include the statement, ''Although some models of PSU-mounted video monitors have not become detached under such landings, we have determined that this AD is warranted due to relative motion between the PSU rails that drive forces exceeding the approved emergency landing conditions for the attached PSU-mounted monitors.'' Panasonic asserted that the improvement action for Panasonic monitors involves an enhancement to its fail-safe design and is not a result of correcting any defect or noncompliance in the PSU-mounted monitor assemblies themselves. Panasonic requested this change to avoid potentially misleading operators that Panasonic monitors have become detached because they did not meet the existing emergency landing requirements they were designed to meet.

The FAA acknowledges the commenter's concern. The FAA is unaware of Panasonic monitors that have become detached during hard landings that did not exceed emergency landing requirements. However, paragraph (e) of this AD specifies that some, not all, PSU-mounted video monitors became detached. The FAA did not change this AD in response to this comment.

Request To Include Panasonic Service Bulletin SB141908–44–001 as an Accepted Method of Compliance

Panasonic requested that the FAA include Panasonic Service Bulletin SB141908–44–001 as an accepted method of compliance for the proposed AD but did not provide the specified service bulletin to the FAA. Panasonic asserted that the effectivity of Boeing Special Attention Requirements Bulletin 737–25–1858 RB does not include airplanes with STCs that have identical parts that would be affected by the NPRM and suggested that adding this service bulletin as an accepted method of compliance would reduce the FAA's efforts to support alternative methods of compliance (AMOC) requests to address airplanes installed with FAA STC ST02908NY.

The FAA disagrees. Paragraph (g)(3) of this AD requires airplanes not identified in the effectivity paragraph of either Boeing service bulletin to perform the required actions using an AMOC. At this time, the FAA does not have enough data to approve Panasonic Service Bulletin SB141908–44–001 as an accepted method of compliance for this AD. The FAA did not change this AD in response to this comment.

Requests To Refer to Later Revisions of the Service Information

ANA requested that the FAA update the service information referenced in the proposed AD. The commenter noted that Boeing Special Attention Requirements Bulletin 737–25–1851 RB, dated December 15, 2023, and Boeing Special Attention Requirements Bulletin 737–25–1858 RB, dated December 15, 2023, will be revised by Boeing to correct an error in the airplane effectivity and asked the FAA to include the revised service information in the AD when published.

Delta requested that the FAA add the latest revisions of the Panasonic Service Bulletins referenced in Boeing Special Attention Requirements Bulletin 737–25–1858 RB, dated December 15, 2023, as a method of compliance for the proposed AD. Delta stated that Boeing released a preliminary revision of the requirements bulletin that references the latest revisions of the Panasonic Service Bulletins.

An individual noted that there are later revisions of the Burrana Service Bulletins referenced in Boeing Special Attention Requirements Bulletin 737–25–1851 RB, dated December 15, 2023. The commenter did not make a specific request for FAA action.

The FAA agrees to use the latest service information in this AD. Boeing Special Attention Requirements Bulletin 737–25–1851 RB, Revision 1, dated July 15, 2025, and Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025, add instructions for installing lanyard retention brackets at locations where there are no holes in the PSU inboard rail and at locations with oval-shaped holes for airplanes without a Boeing Sky Interior (BSI) in groups 1 and 2. The revised service information removes from the effectivity Model 737–800 airplanes that have been modified to a Boeing Converted Freighter; this information does not affect the applicability of this AD. The revised service information specifies later revisions of the Burrana and Panasonic service bulletins, as applicable. Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025, specifies an additional inspection for airplanes in groups 1 and 2 that have a PSU-mounted video monitor installed at a cabin temperature sensor location and have accomplished the original issue of the service information, because the original issue could not be complied with to address the unsafe condition. Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025, also specifies credit for accomplishing the original issue of the service information for airplanes in groups 3 and 4.

The FAA has revised this AD to mandate Boeing Special Attention Requirements Bulletin 737–25–1851 RB, Revision 1, dated July 15, 2025, and Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025. The FAA has revised paragraph (i)(1) of this AD to add credit for previous actions for airplanes that completed Boeing Special Attention Requirements Bulletin 737–25–1851 RB, dated December 15, 2023, and redesignated subsequent paragraphs accordingly. The FAA also added paragraph (i)(2) of this AD to add credit for previous actions for airplanes that completed Boeing Special Attention Requirements Bulletin 737–25–1858 RB, dated December 15, 2023, for airplanes identified as groups 3 and 4 only.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Special Attention Requirements Bulletin 737–25–1851 RB, Revision 1, dated July 15, 2025. This material specifies procedures

for replacing certain Burrana PSU-mounted video monitors that do not have secondary retention lanyards with PSU-mounted video monitors that have secondary retention lanyards.

The FAA also reviewed Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025. This material specifies procedures for replacing certain Panasonic PSU-mounted video monitors that do not have secondary retention lanyards with PSU-mounted video monitors that have secondary retention lanyards. This material specifies an additional inspection of the inboard PSU rail and applicable on-condition actions for airplanes in groups 1 and 2 that have a PSU-mounted video monitor installed at a cabin temperature sensor location and have accomplished the original issue of the service information. On-condition actions include attaching the secondary retention lanyard torsion spring to either the 1-inch hole found during inspection or the retention backet, as necessary.

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

Costs of Compliance

The FAA estimates that this AD affects 459 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per monitor	Cost on U.S. operators
Replacement (Burrana monitors—airplanes identified Boeing Special Attention Requirements Bulletin 737-25-1851 RB, Revision 1, dated July 15, 2025).	2 work-hours × $85 per hour = $170, per monitor.	$2,734	$2,904	Up to $5,401,440 * (62 airplanes).
Replacement (Panasonic monitors—airplanes identified in Boeing Special Attention Requirements Bulletin 737-25-1858 RB, Revision 1, dated July 15, 2025).	2 work-hours × $85 per hour = $170, per monitor.	$354	$524	Up to $5,376,240 * (342 airplanes).
Replacement ..... (monitors for airplanes not identified in the Boeing service information).	2 work-hours × $85 per hour = $170, per monitor.	Up to $2,734	Up to $2,904	Up to $4,791,600 * (55 airplanes).

* An airplane may have up to 30 monitors.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–20–13 The Boeing Company: Amendment 39–23486; Docket No. FAA–2025–0004; Project Identifier AD–2024–00094–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 23, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, equipped with passenger service unit (PSU)-mounted video monitors.

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by a report that some PSU-mounted video monitors became detached from the PSU rails during a hard landing that did not exceed the emergency load requirements for the PSUs. The FAA is issuing this AD to address PSU-mounted video monitors that could become fully detached or be held at an unsafe height, which, if not addressed, could result in

injury to passengers and impede passenger and crew egress during emergency evacuation.

(f) Compliance

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

(g) Required Actions

(1) For airplanes identified in Boeing Special Attention Requirements Bulletin 737–25–1851 RB, Revision 1, dated July 15, 2025: Except as specified by paragraph (h) of this AD, at the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–25–1851 RB, Revision 1, dated July 15, 2025, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–25–1851 RB, Revision 1, dated July 15, 2025.

Note 1 to paragraph (g)(1): Guidance for accomplishing the actions required by paragraph (g)(1) of this AD can be found in Boeing Special Attention Service Bulletin 737–25–1851, Revision 1, dated July 15, 2025, which is referred to in Boeing Special Attention Requirements Bulletin 737–25–1851 RB, Revision 1, dated July 15, 2025.

(2) For airplanes identified in Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025: Except as specified by paragraph (h) of this AD, at the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025.

Note 2 to paragraph (g)(2): Guidance for accomplishing the actions required by paragraph (g)(2) of this AD can be found in Boeing Special Attention Service Bulletin 737–25–1858, Revision 1, dated July 15, 2025, which is referred to in Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025.

(3) For airplanes not identified in paragraph (g)(1) or (2) of this AD: Within 60 months after the effective date of this AD, replace all PSU-mounted video monitors that do not have secondary retention lanyards with PSU-mounted video monitors that have secondary retention lanyards, using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(h) Exceptions to Service Information Specifications

(1) Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–25–1851 RB, Revision 1, dated July 15, 2025, refer to the original issue date of Requirements Bulletin 737–25–1851 RB, this AD requires using the effective date of this AD.

(2) Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025, refer to the original issue date of Requirements Bulletin 737–25–1858 RB or the Revision 1 date of Requirements Bulletin 737–25–1858 RB, this AD requires using the effective date of this AD.

(3) Where Boeing Special Attention Requirements Bulletins 737–25–1851 RB, Revision 1, and 737–25–1858 RB, Revision 1, both dated July 15, 2025, specify contacting Boeing for alternative installation instructions and doing the installation: This AD requires doing the installation using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Credit for Previous Actions

(1) For airplanes identified in Boeing Special Attention Requirements Bulletin 737–25–1851 RB, Revision 1, dated July 15, 2025: This paragraph provides credit for the actions specified in paragraph (g)(1) of this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Requirements Bulletin 737–25–1851 RB, dated December 15, 2023.

(2) For airplanes in groups 3 and 4 as identified in Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025: This paragraph provides credit for the actions specified in paragraph (g)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Requirements Bulletin 737–25–1858 RB, dated December 15, 2023.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

(k) Additional Information

(1) For more information about this AD, contact Julie Linn, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3584; email: *julie.linn@faa.gov.*

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

(l) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Requirements Bulletin 737–25–1851 RB, Revision 1, dated July 15, 2025.

(ii) Boeing Special Attention Requirements Bulletin 737–25–1858 RB, Revision 1, dated July 15, 2025.

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

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

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

Issued on October 1, 2026.

Brian Knaup,

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

[FR Doc. 2026–21332 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–4643; Project Identifier AD–2025–01612–E; Amendment 39–23495; AD 2026–21–06]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Division Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Pratt & Whitney Division (PW) Model PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4062A, PW4152, PW4156, PW4156A, PW4158, PW4460, and PW4462 engines. This AD was prompted by multiple reports of tailpipe fire, loss of thrust control, and engine in-flight shutdown due to

undetected deterioration of pressure burner (Pb) sensors. This AD requires replacing Pb sensors. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 23, 2026.

ADDRESSES: *AD Docket:* You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–4643; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (562) 627–5373; email: *molly.a.sturgis@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all PW Model PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4062A, PW4152, PW4156, PW4156A, PW4158, PW4460, and PW4462 engines. The NPRM was published in the **Federal Register** on May 26, 2026 (91 FR 30514). The NPRM was prompted by multiple events involving PW PW4000–94 engines in which tailpipe fire, loss of thrust control, and engine in-flight shutdown occurred. A manufacturer investigation revealed that these events were caused by undetected deterioration of Pb sensors due to epoxy deterioration, which can lead to erroneous Pb sensor measurements and incorrect fuel commands. In the NPRM, the FAA proposed to require replacing Pb sensors within certain compliance times. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from 10 commenters. Commenters included Air Line Pilots Association, International (ALPA), Atlas Air, Boeing Commercial Airplanes (Boeing), Delta Air Lines, Inc (DAL), European Air Transport Leipzig GmbH, FedEx, the Foundation for Aviation Safety, PW, United Airlines (United), and United Parcel Service (UPS). ALPA and Boeing supported the NPRM without change. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Include Service Material as an Approved Method of Compliance

Atlas Air and UPS requested that the FAA revise the NPRM to include the use of certain service material as acceptable forms of compliance with the NPRM. Specifically, Atlas Air requested that the FAA include Collins Aerospace Service Bulletin (SB) EEC1–73–62 or PW SB PW4ENG 73–221 as approved methods of compliance. UPS requested that the FAA include replacement of Pb sensors with new Pb sensors (in accordance with the component maintenance manual or other approved procedures) and accomplishment of Collins Aerospace SB EEC1–73–62 as approved methods of compliance. Atlas Air noted that all required actions in the NPRM were derived from the accomplishment instructions in Collins Aerospace SB EEC1–73–62.

The FAA disagrees with the request. The FAA acknowledges that Collins Aerospace SB EEC1–73–62 and PW SB PW4ENG 73–221, Revision No. 3, dated July 1, 2024 (PW SB PW4ENG 73–221, Revision No. 3) are acceptable methods for compliance with this AD, but notes that incorporating these materials by reference is unnecessary because this AD already includes all relevant information for compliance. The FAA did not change this AD as a result of this comment.

Request To Include Additional Engine Models

DAL and PW requested that the FAA revise paragraph (c) of the proposed AD to include engine models with a dash number suffix identified in PW SB PW4ENG 73–221, Revision No. 3. Specifically, DAL requested all dash number suffix variants, while PW requested only –3 (Phase III) models be included. PW noted that all –3 (Phase III) engine model configurations are included in both the FAA type certificate data sheet (TCDS) and PW SB PW4ENG 73–221, Revision No. 3. PW also stated that this revision would improve alignment between the NPRM and PW maintenance instructions and would eliminate ambiguity for operators during compliance planning.

The FAA disagrees with the request because dash number suffixes and other configuration designations are not separate engine models recognized by the TCDS and therefore, are not listed in the applicability of this AD. The FAA notes that engines identified by dash number suffixes that correspond to listed TCDS engine models are already included within the applicability of this AD. The FAA did not change this AD as a result of this comment.

Request To Limit Applicability to Engines With Certain Pb Sensors

DAL requested that the FAA revise paragraph (c) of the proposed AD to only include engines with electronic engine controls (EEC) that have Pb sensor part number (P/N) 800833–1 or P/N 796163–1 installed. DAL stated that if Collins Aerospace certifies a new Pb sensor P/N, the certification process would ensure that the same deterioration, as addressed by the NPRM, would not exist.

The FAA disagrees with the request. If a new configuration Pb sensor is released and proven not susceptible to the unsafe condition, then the FAA would consider adjusting the required actions for that Pb sensor at that time, including alternative methods of compliance (AMOC) requested under the provisions of paragraph (i) of this AD. The FAA did not change this AD as a result of this comment.

Request To Clarify Tracking Method for Flight Hours (FH)

DAL and United requested that the FAA revise paragraph (h) of the proposed AD to clarify that if the FH cannot be determined for the Pb sensor, guidance for determining the age of the Pb sensors may be found in PW SB PW4ENG 73–221, Revision No. 3. Specifically, United requested that guidance stating that the EEC operational hours can also be established by multiplying years in service by 3,048 hours or average utilization per year be included in the NPRM. United stated that industry experience indicates that while the EEC timer tracks sensor replacement intervals based on operational hours, a significant number of units arrive at shop visits with unreliable EEC times that cannot be used to determine operating hours. DAL noted that most operators track operating times (including time since new) and operating cycles (including cycles since new) of the EEC, similar to how operators track life limits on life limited parts, making EEC flight hour tracking a sufficient method for monitoring the 30,000 FH limit on the Pb sensor.

The FAA disagrees with the request because operators are responsible for tracking and determining the FH and years since new or since repair for Pb sensors, and the methodology for this practice is not specifically required in this AD. Note 1 to paragraph (h) of this

AD identifies that guidance for determining the age of Pb sensors may be found in PW Service Bulletin PW4ENG 73–221, Revision No. 3. The FAA did not change this AD as a result of this comment.

Request To Clarify Use of ''Years in Service''

European Air Transport Leipzig GmbH requested that the FAA explain the use of the term ''years in service'' in the NPRM, and DAL requested that the FAA change the term ''10 years in service'' to ''10 calendar years since the EEC was made serviceable with a new or repaired Pb sensor installed.'' European Air Transport Leipzig GmbH stated that EECs stored in a controlled environment (individually or on preserved spare engines) do not experience epoxy deterioration in the same manner as EECs actively operated on aircraft, so the ''years in service'' counter should be applied differently for stored/preserved EECs versus those in active operation. DAL noted that the accomplishment instructions in PW SB PW4ENG 73–221, Revision No. 3 and Hamilton Sundstrand SB EEC131–73–62, Revision 1, dated January 20, 2023, determine Pb sensor operational hours and years of service based on EEC operating hours. DAL added that if the Pb sensor is not installed in an operating EEC, hours and years would not accrue, and time outside of an EEC would not count toward years of service.

The FAA partially agrees with the request. The FAA agrees that the term ''years in service'' should be revised to provide clarity as to the intent of the compliance time, but the FAA disagrees with the proposed language. The FAA has revised the language in paragraphs (g) and (h) of this AD to ''years since new or since last repair.'' The FAA disagrees with commenter's position regarding epoxy deterioration on stored EECs because the FAA has no data demonstrating that EECs stored separately or installed on preserved spare engines experience a different rate of deterioration than EECs in active operation. However, the FAA notes that once this AD is published, any person may request approval of an AMOC under the provisions of paragraph (i) of this AD.

Request To Remove Extra Asterisk in Table 1 to Paragraph (h)

DAL and FedEx requested that the FAA remove the second asterisk from the heading in the fourth column of table 1 to paragraph (h) in the proposed AD. DAL noted that they believe the second asterisk was inadvertently added.

The FAA agrees with the request and has removed the second asterisk from the heading in the fourth column of table 1 to paragraph (h) of this AD.

Request To Clarify Definition of ''Part Eligible for Installation''

FedEx requested that the FAA clarify the definition of a ''part eligible for installation'' in paragraph (g) of the proposed AD. Specifically, FedEx noted that the current definition permits installation of a used Pb sensor that is near its service limits (*e.g.,* 29,999 FH and 9 years 11 months) and asked how operators should handle such a sensor once it exceeds the AD limits shortly after return to service. Additionally, FedEx requested clarification on whether a repair resets both the flight-hour and calendar-service times to zero, and if so, whether a new calendar date label must be applied to the sensor to reflect the updated service times.

The FAA agrees to clarify. The FAA has revised the language in paragraphs (g) and (h) of this AD from ''years in service'' to ''years since new or since last repair.'' For the scenario provided, a Pb sensor with 29,999 FH and 9 years 11 months since new or since last repair require replacement in accordance with paragraph (h)(2) of this AD. The FAA notes that operators are responsible for tracking and determining the FH and years since new or since repair for Pb sensors, and the methodology for this practice is not specifically required in this AD. The FAA did not change this AD as a result of this comment.

Request To Refer to Service Material

FedEx requested that the FAA revise paragraph (h)(1) of the proposed AD to require the step to be performed in accordance with PW SB PW4ENG 73–221, Revision No. 3. FedEx noted that currently, the instructions for continued airworthiness are not directly cited and the NPRM only includes PW SB PW4ENG 73–221, Revision No. 3, as a reference for determining utilization.

The FAA disagrees with the request to incorporate PW SB PW4ENG 73–221, Revision No. 3, by reference. Paragraph (h)(1) of this AD identifies the part that needs to be replaced, the part eligible for installation, and the compliance times for replacement. The FAA did not incorporate PW SB PW4ENG 73–221, Revision No. 3, by reference because the AD allows any FAA-approved method for replacing the Pb sensor and incorporating this service bulletin by reference would unnecessarily restrict operators. The FAA did not change this AD as a result of this comment.

Request To Revise Unrelated Service Material

FedEx requested that the FAA add a data field to the label field in Figure 2 of Hamilton Sundstrand SB EEC 131–73–64. Fed Ex stated that for cargo and other low-utilization operations, the calendar-date limitation may be more restrictive than the flight-hour limit and making Pb sensor hours and date code readily visible without disassembling the EEC would be helpful for ongoing maintenance and compliance.

The FAA disagrees with the request because the referenced service material is not applicable to this AD. The FAA also notes that the FAA does not control service bulletin content. The FAA did not change this AD as a result of this comment.

Request To Clarify How Average Utilization is Calculated

FedEx requested that the FAA clarify the acceptable method for calculating average utilization. FedEx noted that the NPRM does not define ''average utilization'' and asked whether this refers to the operator's fleet average, the average for the specific aircraft on which the sensor is installed, or an industry or fleet-wide average. FedEx also stated that the accomplishment instructions of Hamilton Sundstrand SB EEC131–73–62 indicate that operational hours may be determined ''by multiplying years in service by 3,048 hours or average utilization per year.''

The FAA disagrees with the request. The FAA notes that operators are responsible for tracking and determining the FH and years since new or since repair for Pb sensors, and the methodology for this practice is not specifically required in this AD. The FAA also notes that the referenced service material is not applicable to this AD, and the FAA does not control service bulletin content. The FAA did not change this AD as a result of this comment.

Request To Clarify Compliance Time

The Foundation for Aviation Safety requested that the FAA clarify why Pb sensor replacement is not an immediate compliance requirement in the NPRM. The Foundation for Aviation Safety stated that Pb sensor replacement is a 2-hour fix to guard against engine fires or other engine catastrophes.

The FAA agrees to clarify. Although Pb sensor replacement is a maintenance task that can be accomplished in a relatively short amount of time, compliance time is not driven by ease of replacement, and the phased replacement approach required by this

AD reduces operator burden while still ensuring the overall safety of the fleet. The FAA did not change this AD as a result of this comment.

Request To Update Service Material Revision Number

PW requested that the FAA update the NPRM to reference the appropriate revision number and date for PW SB PW4ENG 73–221, Revision No. 3, if the SB is revised before the FAA final rule is published. PW noted that engine models PW4060A, PW4060C, and PW4156 are included in the NPRM and in the TCDS but do not appear in PW SB PW4ENG 73–221, Revision No. 3. PW stated that since the NPRM proposed actions that are derived from PW SB PW4ENG 73–221, Revision No. 3, PW will review whether a revision to this SB is warranted to ensure that operators of these engine models have the proper guidance necessary to accomplish the AD requirements.

The FAA acknowledges the request but notes that PW SB PW4ENG 73–221, Revision No. 3, is not incorporated by reference in this AD, and the SB was not revised prior to the issuance of this final rule. The FAA did not change this AD as a result of this comment.

Request To Modify Calendar-Time Compliance Option

UPS requested that the FAA modify the calendar-time compliance option for low-utilization operators (less than 1,200 cycles per year). UPS proposed a 15-year compliance interval rather than the 10-year interval specified in paragraph (h)(2) of the proposed AD. UPS noted that they were not requesting a change to the flight-hours requirement for low-utilization operators.

The FAA disagrees with the request. The commenter provided no justification for the request, and the FAA notes that the failure mechanism of the Pb sensor (the epoxy degradation) was analyzed and is driven by both utilization and calendar time, and the compliance times identified in this AD are required to maintain the safe operation of the fleet. The FAA also notes that, in response to a previous comment, the term ''years in service'' was revised to ''years since new or since last repair'' in paragraphs (g) and (h) of this AD to provide clarity as to the intent. The FAA did not change this AD as a result of this comment.

Request To Add Methodology for Determining Pb Sensor FH/Calendar Time

UPS requested that the FAA allow for the use of the highest accumulated FH or the oldest repair date of any Pb sensor in the fleet for determining the applicable replacement compliance timeframe for Pb sensors with unknown FH or calendar time since new or since repair.

The FAA disagrees with the request because operators are responsible for tracking and determining the FH and years since new or since repair for Pb sensors, and the methodology for this practice is not specifically required in this AD. The FAA did not change this AD as a result of this comment.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Costs of Compliance

The FAA estimates that this AD affects 210 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace Pb sensors	2 work-hours × $85 per hour = $170	$15,694	$15,864	$3,331,440

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–21–06 Pratt & Whitney Division: Amendment 39–23495; Docket No.

FAA–2026–4643; Project Identifier AD–2025–01612–E.

(a) Effective Date

This airworthiness directive (AD) is effective November 23, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Pratt & Whitney Division (PW) Model PW4052, PW4056, PW4060, PW4060A, PW4060C, PW4062, PW4062A, PW4152, PW4156, PW4156A, PW4158, PW4460, and PW4462 engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7300, Engine Fuel and Control.

(e) Unsafe Condition

This AD was prompted by multiple reports of tailpipe fire, loss of thrust control, and engine in-flight shutdown due to undetected deterioration of pressure burner (Pb) sensors. The FAA is issuing this AD to detect and correct the deterioration of Pb sensors. The unsafe condition, if not addressed, could result in engine fire, loss of thrust control, and engine in-flight shutdown.

(f) Compliance

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

(g) Definitions

For the purpose of this AD, a ''part eligible for installation'' is a Pb sensor that has accumulated less than 30,000 flight hours (FH) since new or since last repair and less than 10 years since new or since last repair.

(h) Required Actions

(1) Replace the Pb sensor within the electronic engine control (EEC) with a part eligible for installation within the applicable number of months after the effective date of this AD, as specified in table 1 to paragraph (h) of this AD, and thereafter before accumulating 30,000 FH since new or since last repair, or before accumulating 10 years since new or since last repair, whichever occurs first.

TABLE 1 TO PARAGRAPH (h)—Pb SENSOR REPLACEMENT TIMES

Years since new or since last repair as of the effective date of this AD	60,000 FH or more since new or since last repair as of the effective date of this AD* (months)	50,000–59,999 FH since new or since last repair as of the effective date of this AD* (months)	40,000–49,999 FH since new or since last repair as of the effective date of this AD* (months)	30,000–39,999 FH since new or since last repair as of the effective date of this AD* (months)	Less than 30,000 FH since new or since last repair as of the effective date of this AD* (months)	Unknown FH since new or since last repair as of the effective date of this AD* (months)
16 or more years	10	10	10	10	10	10
At or more than 14 years but less than 16 years	10	14	14	14	14	10
At or more than 12 years but less than 14 years	10	14	21	21	21	10
At or more than 10 years but less than 12 years	10	14	21	30	30	10
Less than 10 years	10	14	21	30	Refer to paragraph (h)(2) of this AD.	10
Unknown years	10	10	10	10	10	10

*Flight hours since new or since last repair: Calculate by rounding to the nearest hour.

(2) For Pb sensors that have accumulated less than 30,000 FH since new or since last repair and less than 10 years since new or since last repair as of the effective date of this AD, replace the Pb sensor within the EEC with a part eligible for installation as follows, whichever occurs later:

(i) Before accumulating 30,000 FH or 10 years since new or since last repair as applicable, whichever occurs first.

(ii) Within 30 months after the effective date of this AD.

Note 1 to paragraph (h): Guidance for determining the age of Pb sensors may be found in PW Service Bulletin PW4ENG 73–221, Revision No. 3, dated July 1, 2024.

(i) Alternative Methods of Compliance (AMOCs)

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

(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

(1) For more information about this AD, contact Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (562) 627–5373; email: *molly.a.sturgis@faa.gov.*

(2) For material identified in this AD that is not incorporated by reference, contact PW, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.com;* website: *connect.prattwhitney.com.*

(k) Material Incorporated by Reference

None.

Issued on October 14, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–21290 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–7233; Project Identifier AD–2026–00062–T; Amendment 39–23489; AD 2026–20–16]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This AD is effective November 23, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 23, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–7233; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

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

FOR FURTHER INFORMATION CONTACT: Shaan S. Brar, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3558; email: *shaan.s.brar@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787–8, 787–9, and 787–10 Model airplanes. The NPRM was published in the **Federal Register** on August 7, 2026 (91 FR 51111). The NPRM was prompted by a report from the manufacturer indicating that the protection system on the left fan cowl of the right engine does not sufficiently cover the components and systems for airplanes equipped with Rolls Royce Deutschland Ltd & Co KG (RRD) Model Trent 1000–AE3, 1000–CE3, 1000–D3, 1000–G3, 1000–H3, 1000–J3, and 1000–K3 engines. In the NPRM, the FAA proposed to require performing a maintenance records check or inspection of the right engine to determine the part number of the left fan cowl and applicable on-condition actions. The FAA is issuing this AD to address insufficient cover leaving multiple oil lines and the P30 sense line in the right engine exposed to possible cross engine debris from the intermediate pressure turbine (IPT) rotor stage of the left engine. The unsafe condition, if not addressed, could lead to damage to critical systems of the right engine due to debris from the left engine during an uncontained engine failure event, resulting in an in-flight dual engine shutdown of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

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

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

Costs of Compliance

The FAA estimates that this AD affects 22 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

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

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

ON-CONDITION COSTS

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

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–20–16 The Boeing Company: Amendment 39–23489; Docket No. FAA–2026–7233; Project Identifier AD–2026–00062–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 23, 2026.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

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

(e) Unsafe Condition

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

(f) Compliance

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

(g) Required Actions

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

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

(h) Exceptions to Requirements Bulletin Specifications

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

(i) Parts Installation Prohibition

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

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Additional Information

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

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

(l) Material Incorporated by Reference

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

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

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

(ii) [Reserved]

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

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

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

Issued on October 5, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–21326 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–8780; Project Identifier MCAI–2026–00262–T; Amendment 39–23492; AD 2026–21–03]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A330–243, A330–243F, A330–341, A330–342, A330–343, A330–841, and A330–941 airplanes; and Model A340–211, A340–212, A340–213, A340–311, A340–312, A340–313, A340–541, and A340–642 airplanes. This AD was prompted by reports of leaks on closed fuel low pressure shut-off valves (LPSOVs). This AD requires repetitive leak checks of certain fuel LPSOVs and replacement of an affected part if any discrepancy is detected. This AD also allows the installation of an affected part under certain conditions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 23, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 23, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–8780; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*. You may find this material on the EASA website at *ad.easa.europa.eu*.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA 98198. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2026–8780.

FOR FURTHER INFORMATION CONTACT: Anthony D. 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:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A330–

243, A330–243F, A330–341, A330–342, A330–343, A330–841, and A330–941 airplanes; and Model A340–211, A340–212, A340–213, A340–311, A340–312, A340–313, A340–541, and A340–642 airplanes. The NPRM was published in the **Federal Register** on August 13, 2026 (91 FR 52269). The NPRM was prompted by EASA AD 2026–0060R1, dated June 9, 2026 (EASA AD 2026–0060R1) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that occurrences of leaks on closed fuel LPSOVs were reported due to the LPSOV failing to seal. Depending on its amount, a fuel leak from an LPSOV could sustain a fire. This condition, if not detected and corrected, could lead to the inability to extinguish a fire and result in significant damage to airplane structure or systems.

In the NPRM, the FAA proposed to require repetitive leak checks of certain fuel LPSOVs and replacement of an affected part if any discrepancy is detected, as specified in EASA AD 2026–0060R1. The NPRM also proposed to allow the installation of an affected part under certain conditions, as specified in EASA AD 2026–0060R1. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–8780.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2026–0060R1 specifies procedures for repetitive leak checks of the fuel LPSOVs to confirm that the LPSOV isolates the fuel supply to the associated engine, and replacement of an affected part if any discrepancy is detected (*e.g.,* any leak is found). EASA AD 2026–0060R1 also allows the installation of an affected part under certain conditions. EASA AD 2026–0060R1 also provides acceptable methods of compliance for the actions.

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

Costs of Compliance

The FAA estimates that this AD affects 115 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 8 work-hours × $85 per hour = $680	$0	Up to $680	Up to $78,200.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
5 work-hours × $85 per hour = $425	$10,000	$10,425

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–21–03 Airbus SAS: Amendment 39–23492; Docket No. FAA–2026–8780; Project Identifier MCAI–2026–00262–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 23, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS airplanes specified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Model A330–243, A330–243F, A330–341, A330–342, A330–343, A330–841, and A330–941 airplanes.

(2) Model A340–211, A340–212, A340–213, A340–311, A340–312, A340–313, A340–541, and A340–642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Unsafe Condition

This AD was prompted by reports of leaks on closed fuel low pressure shut-off valves (LPSOVs) due to the LPSOV failing to seal. The FAA is issuing this AD to address such leaks, which, depending on the amount of the leak, could sustain a fire. The unsafe condition, if not addressed, could lead to the inability to extinguish a fire and result in significant damage to airplane structure or systems.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2026–0060R1, dated June 9, 2026 (EASA AD 2026–0060R1).

(h) Exceptions to EASA AD 2026–0060R1

(1) Where Table 1 of EASA AD 2026–0060R1 specifies a compliance time of between November 12, 2025, and March 3, 2029, this AD requires accomplishing the initial leak check within 35 months after the effective date of this AD.

(2) Where EASA AD 2026–0060R1 refers to April 3, 2026 (the effective date of the original issue of EASA AD 2026–0060), this AD requires using the effective date of this AD.

(3) Where EASA AD 2026–0060R1 defines a serviceable part as ''Any fuel LPSOV eligible for installation in accordance with Airbus instructions'', for this AD, replace that text with ''Any fuel LPSOV eligible for installation''.

(4) Where paragraph (4) of EASA AD 2026–0060R1 specifies ''any discrepancy of an affected part, as specified in the SB, is detected'', for this AD, replace that text with ''any discrepancy of an affected part is detected''.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2026–0060R1.

(i) No Reporting and No Return of Parts

Although the material referenced in EASA AD 2026–0060R1 specifies to submit certain information to the manufacturer and to send removed parts to the manufacturer, this AD does not include those requirements.

(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 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 (j)(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.

(k) Additional Information

For more information about this AD, contact Anthony D. Decaro, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 562–627–5374; email: *Anthony.D.Decaro@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 2026–0060R1, dated June 9, 2026.

(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 98198. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on October 7, 2026.

Brian Knaup,

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

[FR Doc. 2026–21325 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–4649; Project Identifier MCAI–2025–00835–T; Amendment 39–23488; AD 2026–20–15]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2025–04–

05, which applied to all Airbus SAS Model A330–841 and –941 airplanes. AD 2025–04–05 required a revision of the existing airplane flight manual (AFM) and removal of the previously required limitations; a revision of the existing minimum equipment list (MEL); one-time or repetitive seal integrity tests of each engine bleed air system (EBAS) high pressure valve (HPV); additional maintenance instructions and corrective actions; and repetitive replacement of affected HPV clips; as applicable. AD 2025–04–05 also limited the installation of affected HPV clips. Since the FAA issued AD 2025–04–05, an improved EBAS HPV with unaffected HPV clips was certified, and it was determined that the bleed monitoring computer (BMC) software (SW) must be updated. This AD continues to require the actions in AD 2025–04–05, except for repetitive replacement of affected HPV clips. This AD also requires updating the BMC SW, additional work, and an additional revision of the existing MEL for the engine bleed overpressure valve; as applicable. This AD also prohibits the installation of certain BMC software. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 23, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 23, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–4649; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2026–4649.

FOR FURTHER INFORMATION CONTACT: Rochelle Montgomery, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 405–551–0414; email: *Rochelle.Montgomery@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2025–04–05, Amendment 39–22963 (90 FR 10853, February 28, 2025) (AD 2025–04–05). AD 2025–04–05 applied to all Airbus SAS Model A330–841 and –941 airplanes. AD 2025–04–05 required a revision of the existing AFM and removal of the previously required limitations; a revision of the existing MEL; one-time or repetitive seal integrity tests of each EBAS HPV; additional maintenance instructions and corrective actions; and repetitive replacement of affected HPV clips; as applicable. AD 2025–04–05 also limited the installation of affected HPV clips. The FAA issued AD 2025–04–05 to address a leaking HPV that may expose the pressure regulating valve (PRV), which is installed downstream from the HPV to high pressure, possibly damaging the PRV itself and preventing its closure. The unsafe condition, if not addressed, could result in high pressure and temperatures in the duct downstream from the PRV, with possible duct burst, damage to several systems, and consequent loss of control of the airplane.

The NPRM was published in the **Federal Register** on June 4, 2026 (91 FR 33674). The NPRM was prompted by EASA AD 2025–0104R1, dated March 19, 2026 (EASA AD 2025–0104R1) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states an improved HPV has been certified (Airbus Modification 210503), which introduces several design improvements and is equipped with HPV clips that do not have to be replaced at predefined intervals. The MCAI also states that it has been determined that the optional modification to install BMC SW 5.0 must be mandated on airplanes on which BMC SW 4.0 or 4.1 is installed, additional work defined in a later revision of the other service information must be accomplished, and new master minimum equipment list (MMEL) content must be implemented for airplanes on which BMC SW 4.0 or 4.1 is installed. The MCAI further specifies that modification of both affected HPVs terminates the HPV clip replacement for the airplane, provided no affected HPV is re-installed on that airplane.

In the NPRM, the FAA proposed to continue to require the actions in AD 2025–04–05 except for repetitive replacement of affected HPV clips, as specified in EASA AD 2025–0104R1. The NPRM also proposed to require updating the BMC SW, additional work, and an additional revision of the existing MEL for the engine bleed overpressure valve, as applicable; and to prohibit the installation of certain BMC software; as specified in EASA AD 2025–0104R1. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–4649.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from the Air Line Pilots Association, International (ALPA) who supported the NPRM without change.

The FAA received an additional comment from Delta Air Lines (Delta). The following presents the comments received on the NPRM and the FAA's response.

Request To Provide Credit for Replacement of Affected HPVs

Delta requested that the FAA revise the proposed AD to provide credit for replacement of affected EBAS HPVs (part number (P/N) 71070A010001 or P/N 71070A020001) with non-affected EBAS HPVs (P/N 71070A030001), using FAA-approved maintenance data, including the Airbus aircraft maintenance manual (AMM). Delta noted Option 2 of Airbus Service Bulletin A330–36–3057, dated October 28, 2024 (Airbus Service Bulletin A330–36–3057), provides procedures for replacing affected HPVs with non-affected HPVs using Airbus AMM Tasks 36–11–51–000–806 and 36–11–51–400–806, in lieu of modification of the HPVs in Option 1 of that service bulletin as referenced in paragraph (30) of EASA AD 2025–0104R1. Delta stated operators are already conducting unscheduled removal and replacement of HPVs during normal operations, and that allowing credit for replacement of affected HPVs with non-affected HPVs using approved AMM procedures would provide operational flexibility during unscheduled maintenance while achieving the same configuration and

maintaining an acceptable level of safety.

The FAA agrees it acceptable to replace the affected HPVs with non-affected HPVs using Option 2 of Airbus Service Bulletin A330–36–3057 in lieu of modifying the affected HPVs using Option 1 of that service bulletin. Accordingly, the FAA has revised the exception in paragraph (h)(10) to specify that the modification or replacement of both affected HPVs in accordance with Airbus Service Bulletin A330–36–3057 constitutes terminating action for the HPV clip replacement. In addition, the FAA has added new paragraph (i) to this AD to provide credit for accomplishing the replacement using AMM Tasks 36–11–51–000–806 and 36–11–51–400–806 before the effective date of this AD. Under the provisions of paragraph (k)(1) of this AD, the FAA will consider requests for alternative methods of compliance, should operators wish to use other maintenance data or the applicable AMM tasks after the effective date of this AD.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0104R1 specifies procedures for the following retained actions:

- For Group 1 airplanes (equipped with BMC SW 4.0) and Group 2 airplanes (equipped with BMC SW 4.1 standard), a revision of the Limitations section of the existing AFM; and for Groups 1 and 2 and Group 3 (equipped with BMC SW 5.0 or later approved SW standard and an affected HPV) airplanes, removal of the previously required limitations.
- For Groups 1 and 2 airplanes, implementation of the MMEL update that includes new provisions and procedures for Air Conditioning Pack, Engine Bleed Air Supply System, Engine Bleed IP (Intermediate Pressure) Check Valve, and Engine Bleed HP (High Pressure) Valve; and cancellation of the dispatch restrictions.
- For Group 2 airplanes, a seal integrity test of each HPV; for Group 1 airplanes, repetitive seal integrity tests of each HPV; and corrective actions, which include replacement of the HPV, a detailed inspection of the wing bellow on engine 1(2), and replacement of any damaged or deformed wing bellow.

EASA AD 2025–0104R1 describes the following retained maintenance instructions, among other actions, to be accomplished following certain faults or failures, on Groups 1 and 2 airplanes:

- HPV troubleshooting procedure and additional maintenance actions after any Class 1 maintenance message associated with an HPV fault and corrective actions, which includes replacement of the HPV or wing bellow.
- HPV seal integrity test and the additional maintenance actions after any Class 1 or Class 2 maintenance message associated with a PRV fault and corrective actions, which includes replacement of the HPV and PRV, a detailed inspection of the wing bellow on engine 1(2), and replacement of any damaged or deformed wing bellow.
- A visual (borescope) inspection of the EBAS to detect signs of foreign object debris (FOD), including metallic debris in the butterfly valve and dents or damage of the flaps of the intermediate pressure check valve (IPCV), and dents and missing segments in the PRV, the header of the HP/IP duct, y-duct, and pylon ducts after any failure of an HPV clip and/or any of the HPV butterfly sealing rings, and corrective actions, which includes FOD removal and replacement of the IPCV or PRV.
- A seal integrity test of each HPV after any takeoff or go-around accomplished with ''packs OFF'' or ''APU bleed ON'' or ''engine bleed OFF'' and corrective actions, which include replacement of the HPV, a detailed inspection of the wing bellow on engine 1(2), and replacement of any damaged or deformed wing bellow.
- Additional actions to be performed for any Class 1 maintenance message associated with an HPV fault.

EASA AD 2025–0104R1 also specifies the following retained limitations for the installation of affected parts:

- For Groups 1, 2, and 3 airplanes, installation of an affected HPV clip on an affected HPV on an airplane, provided it is a new affected clip (*i.e.,* not previously installed on any HPV) and that following installation, it is replaced according to the referenced service information.
- For Groups 1, 2, and 3 airplanes, installation of an affected HPV on an airplane, provided it is a serviceable HPV and that following installation, the affected HPV clips of that HPV are replaced with new clips according to the referenced service information.

EASA AD 2025–0104R1 also specifies that, for Group 1 airplanes, modification (update to BMC SW 4.1) of the airplane terminates the repetitive seal integrity tests of each HPV.

EASA AD 2025–0104R1 specifies the following new actions:

- For Groups 1 and 2 airplanes, modification (update to BMC SW 5.0) of the airplane, which includes deletion of the operations engineering bulletin (OEB) reminder data from the flight warning computer (FWC) database.
- For Group 3 airplanes, accomplishment of additional work (deletion of the OEB reminder data from the FWC database).
- For Groups 1 and 2 airplanes, implementation of the MMEL update that includes new provisions for Engine Bleed Overpressure Valve.

EASA AD 2025–0104R1 also prohibits the installation of the following affected parts:

- BMC SW 4.0 or BMC SW 4.1 on any Group 3 or Group 4 (embodied with Airbus modifications 210503 and 210504 in production) airplane, and on any Group 1 or 2 airplane after modification (update to BMC SW 5.0) of the airplane.
- An affected HPV on any Group 4 airplane.

EASA AD 2025–0104R1 also specifies that, for Groups 1, 2, and 3 airplanes, modification of both affected HPVs terminates the HPV clip replacement for the airplane, provided no affected HPV is re-installed on that airplane; and if modification of the two affected HPVs are accomplished at different times, the HPV clip replacement is only applicable to the affected HPV.

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

Costs of Compliance

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2025–04–05.	Up to 15 work-hours × $85 per hour = $1,275.	Up to $28	Up to $1,303	Up to $28,666.
New actions for Groups 1 and 2 airplanes (software update, additional work, and MEL revision).	5 work-hours × $85 per hour = $425.	$524	$949	Up to $20,878 *.
New actions for Group 3 airplanes (additional work).	2 work-hours × $85 per hour = $170.	$0	$170	Up to $3,740 *.

* The FAA has no definitive data to determine how many affected airplanes are in each airplane group.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 19 work-hours × $85 per hour = $1,615	Up to $114,742	Up to $116,357.

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

ESTIMATED COSTS FOR OPTIONAL MODIFICATION OF BOTH AFFECTED HPVS

Labor cost	Parts cost	Cost per product
11 work-hours × $85 per hour = $935	$96,885	$97,790

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2025–04–05, Amendment 39–22963 (90 FR 10853, February 28, 2025); and

■ b. Adding the following new AD:

2026–20–15 Airbus SAS: Amendment 39–23488; Docket No. FAA–2026–4649; Project Identifier MCAI–2025–00835–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 23, 2026.

(b) Affected ADs

This AD replaces AD 2025–04–05, Amendment 39–22963 (90 FR 10853, February 28, 2025) (AD 2025–04–05).

(c) Applicability

This AD applies to all Airbus SAS Model A330–841 and –941 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by reports of leaking bleed system high pressure valves (HPV), likely due to HPV clip failure and sealing ring damage. This AD was also prompted by certification of an improved

HPV with unaffected HPV clips and the determination that the bleed monitoring computer (BMC) software must be updated. The FAA is issuing this AD to address a leaking HPV that may expose the pressure regulating valve (PRV), which is installed downstream from the HPV to high pressure, possibly damaging the PRV itself and preventing its closure. The unsafe condition, if not addressed, could result in high pressure and temperatures in the duct downstream from the PRV, with possible duct burst, damage to several systems, and consequent loss of control of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h), (i), and (j) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2025–0104R1, dated March 19, 2026 (EASA AD 2025–0104R1).

(h) Exceptions to EASA AD 2025–0104R1

(1) Where EASA AD 2025–0104R1 refers to May 21, 2025 (the effective date of the original issue of EASA AD 2025–0104, dated May 7, 2025), this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0104R1 refers to May 28, 2024 (the effective date of EASA AD 2023–0111R1, dated May 28, 2024), this AD requires using April 4, 2025 (the effective date of AD 2025–04–05).

(3) Where EASA AD 2025–0104R1 refers to June 2, 2023 (the effective date of the original issue of EASA AD 2023–0111, dated May 26, 2023), this AD requires using April 4, 2025 (the effective date of AD 2025–04–05).

(4) Where paragraph (19) of EASA AD 2025–0104R1 refers to December 8, 2022 (the effective date of EASA AD 2022–0227, dated November 24, 2022), this AD requires using April 4, 2025 (the effective date of AD 2025–04–05).

(5) Where paragraph (21) of EASA AD 2025–0104R1 refers to December 8, 2022 (the effective date of EASA AD 2022–0227, dated November 24, 2022), this AD requires using July 18, 2023 (the effective date of AD 2023–11–08, Amendment 39–22454 (88 FR 38384, June 13, 2023)).

(6) Where EASA AD 2025–0104R1 refers to September 5, 2022 (the effective date of EASA AD 2022–0181, dated August 29, 2022), this AD requires using September 15, 2022 (the effective date of AD 2022–19–05, Amendment 39–22174 (87 FR 54870, September 8, 2022)).

(7) Where EASA AD 2025–0104R1 defines a Serviceable HPV, in part, as ''EBAS HPV, eligible for installation in accordance with Airbus instructions'', this AD requires replacing that text with ''EBAS HPV eligible for installation''.

(8) Where paragraphs (1), (2), (3), (7), and (29) of EASA AD 2025–0104R1 specify to inform all flightcrews of airplane flight manual (AFM) revisions and dispatch limitations, and thereafter operate the airplane accordingly, this AD does not require those actions, as those actions are already required by existing FAA operating regulations (see 14 CFR 91.9, 91.505, and 121.137 for AFM requirements and 14 CFR 121.628(a)(2) and (5) for minimum equipment list requirements).

(9) Where paragraph (20) of EASA AD 2025–0104R1 specifies ''as required by paragraph (17) of the original issue of this AD'', this AD requires replacing that text with ''as required by AD 2025–04–05 as specified in paragraph (17) of EASA AD 2023–0111R1''.

(10) Where paragraph (30) of EASA AD 2025–0104R1 specifies ''Modification of both EBAS HPV'', this AD requires replacing that text with ''Modification or replacement of both affected HPVs''.

(11) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0104R1.

(i) Credit for Previous Actions

Replacing both affected HPVs with non-affected HPVs having part number 71070A030001 before the effective date of this AD using Airbus Aircraft Maintenance Manual (AMM) Tasks 36–11–51–000–806 and 36–11–51–400–806 may be accomplished in lieu of modifying both affected HPVs, as specified in paragraph (30) of EASA AD 2025–0104R1.

(j) No Reporting Requirement

Although the material referenced in EASA AD 2025–0104R1 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(k) 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 (l)(1) of this AD and email to: *AMOC@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) AMOCs approved previously for AD 2025–04–05 are approved as AMOCs for the corresponding provisions of EASA AD 2025–0104R1 that are required by paragraph (g) of this AD.

(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 paragraphs (j) and (k)(2) of this AD, if any material referenced in EASA AD 2025–0104R1 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, 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 instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(l) Additional Information

(1) For more information about this AD, contact Rochelle Montgomery, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 405–551–0414; email: *Rochelle.Montgomery@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.*

(m) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0104R1, dated March 19, 2026.

(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 October 9, 2026.

Brian Knaup,

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

[FR Doc. 2026–21331 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2025–5403; Project Identifier AD–2025–01167–T; Amendment 39–23487; AD 2026–20–14]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This AD was prompted by reports from multiple operators of pitch oscillation events due to excessive horizontal stabilizer freeplay. This AD requires measuring the freeplay of the horizontal stabilizer pivot hinges and the jackscrew and applicable on-condition actions. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 23, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 23, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2025–5403; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For Boeing material identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; website *myboeingfleet.com*.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2025–5403.

FOR FURTHER INFORMATION CONTACT: Raymond Vital, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3521; email: *Raymond.J.Vital@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. The NPRM was published in the **Federal Register** on January 9, 2026 (91 FR 931); corrected January 16, 2026 (91 FR 2090). The NPRM was prompted by reports from multiple operators of pitch oscillation events due to excessive horizontal stabilizer freeplay. In the NPRM, the FAA proposed to require measuring the freeplay of the horizontal stabilizer pivot hinges and the jackscrew and applicable on-condition actions. The FAA is issuing this AD to address excessive horizontal stabilizer freeplay. The unsafe condition, if not addressed, could lead to a flutter event, which can result in loss of control of the airplane.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from five commenters, including the Air Line Pilots Association, International, Boeing, and two individuals who supported the NPRM without change.

The FAA received additional comments from four commenters, including Alaska Airlines, Aviation Partners Boeing (APB), Canadian North, and United Airlines. The following presents the comments received on the NPRM and the FAA's response to each comment.

Effect of Winglets on Accomplishment of the Proposed Actions

APB stated that the blended or split scimitar winglets installed per Supplemental Type Certificate (STC) ST00830SE does not affect compliance with the proposed requirements. APB further stated that, for airplanes with the split scimitar winglet (SSW) configuration, an alternative method of compliance (AMOC) might not be able to be obtained from The Boeing Company Organization Designation Authorization (ODA) per paragraph (i)(2) of the proposed AD for either (1) a repair of any worn parts identified as SSW-affected, as a result of proposed inspections, or (2) a deviation from the instructions of the Boeing service information in an SSW-affected area. APB noted that Boeing does not have delegated authority to approve repairs or deviations in areas affected by the SSW configuration, but that operators of airplanes accomplishing a repair of SSW-affected parts or deviation from Boeing service information in an SSW-affected area may obtain an alternative method of compliance (AMOC) according to paragraph (i)(1) of the proposed AD.

The FAA agrees that the installation of STC ST00830SE does not affect the ability to accomplish the actions required by this AD. The FAA has not changed this AD in this regard.

Request To Extend Certain Compliance Times

Canadian North requested that the FAA extend the initial inspection threshold from 12 months to 36 months after the original issue date of Boeing Alert Requirements Bulletin 737–55A1104 RB, dated June 12, 2025 (Boeing Alert Requirements Bulletin 737–55A1104 RB), to align it with the repetitive inspection interval. The commenter stated this would also align the initial inspection with the typical heavy maintenance visit, which would allow sufficient time for procurement, planning, and logistical coordination, thereby minimizing the risk of unscheduled downtime and reducing administrative burden.

United Airlines noted the repetitive inspection intervals are the same regardless of the inspection findings and applicable follow-on action, *i.e.,* either keeping the original parts installed or replacing or repairing a worn part. The commenter stated it believes the repetitive inspection intervals for airplanes with newly replaced parts (specifically hinge bearings) should be longer than the intervals for airplanes that have original production parts installed.

The FAA disagrees with extending the initial inspection threshold and the repetitive inspection intervals for airplanes with newly replaced parts. The FAA has determined that the compliance times identified in the required service information will ensure an acceptable level of safety for the fleet. Further, the repetitive inspection intervals were chosen to ensure that excessive freeplay does not exist for either original or new or replaced parts. However, under the provisions of paragraph (i) of this AD, the FAA will consider requests for approval of an extension of a compliance time, if sufficient data are submitted to substantiate that the new compliance time would provide an acceptable level

of safety. The FAA has not changed this AD in this regard.

Request To Allow a Deviation to Certain Required Actions

Alaska Airlines requested that the FAA revise paragraph (g) of the proposed AD to allow accomplishment of Actions 1, 2, and 3 of Table 3, Condition 3 of Boeing Alert Requirements Bulletin 737–55A1104 RB as an option to the required actions in Table 3, Condition 2. The commenter stated that Table 3, Condition 2 drives operators to Table 4, Condition 2, which consists of doing an interim freeplay check within 3,100 flight hours or within 6 months after the last freeplay check, and that a second interim freeplay check is required if the measurements of the first interim freeplay check fall under Table 4, Condition 2.1. The commenter stated that this change would allow operators to repair or replace parts to bring the airplane within the Level 1 limits and avoid interim freeplay checks.

The FAA disagrees with providing a deviation to the tables in the ''Compliance'' paragraph and Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–55A1104 RB. Table 3, Condition 2 and Table 4, Condition 2 do not prohibit accomplishing an inspection earlier than the specified compliance time; therefore, operators may accomplish the interim inspection in Table 4, Condition 2 early, and then perform the repair or replacement as soon as practical within the same maintenance period. A post-repair/replacement inspection is still required to verify freeplay values D1, D2, D3, and H are within the Level 1 limits before the airplane is returned to service. Additionally, under the provisions of paragraph (i) of this AD, the FAA will consider AMOC requests for a deviation to the required actions, provided adequate supporting information is submitted. The FAA has not changed this AD in this regard.

Request To Provide Credit for Other Service Information

United Airlines requested that the FAA revise the proposed AD to provide credit for inspecting the horizontal stabilizer for free play using Boeing Multi-Operator Message (MOM) MOM–MOM–22–0187–01B(R1), dated May 27, 2022 (Boeing MOM–MOM–22–0187–01B(R1)). The commenter noted that Boeing MOM–MOM–22–0187–01B(R1) states operators are able to obtain credit for performing this inspection once the eventual service bulletin and the potential AD are released. The commenter also stated it reviewed Boeing MOM–MOM–22–0187–01B(R1) and Boeing Alert Requirements Bulletin 737–55A1104 RB and confirmed they contain identical work instructions for the freeplay inspection.

The FAA disagrees because it is not necessary to provide credit in this AD. Airplanes on which accepted freeplay measurement procedures were accomplished using Boeing MOM–MOM–22–0187–01B(R1), or other certain service information, are classified as Group 1, Configuration 1 airplanes. Refer to the note under paragraph 1.A., ''Effectivity,'' of Boeing Alert Requirements Bulletin 737–55A1104 RB. The work instructions for Group 1, Configuration 1 airplanes already provide some relief for prior accomplishment of the freeplay measurement. The FAA has not changed this AD in this regard.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 737–55A1104 RB, dated June 12, 2025. This material specifies procedures for measuring freeplay of the left and right horizontal stabilizer pivot hinges and the jackscrew to determine freeplay value, and applicable on-condition actions. On-condition actions include determining total horizontal stabilizer freeplay, repeating the freeplay measurement procedure of the horizontal stabilizer pivot hinges and the jackscrew, and replacement or repair of any worn parts.

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

Costs of Compliance

The FAA estimates that this AD affects 1,987 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Freeplay measurement procedure	6 work-hours × $85 per hour = $510	$0	$510	$1,013,370

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repeat freeplay measurement procedure	6 work-hours × $85 per hour = $510	$0	$510
Replacement or repair of worn parts	1 work-hour × $85 per hour = $85	* 0	85

* The FAA has received no definitive data on which to base the cost estimate for the worn parts.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2026–20–14 The Boeing Company: Amendment 39–23487; Docket No. FAA–2025–5403; Project Identifier AD–2025–01167–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 23, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 737–55A1104 RB, dated June 12, 2025.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports from multiple operators of pitch oscillation events due to excessive horizontal stabilizer freeplay. The FAA is issuing this AD to address excessive horizontal stabilizer freeplay. The unsafe condition, if not addressed, could lead to a flutter event, which can result in loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–55A1104 RB, dated June 12, 2025, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–55A1104 RB, dated June 12, 2025.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–55A1104, dated June 12, 2025, which is referred to in Boeing Alert Requirements Bulletin 737–55A1104 RB, dated June 12,2025.

(h) Exception to Requirements Bulletin Specifications

Where the ''Effectivity'' paragraph and the Boeing Recommended Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–55A1104 RB, dated June 12, 2025, refer to the original issue date of the Requirements Bulletin 737–55A1104 RB, this AD requires using the effective date of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Additional Information

(1) For more information about this AD, contact Raymond Vital, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3521; email: *Raymond.J.Vital@faa.gov.*

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

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 737–55A1104 RB, dated June 12, 2025.

(ii) [Reserved]

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

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

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

Issued on October 9, 2026.

Brian Knaup,

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

[FR Doc. 2026–21333 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–7209; Project Identifier MCAI–2025–00629–E; Amendment 39–23493; AD 2026–21–04]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2009–04–13 for certain Rolls-Royce Deutschland Ltd & Co KG (RRD) Model BR700–715A1–30, BR700–715B1–30, and BR700–715C1–30 engines. AD 2009–04–13 required revising the airworthiness limitations section (ALS) of the operator's existing approved engine maintenance or inspection program, as applicable, to incorporate new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts. AD 2009–04–13 also required removing certain low-pressure compressor (LPC) (fan) disc assemblies from service and completing the Life Limited Part Tracking Sheet. Since the FAA issued AD 2009–04–13, the manufacturer has revised the engine time limits manual (TLM) to introduce new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts. This AD requires revising the ALS of the existing approved engine maintenance or inspection program, as applicable, to incorporate new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 23, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 23, 2026.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–7209; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For European Union Aviation Safety Agency (EASA) material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.* You may find this material on the EASA website at *ad.easa.europa.eu.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, FAA, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *regulations.gov* under Docket No. FAA–2026–7209.

FOR FURTHER INFORMATION CONTACT: Alexis Whitaker, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (516) 228–7309; email: *alexis.j.whitaker@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2009–04–13, Amendment 39–15819 (74 FR 7643, February 19, 2009) (AD 2009–04–13). AD 2009–04–13 applied to RRD Model BR700–715A1–30, BR700–715B1–30, and BR700–715C1–30 engines, with an LPC compressor (fan) disc assembly, part number (P/N) BRH10048 or P/N BRH19253. AD 2009–04–13 required revising the ALS of the operator's existing approved engine maintenance or inspection program, as applicable, to incorporate new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts. Additionally, AD 2009–04–13 required removing LPC compressor (fan) disc assemblies from service that exceed a certain life limit, removing LPC compressor (fan) disc assemblies from service that do not pass the Hawaiian Flight Mission check, and completing the Life Limited Part Tracking Sheet. The FAA issued AD 2009–04–13 to prevent failure of critical rotating parts, which, if not addressed, could result in uncontained failure of the LPC (fan) disc assembly and damage to the airplane.

The NPRM was published in the **Federal Register** on July 6, 2026 (91 FR 40900). The NPRM was prompted by EASA AD 2025–0086, dated April 16, 2025 (EASA AD 2025–0086) (also referred to as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that the manufacturer published a revised engine TLM to introduce new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts.

In the NPRM, the FAA proposed to require revising the ALS of the existing approved engine maintenance or inspection program, as applicable, to incorporate new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts.

Discussion of Final Airworthiness Directive

Comments

The FAA received comments from two commenters. Commenters included the Air Line Pilots Association, International and The Boeing Company. All commenters supported the NPRM without change.

Conclusion

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2025–0086, which specifies revising the ALS of the existing approved engine maintenance or inspection program, as applicable, to incorporate new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts.

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

Differences Between This AD and the MCAI

Where paragraph (3) of EASA AD 2025–0086 specifies revising the approved Aircraft Maintenance

Programme (AMP) within 12 months after the effective date of EASA AD 2025–0086, this AD requires revising the ALS of the existing approved engine maintenance or inspection program, as applicable, within 30 days after the effective date of this AD.

Costs of Compliance

The FAA estimates that this AD affects 218 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS	1 work-hour × $85 per hour = $85	$0	$85	$18,530

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2009–04–13, Amendment 39–15819 (74 FR 7643, February 19, 2009); and

■ b. Adding the following new airworthiness directive:

2026–21–04 Rolls-Royce Deutschland Ltd & Co KG: Amendment 39–23493; Docket No. FAA–2026–7209; Project Identifier MCAI–2025–00629–E.

(a) Effective Date

This airworthiness directive (AD) is effective November 23, 2026.

(b) Affected ADs

This AD replaces AD 2009–04–13, Amendment 39–15819 (74 FR 7643, February 19, 2009).

(c) Applicability

This AD applies to all Rolls-Royce Deutschland Ltd & Co KG Model BR700–715A1–30, BR700–715B1–30, and BR700–715C1–30 engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine (Turbine/Turboprop).

(e) Unsafe Condition

This AD was prompted by the manufacturer revising the engine time limits manual to introduce new or more restrictive tasks and limitations and associated thresholds and intervals for life-limited parts. The FAA is issuing this AD to prevent an unsafe condition identified as an uncontained failure of critical rotating parts. The unsafe condition, if not addressed, could result in uncontained failure of the low-pressure compressor (fan) disc assembly and damage to the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD, perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2025–0086, dated April 16, 2025 (EASA AD 2025–0086).

(h) Exceptions to EASA AD 2025–0086

(1) Where EASA AD 2025–0086 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not require compliance with paragraphs (1), (2), (4), and (5) of EASA AD 2025–0086.

(3) Where paragraph (3) of EASA AD 2025–0086 specifies ''Within 12 months after the effective date of this AD, revise the approved AMP'', this AD requires replacing that text with ''Within 30 days after the effective date of this AD, revise the airworthiness limitations section (ALS) of the existing approved engine maintenance or inspection program, as applicable''.

(4) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0086.

(i) Provisions for Alternative Actions and Intervals

No alternative actions and associated thresholds and intervals, including life limits, are allowed for compliance with paragraph (g) of this AD unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2025–0086.

(j) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector,

or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Additional Information

For more information about this AD, contact Alexis Whitaker, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (516) 228–7309; email: *alexis.j.whitaker@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0086, dated April 16, 2025.

(ii) [Reserved]

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

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

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

Issued on October 14, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–21278 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

15 CFR Part 15

[Docket No. 261015–0005]

RIN 0605–AA93

Streamlining the Regulations Governing Testimony by Employees and the Production of Documents in Legal Proceedings

AGENCY: Department of Commerce (Department).

ACTION: Final rule.

SUMMARY: By this rule, the Department amends the regulations governing testimony by its current and former employees and the production of its documents in legal proceedings. This rule amends those regulations by removing and/or replacing language that is redundant, that references other authorities, or that provides only unnecessary elaboration. This action is necessary to streamline the Department's regulations and reduce regulatory complexity. This action is intended to promote efficiency and simplicity, and to minimize the risk of confusion and/or distraction, without significantly altering any entitlements, obligations, or processes in connection with testimony by Department employees or the production of Department documents.

DATES: The rule is effective October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Daniel Sweeney, Deputy General Counsel for Economic, Statistical, and Regulatory Affairs, Office of the General Counsel, at (240) 474–3619.

SUPPLEMENTARY INFORMATION:

I. Background

This action amends the regulations at 15 CFR part 15, subpart B, which govern testimony by current and former employees of the Department and the production of documents in legal proceedings. Those regulations were promulgated on February 17, 1995 (60 FR 9291), and redesignated on April 23, 1997 (62 FR 19669). The cited statutory bases for the regulations include, among others, 5 U.S.C. 301, which grants the Secretary of Commerce the authority to ''prescribe regulations for the government of his department, the conduct of its employees, . . . and the custody, use, and preservation of its records, papers, and property''; and 5 U.S.C. 1512, which vests the Department ''with jurisdiction and control'' over its ''bureaus, offices, and branches.''

The regulations at part 15, subpart B, are known as the Department's ''Touhy regulations,'' referring to the Supreme Court's decision in *Touhy* v. *Ragen,* 340 U.S. 462 (1951). In that case, the Supreme Court held that a subordinate official of the Department of Justice could lawfully refuse to obey a subpoena duces tecum ordering the production of government papers in his possession pursuant to a housekeeping regulation issued by the Attorney General. *Id.* at 463–70. Accordingly, many Federal agencies have promulgated their own Touhy regulations restricting subordinate officials from testifying or producing agency records in legal proceedings without certain prior approval from the agency head or his designee. *See, e.g.,* 32 CFR part 97 (Department of War); 7 CFR part 1, subpart K (Department of Agriculture); 43 CFR part 2, subpart L (Department of the Interior); 6 CFR part 5, subpart C (Department of Homeland Security).

As for the Department of Commerce's Touhy regulations, subpart B consists of eight sections. *See* 15 CFR 15.11–15.18. *Section 15.11* describes the scope of the subpart; clarifies that the subpart does not apply to certain scenarios (*e.g.,* testimony while on leave status regarding facts or events unrelated to the official business of the Department, subpoenas for testimony from Congress, demands for testimony by the United States Patent and Trademark Office (USPTO)); and notes that the subpart is not intended to be relied upon to, and does not, create any right or benefit, substantive or procedural, enforceable at law by any party against the United States. *Section 15.12* sets forth various definitions for the subpart. *Section 15.13* sets forth general rules and restrictions governing demands for the testimony of an employee or for the production of documents of the Department; namely, it establishes that ''[n]o employee, in response to a demand, shall produce any documents or information of the Department, or provide testimony regarding any information relating to, or based upon Department documents, or disclose any information or produce documents acquired or generated as part of the performance of that employee's official duties or because of that employee's official status without the prior authorization of the General Counsel or appropriate agency counsel.'' *Section 15.14* sets forth additional rules and restrictions governing demands for the testimony of an employee or for the production of documents of the Department with respect to matters in which the United States is *not* a party, and *section 15.15* does the same with respect to matters in which the United States *is* a party. *Section 15.16* elaborates on the policy and factors to be considered by the General Counsel or appropriate agency counsel when determining whether disclosure or testimony is in the interests of the Department. *Section 15.17* addresses the scenario of demands served upon employees or former employees of the Office of the Inspector General. Lastly, *section 15.18* re-addresses the issue of testimony of Department employees in proceedings involving the United States.

II. Discussion

This action amends the regulations at part 15, subpart B, in the following ways.

First, this action removes text that is plainly redundant. In particular, this action removes from § 15.11(a) the

language prohibiting compliance with certain demands without prior authorization, as that language merely previews the more-detailed restrictions set forth throughout the rest of subpart B. This action also amends §§ 15.12 and 15.15(c) by replacing redundant text (*i.e.,* duplicative definitions and language regarding expert or opinion witnesses in matters in which the United States is a party) with cross-references to earlier portions of part 15 that set forth substantially identical language. This action eliminates § 15.18 entirely, as that section merely restates certain language found at § 15.15(a) and (b) and re-addresses the issue of testimony of Department employees in proceedings involving the United States. These changes streamline subpart B of part 15, and reduce the possibility of confusion associated with redundant text, without making any meaningful substantive changes to the contents of part 15.

Second, this action removes unnecessary citations and references to authorities that speak for themselves. For instance, this action removes from §§ 15.13(d)(2) and 15.14(g)(1)(ii) (*i.e.,* two subsections addressing when it is appropriate for employees to refuse to provide testimony or produce documents) the citations to *Touhy* v. *Ragen,* 340 U.S. 462 (1951); that Supreme Court decision is sufficiently well established, and these bare citations to it do not provide enough explanatory or contextual value to justify their continued presence in the Code of Federal Regulations. Similarly, this action removes from §§ 15.11(d) and 15.13(b)(2) the cross-references to the USPTO regulations at 37 CFR part 104, while keeping intact the general clarification that subpart B does not apply to demands for testimony of an employee or for the production of documents of the USPTO; the regulations at 37 CFR part 104 are already sufficiently available to the public, and removing the cross-references thereto streamlines subpart B and also eliminates the possibility of confusion in the event that the USPTO regulations are reclassified.

Third, this action removes—and consolidates, as appropriate—a miscellaneous set of unnecessary and excessive regulatory text. Specifically, this action removes: (1) language requiring employees to make certain communications about declining or refusing to comply ''respectfully,'' *see* §§ 15.13(d)(2) and 15.14(f)–(g); (2) language elaborating on the purpose of certain regulatory requirements, *see* §§ 15.14(b) and 15.15(b); (3) language stating that, ''where a statute or Presidential order mandates a personal decision by the Secretary,'' he ''retains'' the authority to make such a decision, *see* § 15.14(d); and (4) language elaborating on the Department's internal administrative processes and requirements related to legal review, consultation, and authorization, *see* §§ 15.11(e), 15.13(d)(1), 15.13(d)(2), 15.14(g)(1), 15.14(g)(1)(i)(C), 15.15(a). None of this language is necessary and, upon review, the Department considers the continued maintenance of such language in the Code of Federal Regulations to be unwarranted.

Overall, this action simplifies and streamlines the regulations at part 15, subpart B, without significantly altering any entitlements, obligations, or processes in connection with testimony by Department employees or the production of Department documents.

Regulatory Classifications

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(a)(2), the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking and the opportunity for public participation are inapplicable to this rule because it concerns ''a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.'' This rule sets forth requirements and restrictions regarding the testimony of Department employees and the production of Department documents; accordingly, it plainly concerns agency management, personnel, and property.

The Department also finds good cause to waive the prior notice and opportunity for public participation requirements of the Administrative Procedure Act for this final rule pursuant to 5 U.S.C. 553(b)(B). The Department has determined that prior notice and opportunity for public participation is unnecessary and unwarranted, because this rule merely removes and/or replaces excess regulatory text; none of the text being removed by this rule is required by any authority, and none of the removals will meaningfully impact any substantive requirement, restriction, or entitlement. This action is consistent with the Department's commitment to pursuing regulatory simplicity and efficiency, and the Department considers public participation impracticable for this housekeeping action.

Similarly, the Department has determined that delaying the effectiveness of this rule would be contrary to the public interest. The described removals and amendments will streamline part 15, subpart B—and thereby enhance clarity and minimize the possibility of confusion and/or distraction—without meaningfully altering any requirement, restriction, or entitlement, and at little to no cost. These regulatory revisions do not require any affected entity to take any advance action to come into compliance with any provision.

For these reasons, the Department issues this final rule without prior public notice and comment or a delayed effective date pursuant to 5 U.S.C. 553(a)(2). Additionally, the Department finds good cause to waive the public notice and comment period under 553(b)(B) and to waive the 30-day delay in effectiveness under 553(d)(3).

B. Executive Orders 12866, 14192, and 13132

The Office of Management and Budget has determined this rule is not significant pursuant to Executive Order (E.O.) 12866. This rule is an E.O. 14192 deregulatory action. This rule does not contain policies having federalism implications as the term is defined in E.O. 13132.

C. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public participation are not required to be given for this rule by 5 U.S.C. 553(b)(B), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

D. Paperwork Reduction Act

This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in 15 CFR Part 15

Administrative practice and procedure, Courts, Government employees.

Dated: October 15, 2026.

Daniel Sweeney,

Deputy General Counsel for Economic, Statistical, and Regulatory Affairs.

Accordingly, for the reasons set forth above, part 15 of title 15 of the Code of Federal Regulations is amended as follows:

PART 15—LEGAL PROCEEDINGS

■ 1. The authority citation for part 15 continues to read as follows:

Authority: 5 U.S.C. 301; 15 U.S.C. 1501, 1512, 1513, 1515 and 1518; Reorganization

Plan No. 5 of 1950; 3 CFR, 1949–1953 Comp., p. 1004; 44 U.S.C. 3101; subpart C is issued under 37 U.S.C. 101, 706; 15 U.S.C. 1673; 42 U.S.C. 665.

Subpart B—Testimony by Employees and the Production of Documents in Legal Proceedings

■ 2. Amend § 15.11 by revising paragraphs (a), (c), (d), and (e) to read as follows:

§ 15.11 Scope.

(a) This subpart sets forth the policies and procedures to be followed with respect to the production or disclosure of the testimony of employees and former employees of the Department of Commerce as witnesses in legal proceedings and the production or disclosure of information contained in Department of Commerce documents, or any information acquired by any person while such person was an employee of the Department of Commerce, for use in legal proceedings pursuant to a request, order, or subpoena (collectively referred to in this subpart as a ''demand'').

* * * * *

(c) This subpart does not apply to any legal proceeding in which the Department is a party or to demands for testimony or documents received from Congress, a Federal agency Inspector General, or a Special Prosecutor.

(d) This subpart does not apply to any demand for testimony of employees and former employees of the United States Patent and Trademark Office (USPTO) or to demands for the production of USPTO documents. Any such demand must be sent directly to USPTO.

(e) This subpart in no way affects the rights and procedures governing public access to records pursuant to the Freedom of Information Act, the Privacy Act, or the Trade Secrets Act or other Federal law restricting the disclosure of information. Moreover, demands in legal proceedings for the production of records, or for the testimony of Department employees regarding information protected by the Privacy Act, 5 U.S.C. 552a, the Trade Secrets Act, 18 U.S.C. 1905, Census data under Title 13, U.S.C., or other confidentiality statutes, must satisfy the requirements for disclosure set forth in those statutes, if any, before the records may be provided or testimony given.

* * * * *

■ 3. Revise § 15.12 to read as follows:

§ 15.12 Definitions

The definitions set forth at § 15.2(b), (c), (f), and (g), and also the following definitions, shall apply to this subpart:

Agency counsel means the Chief Counsel/s or General Counsel/s (or that official's designee) of a bureau or operating unit within the U.S. Department of Commerce who is the senior legal officer responsible for overseeing legal advice and guidance provided to a particular bureau or operating unit.

Counsel to the Inspector General means Counsel to the Inspector General of the U.S. Department of Commerce.

Demand means a request, order, or subpoena for testimony or documents for use in any legal proceeding, regardless of whether the United States is a party to the proceeding.

Document or *information* means any record, regardless of format, medium or physical characteristic, document, electronically stored information, paper and other property of the Department, including without limitation, official letters, telegrams, memoranda, reports, studies, writings, emails, calendar and diary entries, text or chat messages, maps, graphs, pamphlets, notes, charts, tabulations, analyses, statistical or informational accumulations, any kind of summaries of meetings and conversations, film impressions, magnetic tapes or sound or mechanical reproductions. Nothing in this paragraph (f) shall be interpreted as requiring the creation of a new document to respond to any demand.

Employee means any current or former employees or officers of the U.S. Department of Commerce, including any commissioned officer of the National Oceanic and Atmospheric Administration or any other individual who has been appointed by, or is subject to the supervision, jurisdiction, or control of the U.S. Department of Commerce, including contract employees. Contractors may be included.

General Counsel means the General Counsel of the U.S. Department of Commerce or other U.S. Department of Commerce employee to whom the General Counsel has delegated authority to act under this subpart.

Inspector General means the Inspector General of the U.S. Department of Commerce.

Legal proceeding means all pretrial, trial, and post-trial stages of any existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before administrative, civil, or criminal courts, commissions, boards, or other tribunals, domestic—including local, tribal, state, and Federal—foreign, or international. ''Legal proceedings'' includes all phases of discovery as well as responses to any formal or informal requests by attorneys, investigators, or other persons not employed by the Department, regarding, testimony, documents, information, or consultation, solicited for use in any legal proceedings.

Testimony means a statement in any form, including personal appearances before a judge, magistrate, administrative law judge, administrative judge, hearing officer, special master, special counsel, investigating officer or board, or any other court or legal tribunal; declarations made pursuant to 28 U.S.C. 1746; interviews; depositions; telephonic, televised, or videotaped statements; or any responses given during discovery or similar proceedings, which response would involve more than the production of documents.

United States means the Federal Government, its departments and agencies, and individuals acting on behalf of the Federal Government.

■ 4. Amend § 15.13 by revising paragraphs (b) and (d) to read as follows:

§ 15.13 Demand for testimony or production of documents: Department procedures.

* * * * *

(b) *Notifications.* (1) A demand for the testimony of an employee or for the production of documents of the Department shall be made in writing and addressed to the Assistant General Counsel for Employment, Litigation, and Information, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 5896, Washington, DC 20230; or by email to: *Touhy@doc.gov;* or in writing and addressed or email to appropriate agency counsel.

(2) [Reserved]

* * * * *

(d) *Subpoenas.* A subpoena for testimony or production of documents by a Department employee must be served in person or by mail in accordance with the Federal Rules of Civil or Criminal Procedure or applicable state procedure. Service solely by electronic means is not authorized. If service is made upon anyone other than the General Counsel or appropriate agency counsel, then a copy of the subpoena shall also be contemporaneously sent to the General Counsel at the appropriate addresses in paragraph (b) of this section, or appropriate agency counsel.

(1) An employee who receives such a subpoena shall not respond and shall immediately forward the subpoena to the Office of the Assistant General Counsel for Employment, Litigation, and Information or appropriate agency counsel for their legal review and determination. No employee will comply with such a subpoena without

express permission of the of the General Counsel or appropriate agency counsel.

(2) [Reserved]

* * * * *

■ 5. Amend § 15.14 by removing and reserving paragraphs (b) and (d) and by revising paragraphs (f)(1), (g) introductory text, (g)(1) and (2) to read as follows:

§ 15.14 Demand for testimony or production of documents in matters in which the United States is not a party.

* * * * *

(f) * * *

(1) Decline to answer on the grounds that such testimony is prohibited; and

* * * * *

(g) *Expert or opinion witness.* (1) Current employees, with or without compensation, shall not provide expert or opinion testimony in any legal proceedings regarding Department information, subjects, or activities except on behalf of the United States or a party represented by the United States Department of Justice, unless they receive a prior authorization in writing from the General Counsel or appropriate agency counsel.

(i) If, while testifying in any legal proceeding, an employee is asked for expert or opinion testimony regarding official information, subjects, or activities, which testimony has not been approved in advance in accordance with the regulations in this subpart, the witness shall:

(A) Decline to answer on the grounds that such expert or opinion testimony is forbidden by the regulations in this subpart; and

(B) Request an opportunity to consult with the General Counsel or appropriate agency counsel before giving such testimony.

(C) [Reserved]

(ii) If the body conducting the proceeding then orders the witness to provide expert or opinion testimony regarding official information, subjects, or activities without the opportunity to consult with either the General Counsel or appropriate agency counsel, the witness shall decline to comply with that order.

* * * * *

■ 6. Amend § 15.15 by revising paragraphs (a), (b), and (c) to read as follows:

§ 15.15 Demand for testimony or production of documents in matters in which the United States is a party.

* * * * *

(a) *Demand not from the United States.* For demands for documents from, or testimony of an employee of the Department, from an entity other than the United States pursuant to a legal proceeding in which the United States is a party, the demand must be in writing and signed, delivered in accordance with § 15.13(b), setting forth the information required in § 15.14(a), and copied to the attorneys of record representing or acting under the authority of the United States in the legal proceeding.

(b) *Demand from the United States.* When a demand for documents from, testimony of, or consultation with an employee of the Department comes from an attorney representing or acting under the authority of the United States concerning a legal proceeding in which the United States is a party, every such demand should be accompanied by a statement setting forth the legal proceeding, the forum, the United States' interest in the legal proceeding, and the relevance and use of the requested documents or testimony. Where appropriate, the General Counsel or appropriate agency counsel may require reimbursement to the Department of the expenses associated with a Department employee giving testimony or providing consultation on behalf of the United States.

(c) *Expert or opinion witness.* In a legal proceeding in which the United States is a party, a current Department employee may not testify as an expert or opinion witness for any other party other than the United States. However, a former employee may provide opinion or expert testimony for a party other than the United States under the same conditions set out in § 15.14(e)(2).

§ 15.18 [Removed and Reserved]

■ 7. Remove and reserve § 15.18.

[FR Doc. 2026–21272 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–17–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1461

[Docket No. CPSC–2022–0017]

RIN 3041–AE27

Interpretation of ''Flammable Liquid Fuels'' With Respect to Fuel Additives

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; interpretation.

SUMMARY: The Consumer Product Safety Commission (CPSC) is issuing an interpretive rule that interprets the phrase ''flammable liquid fuels'' as used in the Portable Fuel Container Safety Act of 2020 (PFCSA). Consistent with the plain language of the statute, the Commission interprets this phrase not to include fuel additives that are intended to be added to flammable liquid fuels for the sole purpose of improving engine performance, cleaning engine components, extending engine life, stabilizing fuel, preventing weather effects from fuel, or some similar purpose unrelated to creating heat or power.

DATES: The rule is effective on October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Matthew A. Campbell, General Counsel, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; telephone: (301) 504–0124; email: *mcampbell@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. PFCSA

The PFCSA required the Commission to promulgate, not later than 30 months after December 27, 2020, a final rule to require flame mitigation devices in portable fuel containers that impede the propagation of flame into the container. 15 U.S.C. 2056d(b)(1). However, the Commission was not required to promulgate a final rule for a class of portable fuel containers within the scope of the PFCSA if the Commission determined that existing voluntary standards met certain requirements under the statute and published those determinations in the **Federal Register**. 15 U.S.C. 2056d(b)(3). Pursuant to the PFCSA, once the Commission made such a determination with respect to a voluntary standard, the requirements of that voluntary standard shall be treated as a mandatory consumer product safety rule. 15 U.S.C. 2056d(b)(4).

On January 13, 2023, the Commission published favorable determinations under section 2056d(b)(3)(A) of the PFCSA regarding three voluntary standards for portable fuel containers: ASTM F3429/F3429M–20, ASTM F3326–21, and section 18 of ANSI/CAN/UL/ULC 30:2022 (UL 30:2022). 88 FR 2206. Since the Commission's January 2023 determinations, ASTM F3429/F3429M–20 has been updated twice. In October 2023, the mandatory standard was updated to ASTM F3429/F3429M–23 and CPSC codified this standard in the Code of Federal Regulations (88 FR 74342, October 31, 2023), and in April 2024, the mandatory standard was updated to ASTM F3429/F3429M–24 (89 FR 34102, April 30, 2024). Pursuant to the PFCSA, each revised voluntary standard became enforceable as a

mandatory consumer product safety rule, in place of the prior version of the voluntary standard, because the Commission found that each revised voluntary standard met the requirements of the PFCSA. 15 U.S.C. 2056d(b)(5). The Commission has codified the current version of each voluntary standard that is mandatory standard under the PFCSA in 16 CFR part 1461.

B. Statutory Definition of Portable Fuel Container

The PFCSA defines the term ''portable fuel container'' as any container or vessel (including any spout, cap, and other closure mechanism or component of such container or vessel or any retrofit or aftermarket spout or component intended or reasonably anticipated to be for use with such container):

- intended for *flammable liquid fuels* with a flash point less than 140 degrees Fahrenheit, including gasoline, kerosene, diesel, ethanol, methanol, denatured alcohol, or biofuels;
- that is a consumer product with a capacity of 5 gallons or less; and
- that the manufacturer knows or reasonably should know is used by consumers for transporting, storing, and dispensing flammable liquid fuels.

15 U.S.C. 2056d(b)(8) (emphasis added). The statute does not expressly address whether the phrase ''flammable liquid fuels'' includes fuel additives that have a flash point less than 140 degrees Fahrenheit and are intended solely to improve engine performance, clean engine components, extend engine life, stabilize fuel, prevent weather effects from fuel, or serve another purpose unrelated to creating heat or power.

C. Fuel Additives Under the PFCSA

On May 24, 2022, the Commission published a notice of availability requesting public comment on staff's voluntary standards evaluation under the PFCSA. 87 FR 31540. In response to the notice of availability, two commenters asked the Commission to clarify whether fuel additives are considered fuel under the statutory definition of portable fuel containers in the PFCSA. In the January 2023 determinations notice, the Commission published CPSC staff's response to these comments, stating:

> The PFCSA defines ''portable fuel containers'' as products ''intended for flammable liquid fuels with a flash point less than 140 degrees Fahrenheit, including gasoline, kerosene, diesel, ethanol, methanol, denatured alcohol, or biofuels.'' 15 U.S.C. 2056d(b)(8)(A). Fuels generally are considered substances that can be burned to release energy, and liquids with a flash point below 140 degrees Fahrenheit are, by the definition of flash point, capable of being burned at that temperature. Staff assessed all known flammable liquid fuels with a flash point less than 140 degrees as part of the evaluation of the voluntary standards under the PFCSA. Accordingly, *while classification of a particular container for purposes of the PFCSA is case-specific, as a general matter, when a liquid with a flash point less than 140 degrees Fahrenheit is intended to be used as, or in, a fuel mixture to support combustion, it is a fuel under the definition of ''portable fuel containers*'' as indicated in the PFCSA.
>
> 88 FR 2209 (emphasis added).

In December 2024, the fuel additive manufacturer Auto-Mark, Inc. d/b/a Sea Foam Sales Company (Sea Foam) filed suit in the U.S. District Court for the District of Minnesota, asserting that the PFCSA should not be interpreted to include Sea Foam's fuel additives. *Auto-Mark, Inc.* v. *Consumer Prod. Safety Comm'n,* 2025 U.S. Dist. LEXIS 183107* (D. Minn. Sept. 18, 2025). Sea Foam stated that its products should not be considered ''fuel'' because they do not create heat or power on their own and instead are used to clean the components of fuel and oil systems. *Id.* at *27. In September 2025, the court in an unpublished order noted that the dictionary definitions of ''fuel'' include ''combustible matter used to maintain fire, as coal, wood, oil, or gas, in order to create heat or power'' and ''a material used to produce heat or power by burning.'' *Id.* The court concluded that, ''[g]iven the record presented at this time, the fuel-additive products at issue do not meet the dictionary definitions of 'fuel'. . . . '' *Id.*

II. Description of the Interpretive Rule

As noted above, the Commission previously published in the **Federal Register** staff's response to comments concerning the status of fuel additives under the PFCSA, which stated that ''while classification of a particular container for purposes of the PFCSA is case-specific, as a general matter, when a liquid with a flash point less than 140 degrees Fahrenheit is intended to be used as, or in, a fuel mixture to support combustion, it is a fuel under the definition of 'portable fuel containers.' '' 88 FR 2209. In light of the statutory text, the ordinary meaning of the term ''fuel,'' and the considerations discussed above, the Commission concludes this term in the Portable Fuel Container Safety Act does not encompass fuel additives that are intended solely to perform maintenance or performance-enhancing functions rather than to create heat or power. The Commission's prior interpretation was articulated in January 2023, when the prevailing law under *Chevron, U.S.A., Inc.* v. *Nat. Res. Def. Council, Inc.* was that courts must defer to an agency's reasonable interpretation of an ambiguous statute that it administers. 467 U.S. 837 (1984). However, the Supreme Court subsequently overturned *Chevron* and articulated a new legal standard in *Loper Bright Enters.* v. *Raimondo,* which holds that ''Courts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority . . . .'' 603 U.S. 369 (2024). Thus, even if the Commission disagreed about the best interpretation of ''fuel'' under the Act (which it does not), the ultimate authority for interpreting the Act lies with the courts. And, as noted above, the District Court has provided its interpretation.

Consistent with this interpretation, the Commission amends 16 CFR part 1461, ''Portable Fuel Container Safety Act Regulation'' by adding a new paragraph (b) to section 1461.2, Definition, which states that the Commission does not interpret the phrase ''flammable liquid fuels'' in the statutory definition of portable fuel container in paragraph (a) of section 1461.2 to include fuel additives that are intended to be added to liquid flammable fuels for the sole purpose of improving engine performance, cleaning engine components, extending engine life, stabilizing fuel, preventing weather effects from fuel, or another purpose unrelated to creating heat or power.[1] This new paragraph is being added to section 1461.2 to inform the public that the Commission does not interpret the phrase ''flammable liquid fuels'' to include fuel additives as described in section 1461.2(b). This additional guidance provides regulatory certainty regarding the Commission's interpretation of the PFCSA and the products that fall within the scope of the PFCSA, thereby providing clarity to manufacturers, retailers, importers, consumers, and other interested parties.

The interpretive rule does not impose any new legal obligations or substantive requirements on regulated entities. Rather, it explains the Commission's interpretation of existing statutory language. Because this is an interpretive rule, the Administrative Procedure Act does not require the Commission to issue a notice of proposed rulemaking, and this interpretive rule is effective as of the date of publication in the **Federal Register**. 5 U.S.C. 553(b). This is consistent with the U.S. Attorney General's definition for interpretative rules, described as ''rules or statements

[1] The Commission voted 3–0 to publish this notification.

. . . to advise the public of the agency's construction of the statues and rules which it administers'' (Department of Justice, *Attorney General's Manual on the Administrative Procedure Act,* 30 n.3 (1947)). Additionally, the Commission is not required to conduct a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 604, and this interpretive rule has no preemptive effect. This interpretive rule contains no new information collection requirements under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501 *et seq.* The Office of Information and Regulatory Affairs has found that this interpretive rule meets the Congressional Review Act criteria at 5 U.S.C. 804(2). However, the Commission has also found that a delayed effective date is impractical and unnecessary for this interpretive rule. 5 U.S.C. 808(2).

III. Burden Reduction

Executive Order 14192, ''Unleashing Prosperity Through Deregulation'' (E.O. 14192) states the policy of the executive branch ''to alleviate unnecessary regulatory burdens placed on the American people.'' 90 FR 9065, Feb. 6, 2025; signed Jan. 31, 2025. In accordance with E.O. 14192, the Commission is reviewing its regulations to reduce regulatory burdens and costs.

This interpretive rule clarifies that fuel additives intended solely to improve engine performance, clean engine components, extend engine life, stabilize fuel, prevent weather-related degradation, or serve other purposes unrelated to creating heat or power are not ''flammable liquid fuels'' within the meaning of the PFCSA. Accordingly, portable containers intended solely for such fuel additives are not subject to the flame mitigation device requirements for portable fuel containers in 16 CFR part 1461.

This final rule is a deregulatory action under E.O. 14192. Staff estimates that this clarification avoids approximately $545.7 million in annual compliance costs that otherwise would be incurred by manufacturers of fuel additive products. Discounted over 10- and 30-year periods using OMB-recommended discount rates of 3 and 7 percent, respectively, the present value of these avoided costs ranges from approximately $3.8 billion to $10.7 billion.

By clarifying the proper scope of the statutory definition of ''portable fuel container'' and eliminating unnecessary compliance obligations for products outside that definition, this interpretive rule advances the policy reflected in E.O. 14192 of reducing unnecessary regulatory burdens on the American people while faithfully executing the law.

List of Subjects in 16 CFR Part 1461

Consumer protection, Portable fuel containers, Safety.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1461—PORTABLE FUEL CONTAINER SAFETY ACT REGULATION

■ 1. The authority citation for part 1461continues to read as follows:

Authority: 15 U.S.C. 2056d.

■ 2. Amend § 1461.2 by adding paragraph (b) to read as follows:

§ 1461.2 Definition.

* * * * *

(b) The Commission does not interpret the phrase ''flammable liquid fuels'' in the statutory definition of portable fuel container in paragraph (a) of this section to include fuel additives that are intended to be added to flammable liquid fuels for the sole purpose of improving engine performance, cleaning engine components, extending engine life, stabilizing fuel, preventing weather effects from fuel, or another purpose unrelated to creating heat or power.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2026–21348 Filed 10–16–26; 8:45 am]

BILLING CODE 6355–01–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AF81

Further Definition of ''Swap'' To Exclude Casino-Style Gambling Products

AGENCY: Commodity Futures Trading Commission.

ACTION: Interim final rule; request for comments.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is adopting an interim final rule (''Interim Final Rule'') to codify its longstanding position that casino-style gambling products, including wagers placed on sportsbooks and casino games, are excluded from the ''swap'' definition.

DATES:

Effective Date: This interim final rule is effective October 19, 2026.

Request for comment: Comments must be received by November 18, 2026.

ADDRESSES: You may submit comments, specifically referencing ''Further Definition of 'Swap' to Exclude Casino-Style Gambling Products'' and RIN 3038–AF81, by any of the following methods:

- *Regulations.gov:* Go to *https://www.regulations.gov* and press the ''Search'' button, then proceed as follows:

1. Under Refine Documents Results—check the box to ''Only show documents open for comment'';

2. Under Agency—select ''See More'' and check the box for ''Commodity Futures Trading Commission,'' then press the Apply button;

3. Identify this proposal in the list of CFTC documents open for comment, press the ''Comment'' button to open the submission form, and follow the instructions on the form.

Alternatively, if you are viewing this proposal on *www.federalregister.gov,* click the ''Submit A Public Comment'' button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to *Regulations.gov*.

- *Mail:* Send to—Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through *Regulations.gov* are encouraged.

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission's consideration, please contact the CFTC personnel listed in this Notice under

FOR FURTHER INFORMATION CONTACT

before making any submission. Please also carefully review the Commission's procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (FOIA) of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this proposal, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Tyler S. Badgley, General Counsel; Aaron M. Levine, Deputy General Counsel for Regulation, *rulemaking@cftc.gov,* 202–418–5000, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') established a comprehensive regulatory framework for swaps.[1] Section 712(d)(1) of the Dodd-Frank Act provides that the Commission and the Securities and Exchange Commission (''SEC''), in consultation with the Board of Governors of the Federal Reserve System (the ''Federal Reserve Board''), shall jointly further define, among other terms, the term ''swap.'' [2] Pursuant to this requirement, in 2012, the Commission and the SEC, in consultation with the Federal Reserve Board, issued a final rule further defining the term ''swap'' and other terms.[3] That rule addressed, among other topics, the treatment of certain traditional, non-derivatives products, agreements, contracts, and transactions that they concluded Congress did not intend to be regulated as swaps or security-based swaps, including insurance contracts and certain commercial and consumer transactions.

This Interim Final Rule arises in the context of the ongoing debate regarding the scope of the Commission's jurisdiction under the Commodity Exchange Act (''CEA''), particularly as it relates to event contracts. The CFTC generally has found that many event contracts, including those based on sports-related events, are covered by the CEA's swap definition.[4] The CEA contains six definitions of ''swap,'' at least four of which are applicable to event contracts.

First, CEA section 1a(47)(A)(i) includes binary options and other commodity options in the ''swap'' definition by including ''any agreement, contract, or transaction . . . that is a put, call, cap, floor, collar, or similar option of any kind that is for the purchase or sale, or based on the value, of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind.'' [5]

Second, CEA section 1a(47)(A)(ii) defines ''swap'' to include ''any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.'' [6]

Third, CEA section 1a(47)(A)(iv) includes in the ''swap'' definition ''an agreement, contract, or transaction that is, or in the future becomes, commonly known to the trade as a swap.'' [7]

Fourth, CEA section 1a(47)(A)(vi) makes clear that the ''swap'' definition includes ''any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (v)'' of CEA section 1a(47)(A).[8]

In addition to the ''swap'' definitions provided by the statute, the Dodd-Frank Act included several provisions that give the Commission authority to further define ''swap.'' First, Dodd-Frank Act section 712(d)(2), 15 U.S.C. 8302(d)(1), directs the CFTC and SEC, in consultation with the Federal Reserve Board, to ''further define'' the term ''swap.'' [9] Second, Dodd-Frank Act section 721(b), 15 U.S.C. 8321(a)(2), permits the CFTC to define any term included in an amendment to the CEA in Subtitle A of the Wall Street Transparency and Accountability Act of 2010, which includes the term ''swap.'' Third, Dodd-Frank Act section 721(b), 15 U.S.C. 8321(b), directs the CFTC to

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[1] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, 1641 (2010). The text of the Dodd-Frank Act is available at *http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm.*

[2] Dodd-Frank Act sec. 712(d)(1), codified at 15 U.S.C. 8302(d)(1) (directing the CFTC and SEC to undertake joint rulemaking on covered topics). The CFTC shares jurisdiction over mixed swaps and security futures with the SEC, and the SEC has sole jurisdiction over security-based swaps. *See* CEA sec. 1a(44), 7 U.S.C. 1a(44), and secs. 3(a)(55) and 3(a)(68) of the Securities Exchange Act of 1934 (''Exchange Act''), 15 U.S.C. 78c(a)(55) and 78c(a)(68). The Commission has consulted with the Federal Reserve Board by sharing this Interim Final Rule.

[3] Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 FR 48208 (Aug. 13, 2012) (''Further Definition Release'').

[4] Event contracts might be structured as other instruments such as futures contracts, which are excluded from the statutory definition of ''swap.'' CEA sec. 1a(47)(B), 7 U.S.C. 1a(47)(B) (providing ''exclusions'' from the definition of ''swap'' under the CEA, including futures, options on futures, securities such as options on securities and indexes of securities, security-based swaps, and debt securities). Certain event contracts may be security-based swaps or other instruments subject to the SEC's jurisdiction. *See* 7 U.S.C. 1a(47)(B) (providing ''exclusions'' from the definition of ''swap'' under the CEA, including for securities such as security-based swaps, certain options, and debt securities); *see also, e.g.,* 15 U.S.C. 78c(a)(68)(A) (defining ''security-based swap'' under the Exchange Act). This Interim Final Rule does not further define the term ''security-based swap.''

[5] 7 U.S.C. 1a(47)(A)(i). A binary option is thus a type of swap which is an ''option whose payoff is either a fixed amount or zero.'' *See* CFTC, *Futures Glossary,* available at *https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CFTCGlossary/index.htm#B.*

[6] 7 U.S.C. 1a(47)(A)(ii). The broad nature of clause (ii) of the swap definition is in keeping with the broad definition of the term ''commodity'' in the CEA. For example, the 1974 amendments to the CEA expanded the definition of the term ''commodity'' to encompass ''all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.'' *See* CEA sec. 1a(9), 7 U.S.C. 1a(9) (defining ''commodity''). In 2000, Congress reaffirmed the broad scope of the commodity definition in adding the term ''excluded commodity'' to the CEA.

[7] 7 U.S.C. 1a(47)(A)(iv).

[8] 7 U.S.C. 1a(47)(A)(vi).

[9] The CFTC and SEC, in consultation with the Federal Reserve Board, first further defined ''swap'' in a 2012 joint rulemaking. 77 FR 48208. In that rulemaking, the CFTC and SEC noted that, while ''[t]he statutory definitions of the terms 'swap' and 'security-based swap' are detailed and comprehensive, . . . the definitions could be read to include certain types of agreements, contracts, and transactions that previously have not been considered swaps or security-based swaps, and nothing in the legislative history of the Dodd-Frank Act appears to suggest that Congress intended such agreements, contracts, or transactions to be regulated as swaps or security-based swaps.'' The CFTC and SEC thus used their authority ''to further clarify the treatment under the definitions of certain types of agreements, contracts, and transactions.'' *Id.* at 48211.

further define ''swap'' to include transactions and entities that have been structured to evade Subtitle A.

In recent months, many have expressed concern that a natural, plain-text interpretation of the ''swap'' definition would necessarily encompass casino-style gambling products and, finding that consequence untenable, have diverged from the plain text of the statute. For example, the Sixth Circuit in *KalshiEX LLC* v. *Schuler* viewed sports event contracts as legally indistinguishable from casino-style sports wagers; and thus it expressed concern that, if sports event contracts are swaps, *any* sports wager—including ''every sports wager placed in a casino, on an online sports book, or between two friends at a bar''—would need to ''take place on federal markets.'' [10] Indeed, the Sixth Circuit explained, a person would commit a felony by engaging in gambling off a designated contract market (''DCM'').[11] Thus, the Sixth Circuit believed that its atextual interpretation of the ''swap'' definition would avoid ''attach[ing] criminal penalties to a breathtaking amount of commonplace gambling activity.'' [12]

The Ninth Circuit similarly reasoned in *KalshiEX, LLC* v. *Assad* that sports event contracts and casino-style sports wagering are indistinguishable, finding that the ''substance'' of the sports event contracts at issue was ''sports gambling, regardless of whether [the DCM] calls them swaps'' (and, by inference, regardless of whether the CFTC regulates them as swaps).[13] And because ''there is not a difference under the CEA's swap definition between sports betting on Kalshi and sports betting in Caesar's Sportsbook, then every person placing a sports bet at Caesar's Sportsbook (or anywhere else for that matter) is violating the CEA.'' [14] The court also expressed concern that ''bingo games and pingpong matches'' would fall under CFTC jurisdiction.[15] For these and other reasons involving the court's understanding of the CEA's ''context'' and ''history,'' [16] the court ultimately ''conclude[d] that these sports event contracts are likely not swaps under the CEA.'' [17]

Exploiting this lack of clarity, certain States have asserted that event contracts traded or executed on a DCM should be State regulated (rather than federally regulated under the CEA). These States argue that if the Commission has jurisdiction over event contracts, that would necessarily subject casino-style sports wagers—traditionally regulated by the States—to the Commission's jurisdiction as well. For example, in response to a Commission proposed rulemaking, 40 States and the District of Columbia submitted a comment, arguing that sports event contracts are ''indistinguishable from traditional sports betting.'' [18] The State of New Jersey recently argued to the United States Supreme Court that ''[n]othing in the [CEA] gives the CFTC unprecedented authority to become the sole regulator of sports gambling in this country.'' [19] And the Commonwealth of Kentucky has claimed that determining that event contracts are swaps under the CEA amounts to ''[t]ransferring every ounce of authority over sports wagering from the States to the CFTC.'' [20]

There also appears to be confusion within the gaming industry. The American Gaming Association has argued that if ''sports wagers qualify as 'swaps,' the CEA would require *all* sports bets—including those placed on the Las Vegas Strip—to be traded on DCMs.'' [21] In its view, there is ''no plausible statutory basis to distinguish retail sports bets from identical wagers placed on [a DCM]—if the latter are swaps, the former must be as well.'' [22]

As the above discussion demonstrates, there is widespread confusion regarding whether the definition of a swap includes casino-style gambling products, including wagers placed on sportsbooks and casino games, traditionally regulated at the State level. In this regard, many courts, States, and private businesses are currently operating under the erroneous premise that if event contracts are swaps, then casino-style gambling products must also be swaps subject to CFTC jurisdiction. That premise has led courts and States to deviate from the plain text of the ''swap'' definition and impose atextual limitations on the concept of an ''event'' that is ''associated with a potential financial, economic, or commercial consequence.'' [23]

To address this misunderstanding, this Interim Final Rule affirms and codifies the Commission's longstanding position that casino-style gambling products, including sports-wagering contracts entered into on a sportsbook and casino games, are not swaps and do not fall within the CFTC's jurisdiction. This action is intended to remove regulatory ambiguity and clarify the boundaries between the Commission's jurisdiction over the derivatives markets and State and Tribal jurisdiction over casino-style gambling.

The Commission notes that this approach is supported by a decision of the United States Court of Appeals for the Third Circuit in *KalshiEX, LLC* v. *Flaherty,* which held that ''sports-related event contracts are traded on a CFTC-licensed DCM and depend on event outcomes associated with economic consequences'' and therefore ''fit within the Act's definition of 'swaps' subject to the CFTC's jurisdiction.'' [24] In response to the State's concern that ''anything from bingo games to pingpong matches will fall under the CFTC's jurisdiction,'' the court observed that ''[i]n such far-fetched scenarios, Congress's express delegation to the CTFC and the Securities and Exchange Commission to 'further define' swaps would prove useful,'' and it cited the Commission's 2012 rulemaking excluding insurance contracts and consumer transactions.[25] Other courts have similarly recognized that the CEA applies to sports event contracts that ''take[ ] the form of swaps,'' even while the CEA ''does not federalize all gambling, or even all sports gambling.'' [26] This Interim Final Rule implements the Third Circuit's suggested approach.

Statutory Authority

Section 712(d)(1) of the Dodd-Frank Act provides that the Commission and the SEC, in consultation with the Federal Reserve Board, ''shall further define,'' among other terms, the term

[10] *KalshiEX LLC* v. *Schuler,* No. 26–3196, 2026 WL 2884087, at *14–15 (6th Cir. Sept. 25, 2026) (citation modified).

[11] *Id.* at *14.

[12] *Id.* (citation modified).

[13] *KalshiEX, LLC* v. *Assad,* No. 25–7516, 2026 WL 2543846, at *10 (9th Cir. Aug. 28, 2026).

[14] *Id.* at *11.

[15] *Id.*

[16] *Id.* at 9 (citation omitted).

[17] *Id.* at 15.

[18] Letter from Dave Yost, et al. to Michael Selig at 1 (Apr. 30, 2026); *https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=115653&SearchText=yost.*

[19] Brief for Petitioner, *Flaherty* v. *KalshiEX, LLC,* No. 26–299 (Sept. 2, 2026), 2026 WL 2658173, at *32.

[20] Memorandum of Law in Support of Motion to Dismiss or, in the Alternative, for Summary Judgment at 24, *United States* v. *Kentucky,* No. 3:26–cv–49 (E.D. Ky. Aug. 24, 2026).

[21] Brief of Amicus Curiae American Gaming Association in Support of Defendants-Appellees and Affirmance, *Schuler,* Dkt. No. 54 at 23 (6th Cir. June 11, 2026).

[22] *Id.* at 23–24.

[23] *Schuler,* 2026 WL 2884087, at *11 (holding that ''the event [must] be one *inherently* associated with a 'financial, economic, or commercial consequence' '' (emphasis added)).

[24] *KalshiEX, LLC* v. *Flaherty,* 172 F.4th 220, 228 (3d Cir. 2026).

[25] *Id.*

[26] *Coinbase Fin. Mkts., Inc.* v. *Raoul,* Nos. 1:25–cv–15406, 1:26–cv–03659, 1:26–cv–07363, 2026 WL 2969682, at *10 (N.D. Ill. Oct. 2, 2026).

''swap.'' [27] Section 712(d)(2)(A) further empowers the Commission and the SEC, in consultation with the Federal Reserve Board, to ''jointly adopt such other rules regarding such definitions as the [CFTC and SEC] determine are necessary and appropriate, in the public interest, and for the protection of investors.'' [28]

II. Interim Final Rule

The Commission is issuing this Interim Final Rule to further define the term ''swap'' to explicitly exclude casino-style gambling products, including sports-wagering contracts entered into on a sportsbook, from the swap definition. By enacting this Interim Final Rule, the Commission seeks to reiterate its longstanding position that its oversight of federally regulated derivatives markets does not intrude upon the traditional State and Tribal regulation of casino-style gambling products.

Though Congress deliberately drafted a broad definition of a swap,[29] the CFTC's jurisdiction is not boundless. The Commission has always acknowledged that certain instruments may, on their face, plausibly fit within the definition of ''swap'' in CEA section 1a(47), but that the swap definition is best read to exclude that instrument in light of statutory context and a longstanding tradition of regulation by another regulator. Gambling products offered by State or Tribe-licensed casino operators and sportsbooks fit this mold.

Insurance serves as a prime precedent.[30] On its face, prong (ii) of the ''swap'' definition could plausibly be read to encompass insurance contracts, because they make ''payment'' ''dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.'' [31] Given that potential ambiguity, when the Commission and the SEC jointly further defined the term ''swap'' in 2012, the agencies explicitly noted that they did not interpret prong (ii) of the swap definition [32] ''to mean that products historically regulated as insurance products should be included.'' [33] The Commission and the SEC further emphasized that nothing in the Dodd-Frank Act ''suggest[ed] that Congress intended for traditional insurance products to be regulated as swaps.'' [34]

Consequently, the Commission and the SEC specifically carved out traditional insurance products from the swap definition by relying on core factual and structural differences to distinguish them from derivatives. A foundational distinction was whether the instrument is traded: the Commission and the SEC noted that ''insurance products traditionally have not been entered into on or subject to the rules of an organized exchange nor traded in secondary market transactions (*i.e.,* they are not traded on an organized market or over the counter),'' whereas swaps are routinely traded on such venues.[35] Furthermore, the Commission and SEC emphasized that ''all or part of swaps and security-based swaps are novated or assigned to third parties, usually pursuant to industry standard terms and documents.'' In other words, swaps can be centrally cleared, unlike insurance contracts.[36]

The Commission and the SEC also relied on the fact that insurance products are ''provided by a person that is subject to supervision by the insurance commissioner (or similar official or agency) of any state or by the United States'' and are ''regulated as insurance under applicable state law or the laws of the United States.'' [37] The agencies clarified, however, that other instruments providing substantially similar economic exposure to an insurance contract—such as certain credit default swaps—remain within the swap definition and subject to the CFTC's jurisdiction.[38]

The Commission and the SEC took a similar approach to ''consumer and commercial agreements that historically have not been considered swaps or security-based swaps'' but nonetheless ''may have attributes that could be viewed as falling within the swap or security-based swap definition.'' [39] Examples included ''acquisitions or sales of property (tangible and intangible), provisions of services, employment of individuals, and other matters that could be viewed as falling within the definitions.'' [40] The Commission and the SEC excluded these contracts on the ground that they did ''not believe Congress intended to include these types of customary consumer and commercial agreements, contracts, or transactions in the swap or security-based swap definition,'' again highlighting the ''key'' point that such transactions are ''not traded on an organized market or over-the-counter.'' [41] The Commissions adopted this interpretation to address, among other concerns, the possibility that customary consumer and commercial agreements, contracts, or transactions could be subject to the restriction in section 2(e) of the CEA on entering into swaps with persons who are not eligible contract participants (''ECPs'') other than on, or subject to the rules of, a DCM.

As explained in Part I, similar concerns have recently arisen in connection with traditional gambling products offered by State-regulated gambling companies and tribes. To address this concern, the Commission seeks to further clarify through this Interim Final Rule that casino-style gambling products are not within Commission's jurisdiction. As explained below, the same concerns that led the Commission to exclude insurance contracts and consumer and commercial agreements from the ''swap'' definition are equally applicable to gambling products.

First, and most fundamentally, gambling products do not bear the structural characteristics of a CEA-regulated derivative. Gambling products are typically conducted as bilateral transactions between a casino or bookkeeper (a ''house'') and its customer rather than on an organized market.[42] Prices are not set by market forces and are not subject to negotiation; rather, customers must accept the price

[27] Dodd-Frank Act sec. 712(d)(1), codified at 15 U.S.C. 8302(d)(1) (directing the CFTC and SEC to undertake joint rulemaking on covered topics). This release adopts a rule of the CFTC that addresses matters within the exclusive jurisdiction of the CFTC. The SEC joins in adopting this rule in satisfaction of the statutory requirement in Section 712(d)(1). The Interim Final Rule does not address or otherwise relate to matters within the jurisdiction of the SEC.

[28] Dodd-Frank Act sec. 712(d)(2)(A), codified at 15 U.S.C. 8302(d)(2)(A).

[29] CEA sec. 1a(47), 7 U.S.C. 1a(47).

[30] *See* Further Definition Release, 77 FR at 48210, 48212–25.

[31] 7 U.S.C. 1a(47)(A)(ii).

[32] As described above, CEA section 1a(47)(A)(ii) defines ''swap'' to include ''any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.'' 7 U.S.C. 1a(47)(A)(ii).

[33] 77 FR at 48212.

[34] *Id.*

[35] *Id.* at 48214; *see also* 17 CFR 1.3 (Swap)(4).

[36] 77 FR at 48208, 48214.

[37] 77 FR at 48220.

[38] *Id.* (comparing insurance products and credit default swaps). In this regard, the Commission and the SEC noted their ''concern[ ] that certain agreements, contracts, or transactions that are swaps or security-based swaps might be characterized as insurance products to evade the regulatory regime under Title VII of the Dodd-Frank Act.'' *Id.*

[39] *Id.* at 48246.

[40] *Id.*

[41] *Id.* at 48246–48.

[42] Steven D. Levitt, *Why Are Gambling Markets Organised So Differently from Financial Markets?,* 114 Econ. J. 223, 223 (2004).

set by the house. Because of these dynamics, gambling products are not inherently *tradable,* which is a strong indicator that these products are not swaps or any other kind of derivative within the Commission's jurisdiction.[43]

Tradability is a material consideration in determining whether a financial instrument has the legal status of a derivative, as the Commission and SEC emphasized with respect to insurance contracts and consumer transactions. Although the CEA's ''swap'' definition does not itself contain a tradability requirement, interpreters of statutory text nonetheless must be guided by ''[t]he broader context provided by other sections of the statute.'' [44] The CEA's broader context repeatedly reinforces tradability as an important consideration in whether a particular contract qualifies as a swap.[45] For example, CEA section 2(e) makes it unlawful for any person, other than an ECP, to enter into a swap unless executed on, or subject to the rules of, a DCM.[46]

Likewise, section 2(a)(1) of the CEA confers exclusive jurisdiction on the CFTC with respect to ''accounts, agreements . . . , and transactions involving swaps or contracts of sale of a commodity for future delivery,'' to the extent they are ''traded or executed on a [DCM] or a swap execution facility.'' [47] Furthermore, the CEA provides that the transactions subject to the Commission's exclusive jurisdiction serve a ''national public interest by providing a means for managing and assuming price risks, discovering prices, or disseminating pricing information through trading in liquid, fair and financially secure trading facilities.'' [48] Only tradable instruments—*i.e.,* those that are executed multilaterally or at least subject to negotiation—can serve those purposes.

The CEA's Core Principles also presuppose that derivatives are tradable instruments. Core Principle 9 for DCMs requires exchanges to provide ''a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading in the centralized market.'' [49] Gambling products are not offered through ''trading'' on ''centralized market[s],'' and prices for gambling products are not set by ''a competitive, open, and efficient market''—they are unilaterally dictated by the casino or sportsbook. Other Core Principles for DCMs and swap execution facilities (''SEFs'') likewise presuppose the competitive trading of derivatives, which cannot be said of gambling products.[50] For these reasons, gambling products are not derivatives subject to its jurisdiction.

Second, the CEA contemplates that a swap can be cleared. Section 2(h) of the CEA provides that ''[i]t shall be unlawful for any person to engage in a swap unless that person submits such swap for clearing to a derivatives clearing organization that is registered under this chapter or a derivatives clearing organization that is exempt from registration under this chapter if the swap is required to be cleared.'' [51] Like insurance contracts, gambling products are not ''cleared,'' in that the wager obligation is not routinely transferred to a third party to eliminate counterparty credit risk and ensure contract fulfillment.

Third, there is no indication that ''Congress intended to include [gambling products] in the swap . . . definition.'' [52] To the contrary, Congress has long recognized a distinction between gambling products and derivatives contracts.[53] Furthermore, when Congress adopted the ''swap'' definition, it did so against a background of other federal statutory provisions regulating sports gambling, and the Commission does not presume Congress to have impliedly repealed those provisions.[54]

Fourth, just as insurance products and consumer transactions have traditionally been subject to a distinct regulatory framework governed by State law, casino-style gambling products have historically been, and are, offered by State-licensed gambling venues or Tribes, and subject to a gambling-specific regulatory regime. Absent a more specific indication in the statutory text, the Commission does not presume that Congress intended to disrupt that federal-state balance.[55]

Fifth, the ''swap'' definition also encompasses any ''agreement, contract, or transaction that is, or in the future becomes, commonly known to the trade as a swap.'' [56] The Commission is unaware of any trade usage or market belief that gambling products are considered swaps in the derivatives industry. To the contrary, DCMs and industry groups have repeatedly emphasized to federal courts that gambling contracts are *not* swaps.[57]

Event contracts differ from gambling products in all five respects. First, unlike gambling products, event contracts have the essential structural characteristics of a derivatives contract. By design, they are traded on CFTC-registered national exchanges at market-set prices through the interaction of bids or offers placed on a central orderbook, not at prices unilaterally dictated by a ''house.'' The exchanges are neutral;

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[43] While this Interim Final Rule addresses only casino-style gambling products offered pursuant to State or Tribal law, the exclusion provided herin is non-exclusive. There may be other gambling-style transactions that are not swaps given how those transactions are structured and whether they are tradable. Examples could include a casual bet between friends or a casino-style sportsbook illegally operating in a State that prohibits gambling.

[44] *Robinson* v. *Shell Oil Co.,* 519 U.S. 337, 345 (1997).

[45] Notably, courts have looked to the tradability of an instrument to determine whether it is a future or a forward contract. *See, e.g., CFTC* v. *Zelener,* 373 F.3d 861, 865–66 (7th Cir. 2004).

[46] 7 U.S.C. 2(e).

[47] 7 U.S.C. 2(a)(1)(A).

[48] 7 U.S.C. 5(a).

[49] 7 U.S.C. 7(d)(9).

[50] *E.g.,* 7 U.S.C. 7(d)(7) (requiring the offeror of a derivative to have an ''electronic matching platform'' or ''trade execution facility''), 7(d)(8) (requiring daily publication of price and volume information ''for actively traded contracts''), 7b–3(f)(4) (requiring SEFs to ''monitor trading in swaps'').

[51] 7 U.S.C. 2(h).

[52] 77 FR at 48246.

[53] 7 U.S.C. 16(e)(2) (preempting ''any State or local law that prohibits or regulates gaming . . . in the case of'' certain ''excluded'' or ''exempted'' contracts); 31 U.S.C. 5362(1)(E) (distinguishing a ''bet or wager'' from ''any transaction conducted on or subject to the rules of a registered entity or exempt board of trade under the Commodity Exchange Act'').

[54] 18 U.S.C. 1084(a) (''Whoever being engaged in the business of betting or wagering knowingly uses a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers, shall be fined under this title or imprisoned not more than two years, or both.''); 28 U.S.C. 3702(1) (''It shall be unlawful for—(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or (2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity, a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.''), held unconstitutional in *Murphy* v. *National Collegiate Athletic Ass'n,* 584 U.S. 453 (2018).

[55] *See Bond* v. *United States,* 572 U.S. 844, 863 (2014).

[56] 7 U.S.C. 1a(47)(A)(iv).

[57] Opening Brief for Appellant KalshiEX LLC, *Schuler,* Dkt. No. 28 at 51 (6th Cir. May 5, 2026) (''[T]hat Kalshi's sports-event contracts are swaps does not mean that run-of-the-mill sports bets are also swaps.''); Appellant's Opening Brief, *QCX LLC* v. *Nessel,* No. 26–1552, Dkt. No. 15 at 12 (6th Cir. Aug. 17, 2026) (''Sports-related event contracts are fundamentally different than sportsbook bets.''); Brief of Amicus Curiae the Coalition for Prediction Markets in Support of Plaintiff-Appellee and Affirmance, *KalshiEX LLC* v. *Orgel,* No. 26–5235 at 17–22 (6th Cir. June 24, 2026) (explaining legally significant distinctions between event contracts and gambling).

they do not profit when the event contract settles one way versus another. Rather, they earn profit by charging transaction fees when a trade occurs, similar to any other derivatives trade.[58] Such contracts are subject to the comprehensive DCM and derivatives clearing organization (''DCO'') Core Principles that serve to, among other things, protect customers who are trading and clearing such contracts. The structure of gambling wagers and event contracts is materially different, and therefore subject to different regulatory regimes.[59]

Second, event contracts traded on a DCM are centrally cleared by CFTC-registered clearinghouses to eliminate counterparty credit risk, just like other derivatives transactions. Thus, when a bid and offer match on a DCM's central orderbook, the parties enter into a contract with one another, but that contract is then novated such that each party has a contractual relationship with a neutral, creditworthy clearinghouse.

Third, there is strong textual evidence that Congress intended for event contracts to be considered ''swaps'' under the CEA and to give the Commission authority to regulate them. The second prong of the ''swap'' definition is the most obvious illustration, as it specifically covers ''contract[s]'' based on ''event[s].'' [60] Additionally, when Congress created the ''swap'' definition, it also enacted a ''Special rule for review and approval of *event contracts and swaps contracts.*'' [61] The Special Rule recognizes that ''swaps in excluded commodities'' can be ''based upon the occurrence, extent of an occurrence, or contingency'' that ''involve[s],'' among other things, ''gaming.'' [62] The word '' 'gaming,' as used in the special rule, refers to playing games,'' so ''event contracts related to . . . sporting events . . . could implicate the gaming category.'' [63] Congress expressly gave the Commission jurisdiction over those contracts, confirming their status as derivatives contracts.[64] Notably, Congress did *not* give the Commission authority over ''gaming'' products themselves, further confirming that gaming products like wagers fall outside the Commission's jurisdiction but event contracts that involve games are within the Commission's jurisdiction.[65]

The Sixth Circuit expressed the view that ''just because the CFTC may prohibit gaming-related event contracts does not mean [a DCM's] sports-event contracts are *necessarily* swaps,'' since event contracts can also be ''agreements, contracts, [or] transactions'' under the Special Rule.[66] But apart from ''gaming,'' the Special Rule only applies to event contracts that ''involve'' ''activity that is unlawful under any Federal or State law,'' ''terrorism,'' ''assassination,'' ''war'', or ''other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest.'' [67] It must be the case that a ''swap'' can ''involve'' at least one of these categories of activity, or else the word ''swap'' in the Special Rule is surplusage. Furthermore, even if a ''gaming'' contract is considered an ''agreement,'' ''contract,'' or ''transaction,'' the Special Rule still classifies that contract as being ''in excluded commodities.'' [68] And the swap definition covers binary options in excluded commodities which, as discussed below, includes event contracts.[69] In short, the Special Rule contemplates that ''gam[es]'' are ''excluded commodities,'' which reinforces that event contracts based on games are derivatives.

Fourth, event contracts have traditionally been regulated by the Commission, not the States. ''Since 1992, Commission-regulated exchanges have listed for trading a variety of commodity futures and options contracts with payout terms based on'' events ''as diverse as regional insured property losses, the count of bankruptcies, temperature volatilities, corporate mergers, and corporate credit events''; and, in subsequent years, event contracts encompassed ''the accomplishment of certain scientific advances, world population levels, the adoption of particular pieces of legislation,'' and even ''the length of celebrity marriages.'' [70] In 1993, the Commission issued a no-action letter to Iowa Electronic Markets, allowing the facility to list event contracts tied to U.S. and Canadian elections.[71] In 2004, the CFTC designated the first DCM dedicated to listing contracts based on events that are excluded commodities.[72] Initially, these contracts were structured as commodity options known as ''binary options,'' the cash settlement of which was based on whether a specified event had occurred.[73] Thus, while gambling is traditionally State-regulated, event contracts are traditionally federally regulated.

Fifth, as set forth in the separate Notice of Proposed Rulemaking published on the same day as this Interim Final Rule proposing to further define ''swap'' to include event contracts, the Commission preliminarily believes that event contracts are known to the trade as ''swaps.'' Therefore, if certain event contracts do not qualify as swaps under the first or second prongs of the swap definition, they do qualify under the fourth prong. The same cannot be said of gambling products, for the reasons noted above.

In sum, the ''swap'' definition generally should not apply where a product has a longstanding history of being subject to a distinct regulatory framework and structurally does not lend itself to the requirements of the CEA, including its exchange-trading requirement and the Core Principles. As the Commission and SEC recognized in 2012, insurance contracts and consumer and commercial agreements are such examples. Today, the Commission clarifies that casino-style gambling

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[58] The CFTC recently issued a letter to Commission-regulated entities to remind those entities of their obligation to display prices clearly and not to mislead customers into mistaking market-priced products with casino-style products. CFTC, Misleading or Deceptive Practices (Aug. 7, 2026), available at *https://www.cftc.gov/PressRoom/PressReleases/9278-26.*

[59] Additionally, while a sportsbook or other gambling venue may regularly exclude winners, a DCM is subject to an impartial access requirement that does not allow it to bar traders who have profited. *See* 17 CFR 38.151.

[60] 7 U.S.C. 1a(47)(A)(ii).

[61] 7 U.S.C. 7a–2(c)(5)(C) (emphasis added).

[62] 7 U.S.C. 7a–2(c)(5)(C)(i).

[63] *KalshiEX LLC* v. *CFTC,* 2024 WL 4164694, at *10 (D.D.C. Sept. 12, 2024).

[64] 7 U.S.C. 7a–2(c)(5)(C)(ii).

[65] *KalshiEX,* 2024 WL 4164694, at *12 (rejecting interpretation of Special Rule that would give CFTC jurisdiction over any contract that ''states define . . . as 'gambling' '').

[66] *Schuler,* 2026 WL 2884087, at *15.

[67] 7 U.S.C. 7a–2(c)(5)(C)(i)(I)–(IV), (VI).

[68] *Id.*

[69] *Id.* 1a(47)(A)(i).

[70] Concept Release on the Appropriate Regulatory Treatment of Event Contracts, 73 FR 25669, 25670–71 (May 7, 2008).

[71] CFTC Staff Letter No. 93–66 (June 18, 1993), available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@lrlettergeneral/documents/letter/93-66.pdf.*

[72] *See* CFTC Release No. 4894–04, *CFTC Designates HedgeStreet as a Contract Market and as a Registered Clearing Organization* (Feb. 20, 2004), and the related DCM Order of Designation for HedgeStreet, Inc. (Feb. 18, 2004), available at *https://www.cftc.gov/sites/default/files/opa/press04/opa4894-04.htm.* In 2009, HedgeStreet changed its name to North American Derivatives Exchange, Inc., or Nadex, and in 2025, Nadex transitioned to the Crypto.com platform. *See* summary of registration, available at *https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizations/34536.* It continues to list contracts on foreign exchange, equity indices, commodity prices, and digital assets.

[73] *See e.g.,* Letter from HedgeStreet, Inc. to David Stawick, Sec'y, CFTC, *Re: Rule Certification: HedgeStreet's listing of new Germany 30 Binary Hedgelet Contracts* (Oct. 30, 2008), available at *https://www.cftc.gov/sites/default/files/stellent/groups/public/@rulesandproducts/documents/ifdocs/rul103008hedgestreet001.pdf.*

products offered by casinos or sportsbooks likewise fit the exclusion.

The Commission acknowledges that a person can achieve similar economic exposure by either entering into a gambling wager or purchasing an event contract. However, that does not make the two products one and the same, nor does it require that the two be subject to identical regulatory frameworks. Indeed, there are many instances in which a person can achieve the same (or similar) economic exposure via structurally different products subject to distinct regulatory regimes. For example, as noted, insurance and credit default swaps can provide similar risk mitigation, but that does not mean the two are or must be regulated the same way. Likewise, a person can gain exposure to a crypto asset by purchasing the crypto asset itself, purchasing shares in a firm that holds the crypto asset, or by purchasing crypto asset futures, each of which has distinct regulatory consequences. The same is true in the context of event contracts and casino-style gambling products.

Based on this interpretation and to address the concerns referenced in Part I above, the Commission is adopting this Interim Final Rule to establish an exclusion confirming that traditional gambling products do not qualify as swaps under the CEA. Nothing herein implies or presumes that an agreement, contract, or transaction that does not meet any of the requirements of this exclusion is a swap. Such an agreement, contract, or transaction will require further analysis of the applicable facts and circumstances, including the form and substance of such agreement, contract, or transaction, to determine whether it is a gambling product, and thus not a swap.

Similar to the exclusions for insurance contracts and consumer transactions, the exclusion has two components: a test relating to the status of the party offering the agreement, contract, or transaction (the ''Provider Test'') and a test relating to the terms of the agreement, contract, or transaction (the ''Product Test'').

To satisfy the Provider Test, the relevant agreement, contract, or transaction must be provided by a person that is subject to supervision by the gaming commissioner (or similar official or agency) of any State or by a Tribe, and such agreement, contract, or transaction is regulated as gaming or gambling under applicable State or Tribal law.[74] This requirement ensures that the Commission does not have jurisdiction over persons or products that have traditionally been the subject of State or Tribal regulation, particularly given the absence of an indication in Dodd-Frank that Congress intended the Commission to regulate these persons and transactions.

To satisfy the Product Test, the agreement, contract, or transaction must not be traded on a board of trade, an organized exchange, a swap execution facility, or any other market in which trades are executed multilaterally or subject to individual negotiation. For example, bets or wagers offered by a sports book or casino as principal to its customers, where the material terms of those bets or wagers are governed by standard ''house rules'' or similar standard terms, would satisfy the Product Test. In contrast, an agreement, contract, or transaction entered into on a trading facility,[75] including a DCM, or a SEF,[76] would not satisfy the Product Test because its price and other economic terms would be determined through the competitive interaction of multiple buyers and sellers on a multilateral basis, even though the other material terms of the agreement, contract, or transaction would be governed by standardized rules adopted by the facility.[77]

Although there is not currently a practical overlap between the casino-style gambling products offered by State and Tribe-regulated entities (*i.e.,* bilateral and non-tradable) and swaps offered by CFTC-registered entities (*i.e.,* multilateral and tradable), the Product Test is designed to nonetheless acknowledge the functional distinction between the types of products and relationships that traditionally fall within the scope of derivatives regulation under the CEA from those traditionally addressed by State or Tribal gaming regulation.[78] By distinguishing agreements, contracts, or transactions entered into on a bilateral basis from those entered into on a multilateral basis, the Product Test recognizes that a principal purpose of the CEA is to establish a regulatory framework for price discovery on ''liquid, fair and financially secure trading facilities'' [79]—that is, trading on multilateral execution venues such as DCMs and SEFs—whereas State and Tribal gaming regulation typically concerns bets or wagers in which the odds or ''line'' are set by a licensed gaming operator acting as principal with its customers on a bilateral basis. The Product Test thereby ensures that State and Tribal-regulated entities do not, in the future, begin offering products properly within the Commission's jurisdiction, unless they do so consistent with the CEA and the Commission's regulations.

Therefore, the Commission is adding a new paragraph (7) to the definition of ''swap'' in 17 CFR 1.3 to further define the term swap to not include any agreement, contract, or transaction that: (A) is offered or entered into by a person that is licensed or otherwise authorized to offer gambling or gaming products, or accept wagers, under the law of a State or the law of a federally recognized Indian Tribe pursuant to the Indian Gaming Regulatory Act,[80] if that person is acting within the scope of that license or authorization, and such agreement, contract, or transaction is regulated as gaming or gambling under applicable state or Tribal law; and (B) is not traded on a board of trade, an organized exchange, a swap execution facility, or any other market in which trades are executed multilaterally or subject to individual negotiation. Paragraph (7) also explicitly identifies sports wagers, casino games, and other licensed games of chance as products that are not swaps subject to the Commission's jurisdiction.

Finally, the Commission reiterates that this Interim Final Rule does not further define the term ''security-based

[74] The insurance exclusion is similarly limited (outside of the contexts of reinsurance and non-admitted insurance) to products offered by a person that is subject to supervision by the insurance commissioner (or similar official or agency) of any State or by the United States and requires that the agreement, contract, or transaction also must be regulated as insurance under applicable State law or the laws of the United States. *See* 77 FR at 48220. The consumer-transaction exclusion likewise contains limitations to agreements, contracts, and transactions entered into by consumers or commercial or non-profit entities for specified purposes. *See id.* at 48247.

[75] *See* 7 U.S.C. 1a(5l) (defining a ''trading facility,'' in relevant part, to mean a person or group of persons that constitutes, maintains, or provides a physical or electronic facility or system in which multiple participants have the ability to execute or trade agreements, contracts, or transactions by accepting bids or offers made by other participants that are open to multiple participants in the facility or system or through the interaction of multiple bids or multiple offers within a system with a pre-determined non-discretionary automated trade matching and execution algorithm).

[76] *See* 7 U.S.C. 1a(50) (defining a ''swap execution facility,'' in relevant part, to mean a trading system or platform in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by multiple participants in the facility or system).

[77] Thus, an agreement, contract, or transaction entered into by an ECP on a bilateral basis through individual negotiation with a bank or other swap dealer also would not satisfy the Product Test.

[78] The insurance exclusion similarly requires that a covered insurance product not be traded separately from its insurable interest, on an organized market or over-the-counter. 77 FR at 48217. The consumer transaction exclusion contains a similar limitation. *Id.* at 48247.

[79] 7 U.S.C. 5(a).

[80] 25 U.S.C. 2701 *et seq.*

swap'' and that nothing in the Interim Final Rule should be read to imply or presume that an agreement, contract, or transaction that does not meet any of the requirements of this exclusion is necessarily a swap. Also as previously noted, there may be other types of unlicensed gambling transactions that do not meet this Interim Final Rule's exclusion but nonetheless are still not swaps subject to the Commission's jurisdiction.[81]

The classifications adopted in this Interim Final Rule are for purposes of the Commodity Exchange Act. Federal tax treatment and associated information reporting, withholding, registration, and payment obligations are determined under the Internal Revenue Code, applicable Treasury regulations, and IRS guidance.

III. Request for Comment

The Commission welcomes public comments from interested persons regarding any aspect of the Interim Final Rule. The Commission also seeks comment on the following specific questions. The Commission will take into consideration comments received and may modify the Interim Final Rule if warranted.

(1) This Interim Final Rule limits the exclusion to agreements, contracts, and transactions offered by a person that satisfies the Provider Test. Are there additional categories of providers that the Provider Test should cover beyond State-regulated gaming companies and Tribes, such as those discussed in note 43? If so, please explain the basis for including each additional category of qualifying provider.

(2) The Provider Test requires that the agreement, contract, or transaction be regulated as gaming or gambling under applicable State or Tribal law. Is it clear which agreements, contracts, or transactions are subject to these regulations? Are there better ways to define how State or Tribal gaming regulation should apply to agreements, contracts, or transactions covered by the exclusion? If so, please explain.

(3) The Product Test turns on whether the agreement, contract, or transaction is traded on a board of trade, an organized exchange, a SEF, or any other market in which trades are either executed multilaterally or subject to individual negotiation. Are there better ways to draw an objective, functional distinction between swaps, on the one hand, and traditional gambling products, on the other hand? If so, please explain, including how any alternative or additional basis for a distinction would be consistent with the CEA, including the definitions of ''swap,'' ''commodity,'' and ''excluded commodity'' and the Special Rule.

IV. Related Matters

A. Administrative Procedure Act

1. Legal Standard

Under section 533(b)(B) of the Administrative Procedure Act (''APA''), agencies need not engage in notice-and-comment rulemaking ''when the agency for good cause finds'' that such ''notice and public procedure . . . are impracticable, unnecessary, or contrary to the public interest.'' [82] In interpreting this ''good cause'' standard, courts have looked to APA Senate Report, which explains that '' '[i]mpracticable' means a situation in which the due and required execution of the agency functions would be unavoidably prevented by its undertaking public rulemaking proceedings . . . . 'Public interest' supplements the term[ ] 'impracticable' . . .; it requires that public rule-making procedures shall not prevent an agency from operating.'' [83]

''[T]here is a general consensus among the circuit courts that an agency's invocation of the good cause exception [to notice-and-comment rulemaking] should . . . be upheld . . . where following the regular rulemaking procedure would result in serious or real harm.'' [84] Absent traditional emergencies, courts have found good cause where notice-and-comment rulemaking would create ''possible fiscal harm,'' where ''the agency's prior regulations or guidelines had been invalidated by a court order, and thus, immediate promulgation of a new regulation was needed to prevent harm to the public in the interim,'' [85] and/or where such rulemakings are not intended to be permanent.[86]

2. Rationale for Interim Final Rule

Recent developments require the Commission to exercise its statutory authority to further define the term ''swap'' to explicitly exclude casino-style gambling products, including sports-wagering contracts entered into on a sportsbook, from the swap definition. As a group of 39 States and the District of Columbia recently observed, ''[f]ederal and state courts are hopelessly confused and divided over an issue of immense importance''—whether, among other things, the swap definition is broad enough to encompass casino-style gambling products, which would threaten, among other things, State regulatory authority and Tribal revenue.[87] For example, and as described above in Part I, the Commonwealth of Kentucky has claimed that determining that event contracts are swaps under the CEA amounts to ''[t]ransferring every ounce of authority over sports wagering from the States to the CFTC.'' [88] And the State of New Jersey recently argued to the United States Supreme Court that ''[n]othing in the [CEA] gives the CFTC unprecedented authority to become the sole regulator of sports gambling in this country.'' [89]

One result of this confusion has been State actions and court decisions that threaten to expose large areas of hitherto uncontroversial CFTC jurisdiction to incursion by certain of the States.[90] This lack of nuance has already led to overreach that risks indiscriminate disruption—or the outright dismantling—of federally regulated event contract markets, whether they purportedly offer casino-style gambling products or not.

In particular, the Ninth Circuit panel's interpretation of the ''swap'' definition in section 1a(47)(A)(ii)—which would deprive the CFTC of exclusive

[81] *See supra* note 43 for additional detail.

[82] 5 U.S.C. 553(b)(B).

[83] *See, e.g., National Nutritional Foods Ass'n* v. *Kennedy,* 572 F.2d 377, 385 (2d Cir. 1978) (quoting S. Rep. No. 79–752, at 200 (1945)).

[84] *ITServe Alliance, Inc.* v. *Scalia,* No. 20–146604, 2020 WL 7074391, at 4 (D.N.J. Dec. 3, 2020) (collecting cases).

[85] *Id.* at 5.

[86] *See, e.g., American Fed'n of Gov't Emps.* v. *Block,* 655 F.2d 1153, 1157 (D.C. Cir. 1981) (''Common sense suggests that any administrative action taken in a rare 'emergency' situation . . . , while perhaps necessarily 'immediately effective,' need only be temporary, pending public notice-and-comment procedures.'').

[87] Brief of Amici Curiae Ohio, 38 Other States, and the District of Columbia in Support of Petitioners at 1, *Flaherty* v. *KalshiEX, LLC,* No. 26–299 (U.S. Oct. 7, 2026); *see also id.* at 13 (''So if sports bets are swaps, they must be on DCMs and regulated by the CFTC, thus making the agency a national gambling czar and leaving the States with no power.'').

[88] Memorandum of Law in Support of Motion to Dismiss or, in the Alternative, for Summary Judgment at 24, *United States* v. *Kentucky,* No. 3:26–cv–49 (E.D. Ky. Aug. 24, 2026).

[89] Brief for Petitioner, *Flaherty* v. *KalshiEX, LLC,* No. 26–299 (Sept. 2, 2026), 2026 WL 2658173, at *32.

[90] *See, e.g., United States* v. *Minnesota,* No. 26–cv–2661, 2026 WL 2150211, at *1 (D. Minn. July 27, 2026) (granting the CFTC a preliminary injunction relating to ''Minnesota lawmakers pass[ing] a law prohibiting the creation, operation, and advertising of prediction markets in the state''); *CFTC* v. *New York,* No. 26–cv–3404, Dkt. No. 120 (S.D.N.Y. July 30, 2026) (letter explaining that ''New York seeks a temporary restraining order . . . prohibiting [a prediction market] from operating as a DCM registered with and regulated by the CFTC under the Commodity Exchange Act . . . . New York seeks to prohibit [the prediction market] from operating its business 'within or from New York,' which is where [the prediction market] is headquartered.'').

jurisdiction over most event contracts—threatens to wreak havoc on the operations of DCMs nationwide. That is particularly true in Arizona, where the State's pending criminal case against a DCM—for offering event contracts of any kind—may be permitted to move forward.[91] Arizona does not stand alone. The State of Minnesota has attempted to enact a criminal statutory ban on prediction markets; the State of New York has sought emergency injunctive relief that would prohibit a DCM from offering event contracts anywhere; and many more enforcement actions remain pending.[92] These State-level actions imperil a nascent industry that Congress has entrusted to the ''exclusive jurisdiction'' of a federal agency, the CFTC.[93]

The economic consequences of the shuttering of prediction markets on a State-by-State basis due to a lack of clear guidance are of a type and magnitude well in excess of prior cases recognizing good cause to skip notice-and-comment rulemaking due to ''possible fiscal harm.'' [94] In one instance, ''actuarial disarray [that] might have posed a serious threat to the financial stability of a [federal employee] benefit program'' constituted ''good cause'' to dispense with notice-and-comment.[95] In another, market ''confusion'' and ''economic harm and disruption'' that would have resulted if the agency had been forced to use ''antiquated [poultry processing] guidelines'' rather than its interim rule constituted ''good cause.'' [96] Here, in contrast to the relatively limited economic harm envisioned in those cases, entire markets on which various individuals and businesses rely for hedging and/or financial, economic, or commercial planning purposes—with tens of billions of dollars of transactions—are at stake.[97] ''A massive rush to . . . conduct 'actual transactions'—*or avoid them,*'' as would occur if any states succeeded in closing prediction markets, similarly constituted ''good cause'' where the Temporary Emergency Court of Appeals found that section 553(b)(B) was satisfied by price control regulations adopted without notice-and-comment.[98]

''Good cause'' is further demonstrated by the circumstances that gave rise to this Interim Final Rule. This is not a case where the CFTC seeks to circumvent the APA's notice-and-comment requirement. Rather, like in cases where an ''agency's prior regulations or guidelines had been invalidated by a court order, . . . immediate promulgation of a new regulation [is] needed [here] to prevent harm to the public'' while the judiciary adjudicates the outer contours of one prong of the ''swap'' definition.[99] Just as a regulatory gap—leading to possible ''confusion'' and ''irremedi[able] financial consequences''—would have resulted following a prior rule invalidation in *Mid-Tex Elec. Coop., Inv.* v. *FERC,*[100] so too do *Flaherty, Assad,* and other judicial decisions justify this Interim Final Rule. The ''promulgation of emergency regulations by [an agency is] a reasonable and perhaps inevitable response to [some adverse] injunctive court order[s],'' like certain of those at issue here.[101]

Indeed, regulators have used interim final rules in circumstances analogous to the confusion resulting in part from the emerging circuit split over the scope of the CEA's ''swap'' definition in the context of event contracts. For example, after a district court issued a state law preemption opinion that was in tension with ''the [Office of the Comptroller of the Currency (''OCC'')] and courts' longstanding interpretation'' of a statute, the OCC issued an interim final rule to stave off ''regulatory confusion . . . and the potential consequences of such confusion.'' [102] Like the dangers posed by State regulatory overreach to national prediction (and other derivatives) markets, the State law in question would have ''create[d] a complex and potentially unworkable [State] standard,'' which ''national banks may [have] take[n] drastic actions to avoid,'' thereby leading to potential ''economic harm and disruption and pos[ing] significant risks to the safety and soundness of national banks and the national banking system as a whole.'' [103]

For the reasons described above, the Commission also finds that good cause exists to make this rule effective immediately upon publication.[104]

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') [105] requires federal agencies to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, to provide a regulatory flexibility analysis regarding the economic impact on those entities. However, the RFA does not apply when a general notice of proposed rulemaking is not required.[106] As explained above, the Commission has determined that this rule is exempt from the notice-and-comment requirements of the APA,[107] for ''good cause.'' Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply to this rule.[108]

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'') [109] imposes certain requirements on federal agencies, including the Commission, in connection with conducting or sponsoring any ''collection of information,'' as defined by the PRA. Under the PRA, 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 control number from the Office of Management and Budget (''OMB'').[110] The PRA is intended, in part, to minimize the paperwork burden created for individuals, businesses, and other persons as a result of the collection of information by federal agencies, and to ensure the greatest possible benefit and utility of information created, collected, maintained, used, shared, and disseminated by or for the federal

[91] *See KalshiEX LLC* v. *Johnson,* 832 F.Supp.3d 954, 958 (D. Ariz. 2026) (prior to *Assad,* Arizona filed ''a twenty-count criminal information'' against the DCM).

[92] *See, e.g., supra* note 90.

[93] 7 U.S.C. 2(a)(1)(A).

[94] *Scalia,* 2020 WL 7074391, at *5.

[95] *Nat'l Fed'n of Fed. Emps.* v. *Devine,* 671 F.2d 607, 611 (D.C. Cir. 1982).

[96] *Block,* 655 F.2d at 1157.

[97] *See, e.g., Trading volume on prediction markets has soared in recent months,* Pew Research Center (May 27, 2026), *https://www.pewresearch.org/short-reads/2026/05/27/trading-volume-on-prediction-markets-has-soared-in-recent-months/* (noting $24 billion in trading volume in April 2026 on two prediction markets).

[98] *DeRieux* v. *Five Smiths, Inc.,* 499 F.2d 1321, 1332 (Temp. Emer. Ct. App. 1974) (emphasis added).

[99] *See Scalia,* 2020 WL 7074391 at *5.

[100] 822 F.2d 1123, 1133–34 (D.C. Cir. 1987); *see also Block,* 655 F.2d at 1157 (''good cause'' satisfied where ''court granted . . . motion for preliminary injunction, declaring [existing] guidelines . . . null and void''); *United Farm Works* v. *U.S. Dep't of Lab.,* 2026 WL 1345918, at *2 (E.D. Cal. May 14, 2026) (interim final rule ''good cause'' justified by agency after prior rule ''had been vacated by . . . [a] final judgment'' and even earlier version of the rule did not address ''regulatory gap'' that had emerged in the meantime; preliminary injunction challenging interim final rule denied on other grounds).

[101] *Block,* 655 F.2d at 1157.

[102] National Bank Non-Interest Charges and Fees, 91 FR 22989, 22992 (Apr. 29, 2026) (codified at 12 CFR 7).

[103] *Id.*

[104] 5 U.S.C. 553(d)(3).

[105] 5 U.S.C. 601 *et seq.*

[106] 5 U.S.C. 601, 603, and 604.

[107] *Id.*5 U.S.C. 553(b).

[108] *See* 5 U.S.C. 603 (regulatory flexibility analysis under the RFA is required only when an agency must publish a notice of proposed rulemaking for comment).

[109] 44 U.S.C. 3501 *et seq.*

[110] *See* 44 U.S.C. 3507(a)(3); 5 CFR 1320.5(a)(3).

government.[111] The PRA applies to all information, regardless of form or format, whenever the federal government is obtaining, causing to be obtained, or soliciting information, and includes required disclosure to third parties or the public, of facts or opinions, when the information collection calls for answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.[112]

This Interim Final Rule would not impose any new collection of information requirements that require approval of OMB under 44 U.S.C. 3507(d), nor would it amend or otherwise revise any existing collection of information subject to the PRA. Consistent with the Commission's jurisdiction, this Interim Final Rule clarifies the definition of ''swap'' excludes casino-style gambling products.

The Interim Final Rule does not establish any new reporting requirement under the CEA or the Commission's regulations applicable to any Commission registrant or market participant; establish any new recordkeeping requirement beyond those already imposed under the CEA and the Commission's existing regulations, which are currently approved by OMB under existing control numbers; impose any new third-party disclosure obligation; or modify the substantive scope, frequency, form, or content of any existing information collection of the Commission currently approved by OMB.

The Interim Final Rule does not alter the burden associated with existing collections currently approved by OMB. Any incremental activity that may occur as an indirect consequence of registrants electing to conduct business within the federal regulatory perimeter clarified by this Interim Final Rule reflects the application of existing, previously approved information collections to a new class of underlying transactions and does not itself constitute a new or revised collection of information within the meaning of the PRA.

Accordingly, the requirements of the Paperwork Reduction Act do not apply to this rulemaking.

D. Consideration of Benefits and Costs

1. Introduction

The Commission is mindful of the economic effects, including the benefits and costs, of the Interim Final Rule. Section 15(a) of the CEA requires the Commission to consider the benefits and costs of its actions before promulgating a regulation under the CEA or issuing certain orders.[113] As required by section 15(a), the Commission evaluates these benefits and costs evaluated in light of five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

The Interim Final Rule excludes casino-style gambling products from the definition of swaps. In promulgating the Interim Final Rule, the Commission would not change the legal rights or obligations of market participants under the CEA because the Commission already treats casino-style gambling products as outside its jurisdiction. Instead, consistent with the CEA, the Interim Final Rule will reduce interpretive uncertainty by codifying the Commission's understanding that regulation of casino-style gambling products is outside of the Commission's jurisdiction, affirming the long-standing regulatory authority of States and Tribes.

The Commission qualitatively discusses the benefits and costs of the Interim Final Rule below because it is not practicable to quantify the effect of greater regulatory certainty on market participant behavior.

2. Baseline

The baseline against which the benefits and costs of the Interim Final Rule are measured consists of the current regulatory framework and the current state of Commission-regulated markets.

The Commission has exclusive jurisdiction to regulate transactions involving swaps (other than security-based swaps).[114] Under the plain language of the CEA, casino-style gambling products are not swaps or any other instrument that the Commission regulates and therefore, outside the scope of the Commission's jurisdiction. The Commission is not aware of any casino-style gambling products that are treated as Commission-regulated instruments or otherwise traded on Commission-licensed DCMs or SEFs.

However, as discussed above, recent court decisions regarding whether sports-related event contracts are swaps and the breadth of the swaps definition under the CEA, including casino-style gambling products, has created legal uncertainty.[115]

3. Benefits

Because the Interim Final Rule does not change the legal rights or obligations of market participants under the CEA, the primary benefit of the Interim Final Rule is the immediate mitigation of regulatory and interpretive uncertainty triggered by recent, conflicting federal appellate court interpretations of the CEA's swap definition.

By expressly stating that traditional casino-style gambling products and sportsbook wagers do not constitute swaps, the Interim Final Rule could benefit gambling industry participants, State gaming commissions, and Tribal authorities. Insofar as industry participants and others are less likely to misapprehend the scope of the Commission's regulatory authority, they may benefit by allocating less capital to challenge or defend against Federal derivatives oversight, or to unnecessarily re-engineer their localized wagering infrastructures to meet incompatible Federal frameworks.

4. Costs

Because the Interim Final Rule codifies the Commission's long-standing operational baseline—that traditional casino-style gambling products reside outside its jurisdiction—it does not directly impose any new or incremental compliance costs under the CEA or the Commissions' regulations on derivatives market participants or retail gaming operators.

Codification of the exclusion of casino-style gambling products might slightly increase the incentive for certain entities to attempt to structure certain derivatives contracts as locally regulated gambling wagers to evade Commission jurisdiction. However, because the alternative to Federal regulation is compliance with a patchwork of State and Tribal regulatory frameworks (including outright prohibition in some jurisdictions), the risk of increased regulatory arbitrage is likely minimal. If entities nevertheless seek to evade Commission jurisdiction, the Commission understands that State and Tribal regulatory frameworks—although different than the Federal regulatory framework—would also offer some protection to industry participants and the public.

5. Section 15(a) Factors

Because the Interim Final Rule is consistent with existing law and market

[111] *See* 44 U.S.C. 3501.

[112] *See* 44 U.S.C. 3502(3).

[113] 7 U.S.C. 19(a).

[114] *See* 7 U.S.C. 2(a)(1)(A).

[115] *Compare Flaherty,* 172 F.4th at 227, *with Assad,* 2026 WL 2543846.

practice, it will have limited impact on protecting market participants and the public; efficiency, competitiveness, and financial integrity of the futures markets; price discovery; sound risk management practices; and other public interest considerations.

6. Regulatory Alternatives

Given the Interim Final Rule seeks only to clarify that casino-style gambling products are outside of the Commission's jurisdiction, the Commission has not identified any viable regulatory alternatives.

E. Antitrust Laws

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of the CEA as well as the policies and purposes of the CEA, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of the CEA.[116]

The Commission believes that the public interest protected by the antitrust laws is the promotion of competition. The Commission has considered whether the Interim Final Rule is anticompetitive and has identified no anticompetitive effects. The Commission also has not identified any less anticompetitive means of achieving the purposes of the CEA.

F. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; and distributive impacts). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President's priorities.

OMB has determined that this action is a significant regulatory action as defined under section 3(f) of Executive Order 12866 and therefore this action has been reviewed by OMB, consistent with Executive Order 14215.

This Interim Final Rule is not an Executive Order 14192 regulatory action, because it imposes no more than *de minimis* net costs.

G. Congressional Review Act

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act (''CRA''), generally provides for congressional review of agency rules. CFTC must submit a report to Congress and the Comptroller General when it issues a final rule, as defined in the CRA. An agency rule, in addition to being subject to congressional oversight, may also be subject to a delayed effective date if the rule is a ''major rule.'' OIRA has determined that this rule is not a ''major rule'' within the meaning of the relevant sections of the CRA. CFTC will also file appropriate reports with Congress and the Comptroller General so this rule may be reviewed.

List of Subjects in 17 CFR Part 1

Swaps.

For the reasons set forth in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 1 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 6p, 6r, 6s, 7, 7a–1, 7a–2, 7b, 7b–3, 8, 9, 10a, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24 (2012).

■ 2. In § 1.3, in the definition of the term, *Swap,* add paragraph (7) to read as follows:

§ 1.3 Definitions.

* * * * *

Swap. * * *

(7) *Casino-style gambling products.* (i) The term *swap* as used in section 1a(47) of the Commodity Exchange Act does not include an agreement, contract, or transaction that:

(A) Is offered or entered into by a person that is licensed or otherwise authorized to offer gambling or gaming products, or accept wagers, under the law of a State or the law of a federally recognized Indian tribe pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*), is acting within the scope of that license or authorization, and such agreement, contract, or transaction is regulated as gaming or gambling under applicable State or Tribal law; and

(B) Is not traded on a board of trade, an organized exchange, a swap execution facility, or any other market in which trades are executed multilaterally or subject to individual negotiation.

(ii) Provided that the requirements of paragraph (7)(i) of this definition are met, and without limiting the generality of paragraph (7)(i) of this definition, the following agreements, contracts, and transactions are excluded from the term *swap:*

(A) *Sports wagers.* Any agreement, contract, or transaction in which a licensed sportsbook or sports wagering operator accepts a wager on the outcome of one or more sporting events;

(B) *Casino games.* Any agreement, contract, or transaction in which a licensed casino operator accepts a wager in connection with a casino table game, slot machine, or other electronic gaming device; and

(C) *Other licensed games of chance.* Any agreement, contract, or transaction in which a licensed operator accepts a wager in connection with any other game of chance (such as bingo, pool wagering, lotteries, and raffles).

Issued in Washington, DC, on October 15, 2026, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Further Definition of ''Swap'' to Exclude Casino-Style Gambling Products—Commission Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026–21376 Filed 10–16–26; 8:45 am]

BILLING CODE 6351–01–P

[116] 7 U.S.C. 19(b).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 10060]

RIN 1545–BP66

Regulations Regarding Payment of Tax by Commercially Acceptable Means

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rule.

SUMMARY: This document contains final regulations regarding the payment of tax by commercially acceptable means. The final regulations reflect changes to the law made by the Taxpayer First Act that would allow the IRS to directly accept payments of tax by credit or debit card, without having to connect taxpayers to third-party payment processors. These final regulations remove restrictions on the payment of any fee by the IRS under any contracts related to payment of taxes by credit, debit, or charge card, and on the IRS imposing any fee or charge on persons paying taxes by credit or debit card.

DATES:

Effective date: These final regulations are effective on October 19, 2026.

Applicability date: For date of applicability, *see* § 301.6311–(g).

FOR FURTHER INFORMATION CONTACT: Crystal Jackson-Kaloz of the Office of the Associate Chief Counsel (Procedure and Administration), (202) 317–5191 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document contains amendments to the Procedure and Administration Regulations (26 CFR part 301) issued by the Secretary of the Treasury or the Secretary's delegate (Secretary) under the authority granted by sections 6311 and 7805(a) of the Internal Revenue Code (Code) regarding the payment of internal revenue taxes by commercially acceptable means.

Section 6311(a) provides an express delegation of authority to the Secretary, stating that the Secretary may receive payment of internal revenue taxes by any commercially accepted means under conditions provided by regulations prescribed by the Secretary. Section 6311(d)(1)(A) directs the Secretary to prescribe regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that specify which methods of payment by commercially acceptable means will be accepted.

Section 7805(a) authorizes the Secretary to ''prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.''

Background and Explanation of Provisions

This document contains final regulations under section 6311. These final regulations amend provisions of § 301.6311–2 of the existing regulations (existing § 301.6311–2) to implement the changes made to section 6311 by section 2303 of the Taxpayer First Act (TFA), Public Law 116–25, 133 Stat. 981, 1013 (July 1, 2019).

Section 6311(a) provides that it is lawful for the Secretary to receive payment for internal revenue taxes by any commercially acceptable means that the Secretary deems appropriate to the extent and under the conditions provided in regulations prescribed by the Secretary. Existing § 301.6311–2, which was adopted by the publication of TD 8969 in the **Federal Register** (66 FR 64740) on December 14, 2001, authorizes payment of internal revenue taxes by credit or debit card so long as such payments are made in the manner and in accordance with the forms, instructions, and procedures prescribed by the Commissioner of Internal Revenue (Commissioner).

Prior to passage of the TFA, section 6311(d)(2) authorized the Secretary to enter into contracts to obtain services related to receiving payment of taxes by credit card or debit card, or charge card, but prohibited the Secretary from paying any fee or other consideration under any such contract. Existing § 301.6311–2(f) implements this provision. Existing § 301.6311–2(e) prohibits the IRS from imposing any fee or charge on persons making payment of taxes by credit card or debit card.

Section 2303 of the TFA amended section 6311(d)(2) by adding a discretionary exception whereby the Secretary is no longer prohibited from paying a fee under a contract related to receiving payment of taxes by credit or debit card to the extent that the Secretary ensures that any such fee is fully recouped from the persons paying taxes by credit or debit card pursuant to such contract. This provision enables the IRS to receive benefits similar to other entities that accept credit or debit cards, including guaranteed receipt of funds and reduction of paper check processing costs. This provision also enables taxpayers to make a payment more easily by credit or debit card directly to the IRS, such as over the telephone, without having to separately wait for the IRS to connect them to third-party processors. *See* H. Rept. 116–39(I), 116th Cong., 1st Sess. at 90 (2019).[1]

On July 02, 2024, the Treasury Department and the IRS published in the **Federal Register** (89 FR 54746) a notice of proposed rulemaking (REG–120137–19) proposing amendments to § 301.6311–2 (proposed regulations). In response to proposed amendments to the regulations, the Treasury Department and the IRS received eight comments. The comments are available at *https://www.regulations.gov.* A public hearing was requested; however, because no one requested to speak at the public hearing, the hearing was cancelled. After careful consideration of the comments, the Treasury Department and the IRS adopt the text of the proposed regulations with no change.

Summary of Comments

Most comments were supportive of the proposed amendments to the regulations. Commenters generally noted that the ability of taxpayers to pay taxes by credit or debit card directly to the IRS would simplify the payment process, reduce the costs to taxpayers, and would encourage more taxpayers to timely pay their taxes.

One comment neither supported nor opposed the proposed amendments but requested that the IRS implement a better fee reimbursement model to improve the costs to taxpayers who pay taxes using credit or debit cards regardless of whether the proposed amendments are adopted. The concerns identified in the comment are outside the scope of these regulations, which do not actually implement any particular payment process or contract. Accordingly, a change to the proposed regulatory text is not necessary and the final regulations do not adopt this comment.

[1] In 2019, different versions of the TFA were introduced in the House and Senate and both bills contained provisions to amend section 6311 of the Code. H. Rept. 1957 was introduced in the House on March 28, 2019, and passed the House on April 9, 2019, but did not pass the Senate. Section 2303 of H. Rept. 1957 contained proposed statutory language amending section 6311(d) that was identical to the statutory language that was enacted a short time later on July 1, 2019, in section 2303 of H. Rept. 3151. Due to the procedural way in which H. Rept. 3151 became a vehicle for enacting the TFA, there are no separate House, Senate, or Conference Reports regarding H. Rept. 3151, which became the TFA, Public Law 116–25. Therefore, it is appropriate for the Treasury Department and the IRS to look to the House Ways and Means Committee Report for H. Rept. 1957, the immediate predecessor to H. Rept. 3151, to understand the intended scope of section 2303 of the TFA.

Another comment expressed the view that simpler language could be used in the proposed regulations and that certain terms may be ambiguous or have multiple interpretations. The Treasury Department and the IRS considered these recommendations but determined that the language used in the proposed regulations, which these final regulations adopt, is drafted in a straightforward way that is consistent with the statutory text, and that no further changes are necessary.

Another comment expressed support for the proposed regulations with the caveat that no fee should be associated with using a credit or debit card. The final regulations, consistent with the proposed regulations and the requirements of section 2303 of the TFA, will provide the Secretary with the discretion to pay a fee under a contract relating to receiving payment of taxes by credit or debit card to the extent the Secretary ensures that any such fee is fully recouped from the persons paying taxes by credit or debit card pursuant to such contract.

Another comment argued that the IRS must undertake a cost-comparison under Office of Management and Budget (OMB) Circular A–76 (Circular) ''in keeping with the philosophy of'' the Federal Activities Inventory Reform Act of 1998 (FAIR Act), codified at 31 U.S.C. 501, which identifies activities that are commercial in nature. The comment stated that the proposed regulations ''would potentially unwind the longstanding policy of the Federal Government to contract with the private sector to provide purely commercial services such as card payment processing.'' Because neither section 6311 nor these regulations change the IRS's obligations under the Circular, and to the extent that IRS activities regarding collection of taxes by credit and debit card are subject to the requirements of the Circular and related laws, those activities will continue to be reviewed, and all applicable requirements will be met upon implementation of the final rule. Accordingly, the Treasury Department and the IRS have determined that the requested cost comparison is beyond the scope of these regulations.

Finally, the Treasury Department and the IRS received one submitted comment that did not address the proposed regulations.

Special Analyses

I. Regulatory Planning and Review

These regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and the OMB regarding review of tax regulations. Therefore, a regulatory impact assessment is not required.

II. Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6). This certification is based on the fact that the regulation would apply only to the IRS's ability to (1) pay a fee under a contract related to receiving payment of taxes by credit or debit card, and (2) recoup processing fees from the person paying taxes by credit or debit card. Under existing regulations, the IRS may not do either of those things. These final regulations would also implement a requirement under the TFA that the IRS must seek to minimize any fee the IRS is required to pay under such a contract. Because persons choosing to pay tax by credit or debit card are ordinarily required to pay processing fees to a third-party processor, the final regulations would not have a significant economic impact on such persons.

III. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

IV. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

V. Small Business Administration

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

VI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

Drafting Information

The principal author of these regulations is Crystal Jackson-Kaloz of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and IRS amend 26 CFR part 301 as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 is amended to read, in part, as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 301.6311–2 is also issued under 26 U.S.C. 6311.

■ **Par. 2.** Section 301.6311–2 is amended by:
■ 1. Revising paragraph (d)(1).
■ 2. Removing paragraph (e).
■ 3. Redesignating paragraphs (f) through (h) as paragraphs (e) through (g).
■ 4. Revising newly redesignated paragraph (e).
■ 5. In newly redesignated paragraph (f), removing the language ''Internal Revenue Service'' and adding the language ''IRS'' in its place.
■ 6. Revising newly redesignated paragraph (g).

The revisions read as follows:

§ 301.6311–2 Payment by credit card and debit card.

* * * * *

(d) *Resolution of errors relating to the credit card or debit card account*—(1) *In general.* Payments of taxes by credit card or debit card, and payments of reimbursement fees referred to in paragraph (e)(2) of this section, are subject to the applicable error resolution procedures of section 161 of the Truth in Lending Act (15 U.S.C. 1666), section 908 of the Electronic Fund Transfer Act (15 U.S.C. 1693f), or any similar provisions of State or local law, for the purpose of resolving errors relating to the credit card or debit card account, but not for the purpose of resolving any errors, disputes or adjustments relating to the underlying tax liability.

* * * * *

(e) *Authority to enter into contracts*—(1) *In general.* The Commissioner may enter into contracts related to receiving payments of tax by credit card or debit card if such contracts are cost beneficial to the government. The determination of whether the contract is cost beneficial will be based on an analysis appropriate for the contract at issue and at a level of detail appropriate to the size of the government's investment or interest.

(2) *Contracts under which fees are prohibited.* The Commissioner may enter into contracts that provide that the Internal Revenue Service (IRS) will not pay a fee, charge, or other monetary consideration under such contracts related to payments of tax by credit card or debit card. For payments of tax under such contracts, this section does not prohibit the imposition of fees or charges by issuers of credit cards or debit cards or by any other financial institutions or persons participating in the credit card or debit card transaction. The IRS may not receive any part of any such fees that may be charged.

(3) *Contracts under which fees are permitted and must be recouped.* The Commissioner may enter into contracts that provide that the IRS will pay a fee, charge, or other monetary consideration under such contracts related to payments of tax by credit card or debit card. If the IRS pays a fee under such contracts, it must recoup the full amount paid under such contracts as a reimbursement fee from the persons paying tax by credit card or debit card. The reimbursement fees will be limited to the amount of the fees that IRS pays under any such contract and will be paid at the time of, and in addition to, the tax payment. The reimbursement fee is not a tax imposed by the Code, and no portion of the reimbursement fee is eligible for refund or credit under section 6402 of the Code. The error resolution procedures described in paragraph (d)(1) of this section will apply to any errors concerning the reimbursement fee. In negotiating contracts under this paragraph (e)(3), the Commissioner will seek to minimize the amount of the fees paid.

* * * * *

(g) *Applicability date.* The rules of this section apply to payments of taxes and reimbursement fees made on or after October 19, 2026.

Frank J. Bisignano,

Chief Executive Officer.

Approved: September 10, 2026

Kevin M. Salinger,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2026–21267 Filed 10–16–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

30 CFR Part 560

[Docket ID: BOEM–2026–0727]

RIN 1010–AE39

Outer Continental Shelf Oil and Gas Leasing; Corrections

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Correcting amendments.

SUMMARY: The Department of the Interior (DOI), acting through the Bureau of Ocean Energy Management (BOEM), is correcting citations in 30 CFR part 560. DOI issued two rules in 2008 and 2016 where some of the finalized amendments were never incorporated into the CFR. This document corrects 30 CFR part 560 to reflect the finalized amendments.

DATES: Effective on October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Karen Thundiyil, Office Director, Office of Regulatory Affairs, BOEM, 1849 C Street NW, Washington, DC 20240, at email address *Regulatory.Affairs@boem.gov* or at telephone number (202) 742–0970.

SUPPLEMENTARY INFORMATION:

I. Background

On October 7, 2008, the Minerals Management Service (MMS), BOEM's predecessor agency, issued *Royalty Relief for Deepwater Outer Continental Shelf Oil and Gas Leases—Conforming Regulations to Court Decision* final rule (73 FR 58467), which, among other things, eliminated specific part 260 sections. The final rule removed sections 260.117 and 260.114(c), (d), and (e) from the CFR. However, later amendments to part 260 did not reflect the eliminated sections. Cross-references to eliminated sections 260.117 and 260.114(d) in part 260 remained.

On October 18, 2011, DOI published the *Reorganization of Title 30: Bureaus of Safety and Environmental Enforcement and Ocean Energy Management* final rule (76 FR 64432), which recodified 30 CFR part 260 regulations into the new 30 CFR chapter V, part 560. During this recodification, the invalid references to eliminated part 260 sections were carried forward into part 560.

On March 30, 2016, BOEM published the *Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf* final rule (81 FR 18112). In the final rule, BOEM redesignated several sections in subparts A and B of part 560 and revised their titles to align with the numbering structure used throughout the regulation. However, BOEM did not include complete instructions to update references to reflect the redesignation. As a result, any references to the former section numbers that were not removed are invalid.

This document corrects invalid references in part 560.

II. Summary of Corrections

A. Sections 560.203(a) and (e)

Sections 560.203(a) and (e) currently cite section 560.110. In the *Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf* final rule (81 FR 18112), BOEM redesignated section 560.110 as section 560.202. This document replaces the incorrect citation with the correct reference to section 560.202.

B. Section 560.210

The introductory paragraph of section 560.210 currently references section 560.113 and sections 560.113 through 560.117.

The final rule *Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf* (81 FR 18112) redesignated sections 560.113 through 560.116 as sections 560.211 through 560.214. This document corrects the references.

In *Royalty Relief for Deepwater Outer Continental Shelf Oil and Gas Leases—Conforming Regulations to Court Decision* (73 FR 58467), MMS removed section 260.117 from the CFR. However, later amendments to part 260 did not reflect that deletion.

Reorganization of Title 30: Bureaus of Safety and Environmental Enforcement and Ocean Energy Management (76 FR 64432) recodified part 260 regulations

into the new 30 CFR chapter V, part 560. During this recodification, an invalid reference to former section 260.117 was carried forward as section 560.117. This document removes the obsolete citation.

C. Section 560.211

Section 560.211(a) currently includes a reference to section 560.110 (g). The final rule *Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf* final rule (81 FR 18112) redesignated section 560.110 as section 560.202. This document corrects the section to reference section 560.202(g).

D. Section 560.220

The introductory paragraph of section 560.220 currently references sections 560.121 through 560.124. In the *Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf* final rule (81 FR 18112), BOEM redesignated sections 560.121 through 560.124 as sections 560.221 through section 560.224. Accordingly, this document corrects section 560.220 to reference sections 560.221 through 560.224.

E. Section 560.222

Section 560.222(b)(3) currently includes references to sections 560.120 through 560.124. The final rule *Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf* (81 FR 18112) redesignated sections 560.120 through 560.124 as sections 560.220 through 560.224. This document corrects section 560.222(b)(3) to reference sections 560.220 through 560.224.

F. Section 560.224

Section 560.224(b)(1) currently references section 560.114(d). As explained earlier, DOI previously recodified the regulations in section 260.114 to section 560.114, and earlier, the MMS *Royalty Relief for Deepwater Outer Continental Shelf Oil and Gas Leases—Conforming Regulations to Court Decision* final rule (73 FR 58467) removed sections 260.114(c), (d), and (e). The subsequent regulatory revisions did not account for this removal, and an incorrect reference to former section 260.114(d) remained. It was carried forward as section 560.114(d). This document corrects that error by eliminating the reference to 560.114(d). The regulatory text is clear as written and reference to another regulatory citation is unnecessary.

G. Section 560.230

The introductory paragraph of section 560.230 currently cites section 560.110. The *Leasing of Sulfur or Oil and Gas in the Outer Continental Shelf* final rule (81 FR 18112) redesignated section 560.110 as section 560.202. This document corrects section 560.110 to reference to section 560.202.

List of Subjects in 30 CFR Part 560

Government contracts, Mineral royalties, Oil and gas exploration, Continental shelf, Reporting and recordkeeping requirements.

This action by the Assistant Secretary is taken herein pursuant to an existing delegation of authority.

Lanny E. Erdos,

Director, Office of Surface Mining, Reclamation, and Enforcement Exercising Authority of the Assistant Secretary—Land and Mineral Management.

For the reasons stated in the preamble, the Department of the Interior amends 30 CFR part 560 as follows:

PART 560—OUTER CONTINENTAL SHELF OIL AND GAS LEASING

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

Authority: Section 104, Public Law 97–451, 96 Stat. 2451 (30 U.S.C. 1714), Public Law 109–432, Div C, Title I, 120 Stat. 3000; 30 U.S.C. 1751; 31 U.S.C. 9701; 43 U.S.C.1334; 33 U.S.C. 2704, 2716; E.O. 12777, as amended; 43 U.S.C. 1331 *et seq.,* 43 U.S.C.1337.

Subpart B—Bidding Systems

General Provisions

■ 2. Amend § 560.203 by revising paragraphs (a) and (e) to read as follows:

§ 560.203 What conditions apply to the bidding system that BOEM uses?

(a) For each of the bidding systems in § 560.202, we will include an annual rental fee. Other fees and provisions may apply as well. The Notice of OCS Lease Sale published in the **Federal Register** will specify the annual rental and any other fees the highest responsible qualified bidder must pay and any other provisions.

* * * * *

(e) We may, by rule, add to or modify the bidding systems listed in § 560.202, according to the procedural requirements of the OCSLA, 43 U.S.C. 1331 *et seq.,* as amended by Public Law 95–372, 92 Stat. 629.

■ 3. Amend § 560.210 by revising the introductory paragraph to read as follows:

§ 560.210 How do royalty suspension volumes apply to eligible leases?

Royalty suspension volumes, as specified in section 304 of the Act, apply to eligible leases that meet the criteria in § 560.211. For purposes of this section and §§ 560.211 through 560.214:

* * * * *

■ 4. Amend § 560.211 by revising paragraph (a) to read as follows:

§ 560.211 When does an eligible lease qualify for a royalty suspension volume?

(a) Your eligible lease will receive a royalty suspension volume as specified in the Act. The bidding system in § 560.202(g) applies.

* * * * *

■ 5. Amend § 560.220 by revising the introductory paragraph to read as follows:

§ 560.220 How does royalty suspension apply to leases issued in a sale held after November 2000?

We may issue leases with suspension of royalties for a period, volume or value of production, as authorized in section 303 of the Act. For purposes of this section and §§ 560.221 through 560.224:

* * * * *

■ 6. Amend § 560.222 by revising paragraph (b)(3) to read as follows:

§ 560.222 How long will a royalty suspension volume be effective for a lease issued in a sale held after November 2000?

* * * * *

(b) * * *

(3) Any production on which you must pay royalty under this paragraph will count toward the production volume determined under §§ 560.220 through 560.224.

* * * * *

■ 7. Amend § 560.224 by revising paragraph (b)(1) to read as follows:

§ 560.224 How will royalty suspension apply if BOEM assigns a lease issued in a sale held after November 2000 to a field that has a pre-Act lease?

* * * * *

(b) * * *

(1) Royalty-free production from your RS lease shares from and counts as part of any royalty suspension volume for the field to which we assign your lease; and

* * * * *

■ 8. Amend § 560.230 by revising the introductory paragraph to read as follows:

§ 560.230 What criteria does BOEM use for selecting bidding systems and bidding system components?

In analyzing the application of one of the bidding systems listed in § 560.202 to tracts selected for any OCS lease sale, we may, at our discretion, consider the following purposes and policies. We recognize that each of the purposes and

policies may not be specifically applicable to the selection process for a particular bidding system or tract, or may present a conflict that we will have to resolve in the process of bidding system selection. The order of listing does not denote a ranking.

* * * * *

[FR Doc. 2026–21346 Filed 10–16–26; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2026–1221]

RIN 1625–AA08

Special Local Regulation; Ponce Harbor, Ponce, PR

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation (SLR) for certain waters within the Bahia de Ponce, Ponce, PR. This action is necessary to provide for the safety of life on these navigable waters near Ponce, PR during the Discover the Caribbean Regatta 2026 event to be held October 30, 2026, through November 1, 2026, and November 14, 2026, through November 15, 2026. This regulation prohibits persons and vessels from entering the regulated area unless specifically authorized by the Captain of the Port San Juan or their designated representative.

DATES: This rule is effective from October 30, 2026, through November 15, 2026. The temporary special local regulations will be enforced on October 30, 2026, through November 1, 2026, and on November 14, 2026, through November 15, 2026, from 9 a.m. until 5 p.m. daily.

ADDRESSES: To view available documents go to *https://www.regulations.gov* and search for USCG–2026–1221.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, contact Lieutenant Commander Rachel E. Thomas, Sector San Juan, Waterways Management Division, U.S. Coast Guard; telephone 571–613–1417; email *Rachel.E.Thomas@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard received a request under 33 CFR 100.15 from an organization regarding the Discover the Caribbean Regatta 2026, hosted by the Ponce Yacht and Fishing Club. The event is scheduled to take place on October 30, 2026, through November 1, 2026, and November 14, 2026, through November 15, 2026, from 9 a.m. until 5 p.m. each day. The designated event includes specific waters within Ponce Harbor and is expected to involve approximately 100 participants and 10 spectator vessels.

The Captain of the Port San Juan (COTP) is issuing this Special Local Regulation (SLR) under the authority in 46 U.S.C. 70041. The COTP has determined that potential hazards associated with the regatta poses potential safety concerns for individuals and vessels within the regulated area. Additional risks, such as sudden weather changes and shifting currents, further heighten the likelihood of collisions and other safety issues due to the increased maritime traffic. The purpose of this rulemaking is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event.

Because of these potential hazards, the Coast Guard is issuing this rule without prior notice and comment. As is authorized by 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The Coast Guard must establish this SLR by October 30, 2026, to protect personnel, vessels, and the marine environment. Therefore, we have do not have enough time to solicit and respond to comments.

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

III. Discussion of the Rule

This rule establishes a temporary SLR on October 30, 2026, through November 1, 2026, and on November 14, 2026 through November 15, 2026, from 9 a.m. until 5 p.m. daily. The special local regulation will cover navigable waters within the Ponce Harbor. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or their designated representative.

IV. Regulatory Analyses

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

A. Impact on Small Entities

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

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

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

■ 2. Add § 100.T07–1221 to read as follows:

§ 100.T07–1221 Special Local Regulation; Ponce Harbor, Ponce, PR.

(a) *Location.* This special local regulation applies to all waters Bahia de Ponce, from surface to bottom, as follows: Race area 1: within the box from Point 1 at 17° 58′17.05″ N, −66°37′28.42″ W, thence north to Point 2 at 17°58′36.69″ N, −66°37′25.53″ W, thence west to Point 3 at 17°58′34.22″ N, −66°39′6.06″ W, thence southwest to Point 4 at 17°58′19.80″ N, −66°39′16.43″ W, and along the shoreline back to the beginning Point 1. Race Area 2: within a radius of 1,200 yards from Point 17°57′2.56″ N, −66°36′56.99″ W.

(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 San Juan (COTP) in the enforcement of the regulated area. *Participant* means all persons and vessels registered with the event sponsor as a participant in the race.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF–FM channel 16 or by telephone at (787) 729–2380. Those in the regulated area must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement periods.* This section will be enforced on October 30, 2026, through November 1, 2026, and on November 14, 2026, through November 15, 2026, from 9 a.m. until 5 p.m. daily.

Luis J. Rodríguez,

Captain, U.S. Coast Guard, Captain of the Port Sector San Juan.

[FR Doc. 2026–21302 Filed 10–16–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

[NPS–AKRO–NPS0043368; PPAKAKROD0–PPMPSAS1Y.Y00000–PX.XAKRO27C8.00.1]

RIN 1024–AE96

Alaska; Wildlife, Harvest, and Access

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) amends its regulations for hunting, fishing, trapping, and other harvest-related activities in Alaska and the procedures used to restrict public use and access in Alaska park areas, including for subsistence. This rule restores the regulatory framework adopted to implement the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) in 1981 that guided management for more than three decades, with targeted updates to that framework in response to public comments and further agency review. The restored framework recognizes the complementary and distinct roles of the State of Alaska, the Federal Subsistence Management Program, and the NPS in managing public uses and resources in Alaska park areas. The rule removes regulatory changes made in 2015, 2017, and 2024 that departed from that framework. These amendments are consistent with Executive Orders 14153 and 14192 and Secretary of the Interior's Orders 3422 and 3447.

DATES: This rule is effective November 18, 2026.

ADDRESSES: Comments received on the proposed rule are available on *https://www.regulations.gov* in Docket No. NPS–2026–0034.

FOR FURTHER INFORMATION CONTACT: Don Striker, Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501; phone (907) 227–6163; email: *AKR_Regulations@nps.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: This final rule updates and restores regulations for Alaska park areas to the framework in place from 1981 through amendments beginning in 2015. A table summarizing this restoration is included in the ''Final Rule'' section below. Detailed explanations are included in that section and in the ''Background'' and ''Summary and Responses to Public Comments'' sections below.

This rule does not alter the federal subsistence priority established in ANILCA. Federal Subsistence Management Program regulations and the rural preference for qualified users on federal public lands in ANILCA Title VIII are unchanged. What this rule means for subsistence users:

- Permit requirements for collecting animal parts for handicrafts—removed. The 2017 changes added a mandatory permit for collecting antlers, bones, and similar materials to create handicrafts for barter and customary trade. This rule removes the permit requirement; collection for these purposes remains allowed.
- Restrictions for harvesting bears over bait for subsistence uses—removed. Bait and other restrictions added in 2017, which limited subsistence users to using natural or legally harvested remains, are removed; regulations issued by state and federal boards govern these uses unless the statutory

criteria and procedures in ANILCA are met for a closure.

- Public hearings before closures affecting fish and wildlife harvest—restored. The requirement to hold a hearing in the affected vicinity before closures affecting the harvest of fish and wildlife was removed in 2015. This rule restores that local hearing requirement.
- Notice requirements for local rural residents—restored and updated. The requirement to post signs and/or provide notice in local newspapers, radio broadcasts, posted maps, and post office notifications was eliminated in 2015. The final rule restores these locally focused notice requirements, which remain essential tools for reaching remote communities with limited connectivity, and updates the regulatory text to ensure posted signs are required in addition to (not in the place of) published notice.

This rule does not expand or restrict NPS closure authorities beyond what Congress has provided for Alaska. It does not affect state management authority over Alaska's fish and wildlife resources or affect the authority of the Secretaries of the Interior and Agriculture under Title VIII of ANILCA, including the authority that the Secretaries delegated to the Federal Subsistence Board. The rule does not reopen areas closed to harvest by statute.

Background

In 1980, ANILCA established 10 national preserves, two national monuments, and eight new or expanded national parks across Alaska. Since enactment, the NPS has managed these units of the National Park System (System) under a regulatory framework that recognizes multiple, complementary state and federal authorities. The State of Alaska manages fish and wildlife populations on all lands under state regulations and requirements in the Alaska Constitution; the Secretaries of the Interior and Agriculture (through the Federal Subsistence Management Program) currently administer the subsistence taking and uses of fish and wildlife on federal public lands, as set forth in ANILCA Title VIII; and the NPS manages park areas in Alaska according to ANILCA provisions that expressly allow subsistence and sport hunting, fishing, and trapping in national preserves and subsistence harvest in certain specified parks and monuments according to applicable state and federal law. As part of its management of these areas, the NPS may close areas or restrict activities according to Alaska-specific criteria and procedures, including consultation and public participation requirements. See ANILCA Titles II, VIII, and XIII; see also *Alaska Dep't of Fish & Game* v. *Fed. Subsistence Bd.,* 139 F.4th 773, 779, 783–84 (9th Cir. 2025).

These provisions reflect Congress's comprehensive and intentionally negotiated balance among competing uses, authorities, interests, and values. In enacting ANILCA, Congress affirmed the State of Alaska's existing authorities to manage Alaska's fish and wildlife resources and the NPS's authority to manage for specific unit purposes, with constraints on the discretion each manager has to close or restrict uses authorized in ANILCA.

Implementing regulations adopted in 1981 (46 FR 31836), 1983 (48 FR 30252), and 1986 (51 FR 31619) reflected this structure and governed Alaska park areas for more than three decades, recognizing state management authorities, the Secretary of the Interior's (Secretary) responsibilities in ANILCA Title VIII, including in parks and monuments that are closed to hunting except for subsistence, and NPS's authority to close areas and restrict activities in accordance with Alaska-specific criteria and procedures, one of numerous unique management directives for NPS in ANILCA. This final rule restores the regulatory framework that governed Alaska park areas from ANILCA's passage until the discretionary shift in 2015 to advance administration policy goals. The rule reinstates regulations that reflect ANILCA's balanced compromise and were designed to implement this unique, Alaska-specific approach.

Legal Authority

The proposed rule outlined the legal authorities supporting this action. See, *e.g.,* 91 FR 11483, 11484 (Mar. 10, 2026). In short, ANILCA established a clear, Alaska-specific framework in which national preserves are managed as units of the System while expressly allowing the harvest of fish and wildlife resources under applicable state and federal law. Congress affirmed the State of Alaska's responsibility for managing fish and wildlife resources except as provided in Title VIII, limited the NPS's involvement in regulations implementing Title VIII, and set out the statutory criteria and procedures for closures and restrictions in Alaska park areas, particularly for subsistence uses and other authorized harvest activities.

This framework guided the regulations adopted in the 1980s that successfully carried out ANILCA's unique requirements for more than three decades, until policy-driven interpretations in 2015 and 2017 departed from its balanced mandates for Alaska. This framework continues to guide NPS in restoring that proven regulatory approach and is the baseline for evaluating each of the amendments.

Regulatory Development

The proposed rule explores the history that led to this rule in significant detail. See, *e.g.,* 91 FR 11484–87. In short, ANILCA expanded or established park areas in Alaska within an overarching framework for managing federal lands and interests that differs from more general and nationwide frameworks in important respects. This means System units in Alaska have a unique management structure for preserving nationally significant natural, cultural, scenic, and wildlife resources as well as continuation of the Alaska way of life, including harvesting renewable natural resources for food, clothing, shelter, familial and cultural ties; access and transportation for traditional activities and connecting communities; long-term use, occupancy, and storage; and other uses Congress determined should continue in Alaska subject to the provisions in ANILCA.

Since ANILCA, the Department of the Interior (DOI) and NPS have implemented these provisions in regulations at 36 CFR part 13, 43 CFR part 36, and 43 CFR part 51 (formerly at 50 CFR part 100) as follows.

1981–2014 (the established framework): NPS regulations adopted shortly after ANILCA's passage included Alaska-specific provisions for hunting, fishing, trapping, subsistence, access, and public participation. Regulations recognized complementary state and federal authorities and provided transparent criteria and procedures for closures affecting authorized uses.

2015: Starting with a proposed rule in 2014, NPS regulations for Alaska were amended to depart from the established framework. The 2015 amendments introduced narrower interpretations of ANILCA's provisions to support broader application of System-wide prohibitions; recharacterized statutory closure criteria as broader ''factors''; reduced public engagement requirements; altered notice and consultation procedures; and removed cross-references to applicable state and DOI authorities. These changes marked a shift toward greater consistency with management practices outside Alaska and broader discretion for unit managers, rather than the Alaska-specific approach required by ANILCA.

Public comments on the 2015 changes included significant opposition from Alaska Native Tribes, villages,

corporations, and organizations. The Alaska Federation of Natives adopted Resolution 14–42 finding the rulemaking ''overreaching, vague, and indiscrimina[te]'' noting it ''would further criminalize Alaska Native traditional resource management practices.'' Tanana Chiefs Conference also opposed the rule for its potential impacts on subsistence, member Tribes, and traditional homelands. Many commenters observed there was no consultation or notice before publication and procedural amendments received sparse attention.

2017: The NPS made additional revisions to its Alaska-specific regulations to address subsistence uses of renewable natural resources. Among other things, these changes added a permit requirement for collecting nonedible animal parts for handicrafts; restricted methods and types of bait used in harvesting bears for subsistence; and prohibited collection of live raptor chicks under a falconry permit (preempting state regulation at 5 AAC 92.037).

2020: In a 2020 rulemaking, NPS removed most of the 2015 prohibitions on state-authorized activities including harvesting bears over bait, which was allowed from 2020 through 2024 after being prohibited in 2015; it has been limited for federally qualified subsistence users since 2017. In a lawsuit challenging the 2020 rulemaking, the U.S. District Court noted the 2020 rulemaking principally concerned the relationship between the federal and state management systems and the scope of NPS's regulatory authority, while the administrative record reflected limited evidence of population-level impacts under state management and the specific harvest practices at issue. *Alaska Wildlife Alliance* v. *Haaland,* 632 F. Supp. 3d 974, 996–1002 (D. Alaska 2022). The court affirmed the NPS's conclusion that the practices reauthorized in 2020, including bear baiting, would not adversely impact populations or interfere with NPS's statutory obligations. *Id.* at 1002. The 2020 changes did not address the procedural, interpretive, and administrative changes made in 2015 and 2017.

2024: NPS reinstated the prohibition on bear baiting in preserves, attempted to further define ''trapping'' in ways that are unnecessarily duplicative of the State's trapping regulations, and added an unnecessary severability provision.

Now: Executive Order 14153 Sec. 3(b)(xix) directed rescission of the 2024 changes and restoration of the regulations adopted in 2020. This rule implements that direction and goes further to address the changes in 2015 and 2017 that the 2020 rulemaking did not consider.

This rule restores the established Alaska-specific framework, regulatory language, decision criteria, public procedures, and underlying interpretations that implemented Congress's direction for Alaska park areas from their establishment until the changes in 2015 and 2017. The NPS believes a return to this proven framework more closely reflects Congress's direction by preserving subsistence uses, local participation, and government coordination, and by providing greater consistency, clarity, and predictability in park administration.

Administrative Direction

As recognized in the proposed rule, 91 FR 11486, this rule's comprehensive and updated restoration of the pre-2015 regulations is also consistent with current Executive and Departmental policy direction concerning Alaska, regulatory reform, public access, subsistence uses, hunting and fishing, and coordination with state and local partners in managing public lands.

Executive Order 14153 directs federal agencies to review and revise actions affecting Alaska and specifically directs DOI bureaus to consider the cultural significance of hunting and fishing in Alaska, the priority for subsistence in ANILCA, meaningful consultation with state resource agencies, and consistency between hunting and fishing opportunities on federal and state lands. Secretary's Order 3422 guides implementation through directed actions affecting Alaska and the administration of federal lands and resources. Executive Order 14192 and Secretary's Order 3447 direct agencies to remove unnecessary regulatory burdens, improve regulatory clarity, and strengthen coordination with state, tribal, territorial, and local partners. The directives in Secretary's Order 3447 are specific to hunting and fishing on DOI-managed public lands. Restoring the established Alaska-specific framework directly advances all of these directives.

Requests for Action

The proposed rule details the history of requests for action related to the changes in the final rule. See 91 FR 11487. In short, since the 2015 and 2017 changes, stakeholders have consistently raised concerns about those amendments affecting the closure process, public participation, consultation requirements, subsistence uses, permitting requirements, and the relationship between Alaska-specific regulations and System-wide regulations under ANILCA. Questions regarding the consistency of these amendments with ANILCA and its unique roles for federal and state managers have remained at the forefront of public comments, letters, petitions, and litigation since 2015.

The final rule responds to these concerns through a comprehensive review of the procedural, interpretive, and administrative amendments adopted in 2015 and 2017 that were not reconsidered in the 2020 or 2024 rulemakings. In addition to implementing the direction in Executive Order 14153 to rescind the 2024 rule and restore the 2020 rule, NPS considered, among other things, the May 19, 2025, letter from Safari Club International and the October 10, 2025, Petition for Rulemaking submitted by the Alaska Outdoor Council, which both requested a broader review of the changes that began in 2015 and restoration of the established Alaska-specific provisions that endured for decades before those changes.

Consistent with NPS's review of ANILCA's requirements for Alaska, regulatory implementation from 1981 to 2015, the operation of NPS regulations under subsequent amendments, public comments on the proposed rule, and the potential environmental impacts from adopting it, the final rule restores the established regulatory provisions that implemented Congress's unique direction for Alaska park areas for more than three decades, addressing issues previous rulemakings left unresolved, with updates and clarifications in response to public comments and NPS's further review.

Finalized Changes

By rescinding these new and modified regulations, the NPS restores the Alaska-specific procedures for restricting activities and closing park areas to public use, entry, and access to the language and procedures in 36 CFR part 13 in effect before the changes made in 2015, which further restores alignments with the Alaska-specific procedures for access in 43 CFR part 36. This rule removes the changes made through the 2015, 2017, and 2024 rulemakings that ultimately reduced public engagement, omitted required consultation with the State, and allowed for discretionary closures without the unique criteria and procedures previously established in the DOI and NPS regulations for Alaska park areas to comply with ANILCA. This rule maintains the NPS's authority to limit use, entry, and access through those criteria and procedures.

Consistent with *FCC* v. *Fox Television Stations, Inc.,* 556 U.S. 502, 515–16 (2009), NPS acknowledges its awareness this rule represents a change in position from that taken in the 2015, 2017, and 2024 rules. For the reasons discussed here and in detail in the proposed rule, 91 FR 11489, the NPS concludes this rule: (1) is permissible under ANILCA and the NPS Organic Act, which allow for the state-regulated harvest activities and procedural protections this rule restores; (2) is better than the 2015, 2017, and 2024 rules because it returns to the fixed durational limits, consultation requirements, locally targeted notice and hearing requirements, and other longstanding, Alaska-specific criteria and procedures rather than relying on System-wide standards and electronic notifications; and (3) is supported by good reasons, including public comments from subsistence users and Alaska Native organizations supporting removal of the 2017 permit requirements. The NPS has finalized these conclusions after reviewing public comments and preparing the final rule.

With specified exceptions for unrelated changes, the NPS restores its long-standing Alaska-specific regulations at 36 CFR part 13 by rescinding:

- changes made in 2015 that were not changed in 2020, including,
  - changes to the Alaska-specific closure process, including reduced public engagement, discretionary timelines, and subjective new ''factors'' beyond the specified criteria for closure in ANILCA,
  - narrowed interpretations of Congress's balanced mandates for Alaska to support broader application of System-wide prohibitions and policies,
  - removal of references to applicable state and federal authorities, and
  - revisions to § 13.490 that facilitated the 2017 preemption of subsistence uses regulated through state and federal board processes that are open to the public and NPS participation in decision-making, not merely for consultation prior to preemptive action of unlimited duration;
- most changes made in 2017, unless it provides relevant clarification that advances implementation of ANILCA's balanced mandates for Alaska, including,
  - a more appropriately detailed definition of ''customary trade'', and,
  - a definition for ''handicraft'' as a term used in the definition of ''customary trade'' with distinguishing features from the referenced definition in DOI regulations; and
- changes made in 2024, in their entirety.

Based on a review of the full record, including comments on the proposed rule, the NPS has determined that reverting to its pre-2015 regulations is a substantial improvement over the changes that began in 2015 that fundamentally altered the unique management framework Alaskans relied on following ANILCA. For the reasons stated above and in the proposed rule, 91 FR 11483, the NPS rescinds the regulatory changes made in 2015 that were not rescinded in 2020; changes made in 2017, with the exception of the definitions for ''customary trade'' and ''handicraft'', which are retained; and the changes made in 2024. The rule also makes targeted updates to reflect subsequent developments, like the relocation of the Federal Subsistence Management Program to the Office of the Secretary and its regulations from 50 CFR part 100 to 43 CFR part 51, and incorporates clarifying revisions in response to public comments.

I. Hunting and Trapping—§ 13.40 (Restored) and § 13.42 (Removed)

The rule restores pre-2015 language governing the harvest of fish and wildlife in national preserves, including the requirement that non-emergency closures to non-subsistence uses become effective only after the superintendent consults with the appropriate state agency and representatives of affected users. Section 13.42, added in 2015 and amended in 2017 and 2024, is deleted in its entirety.

II. Harvesting Bears Over Bait—Restrictions Removed for All Users

NPS acknowledges this aspect of the rule represents a change in position from the 2015, 2017, and 2024 rules, which prohibited or limited using bait to harvest bears. Consistent with *FCC* v. *Fox Television Stations, Inc.,* 556 at 515–16, NPS provides the following analysis.

(a) *Authority.* Allowing the harvest of bears over bait under state regulations in effect since 1982 is permissible under ANILCA and the NPS Organic Act. ANILCA expressly allows hunting in national preserves under applicable state and federal law. The district court confirmed NPS's conclusion that the 2020 allowance would not adversely impact wildlife populations or contravene NPS's statutory duties. *Alaska Wildlife Alliance,* 632 F. Supp. 3d at 993. No new data has emerged since that decision indicating this regulated harvest activity will have population-level effects. The NPS maintains management authority, including closure authority under the Alaska-specific criteria and procedures restored in this rule, consistent with ANILCA to address any issues that might arise.

(b) *Improvements.* The 2015 and 2024 prohibitions were based primarily on public safety concerns and NPS policy favoring natural wildlife behaviors and ecosystem dynamics. On review, neither basis supports categorical prohibition. Regarding public safety, NPS estimates no more than 10 bears per year (2 black bears, up to 8 brown bears) will be harvested over bait across all national preserves, consistent with historical levels from 1982 through 2015 and from 2020 through 2024. State regulations require permits; minimum setbacks from roads, trails, dwellings, and public facilities; registration of bait stations with the State; and completion of a bear baiting clinic. 5 AAC 92.044. The Alaska Board of Game has stated it has no information on bear baiting causing public safety concerns and found no fact-based support for that concern in any state that allows the practice. The one study cited in the 2024 rule (Herrero 2018) is, on further review, relevant only to human-bear conflicts at campgrounds and other congregation points, not remote bait stations. NPS is not aware of safety incidents from bait stations established in unauthorized locations within Wrangell-St. Elias National Preserve. NPS Management Policies § 8.2.5 recognizes that not all hazards in areas managed as natural environments can be eliminated; a categorical prohibition is not required to manage residual risk. Regarding natural conditions, the district court's 2022 decision confirmed that bear baiting does not contravene NPS's statutory duties. The Alaska Board of Game has stated that bear baiting tends to focus harvest on mature bears while avoiding female and immature bears, making it compatible with sustainable population management.

(c) *Reliance interests.* The 2015 prohibition was in effect from 2015 to 2020, lifted from 2020 to 2024, and reimposed from 2024 to the present. This demonstrates that reliance on any particular rule was limited after 2015. Conservation interests supporting the 2015 and 2024 prohibitions do not have a sufficient reliance interest to override the analysis above. The NPS will continue to monitor harvest and visitor safety and retains full authority to, among other things, close specific areas if a documented concern arises meeting the criteria in § 13.50 and § 13.490.

(d) *Factual findings.* To the extent the 2015 amendments expressed concern that state regulations do not adequately

address public safety risks from bear baiting, state requirements for permits, setbacks, and educational clinics partially mitigate those risks. To the extent the 2024 rule relied on the Herrero study and an informal survey of bear biologists, the NPS does not rely on those findings because: (1) the study is inapplicable to remote bait stations; (2) the biologist survey addressed theoretical risks without reference to actual documented incidents in Alaska; and (3) the State of Alaska's decades of operational experience without documented public safety incidents are more probative than speculation without context or data.

III. Definition of Trapping—§ 13.1 (Restored)

The definition of ''trapping'' in § 13.1 was amended in 2024 to define the circumstances where individuals may use firearms to take similarly redefined ''furbearers'' under a state trapping license. State regulations at 5 AAC 92.075(d) and 92.095(a)(8) already address these circumstances and no basis exists for NPS to impose a duplicative and unnecessary regulation. The rule restores the former definition for ''trapping'' and removes the definition of ''furbearer'' as unnecessary under the restoration. This change eliminates a regulatory burden that lacks a corresponding management benefit, and is consistent with direction in Executive Order 14192 to remove unnecessary regulations and in Executive Order 14153 to maximize consistency in harvest opportunities across public lands.

IV. Live Wildlife Collection/Falconry—§ 13.42(j) (Removed)

The 2017 rule added § 13.42(j) which prohibited the regulated collection of live raptor chicks in national preserves on the basis that such activities are not ''hunting or trapping'' and are therefore subject to System-wide prohibition at 36 CFR 2.2(a)(2). This conclusion is not consistent with Congress's direction for national preserves in Alaska. The State of Alaska manages falconry under 5 AAC 92.037, which requires permits and applies on all public lands in Alaska. The U.S. Fish and Wildlife Service manages migratory raptors under 50 CFR 21.82 and 21.85, which authorize chick collection under state permits. Removing § 13.42(j) restores the pre-2017 framework and recognizes the adequate management of falconry activities by the State and U.S. Fish and Wildlife Service. The NPS requested input on any documented management need for this prohibition, and public comments did not identify impacts or concerns to justify retaining it.

V. Subsistence Collection—§ 13.482 (Removed) and § 13.485 (Revised)

As noted before and elsewhere, this rule does not alter the federal subsistence priority established in ANILCA, Federal Subsistence Management Program regulations, or ANILCA's rural preference for qualified users on federal public lands. The 2017 rule added § 13.482, which created a mandatory permit system for collecting nonedible animal parts for use in handicrafts for barter and customary trade. This permit requirement was opposed by nearly every commenter representing subsistence users and Alaska Native organizations in the 2017 rulemaking, who noted the activity was already authorized under ANILCA, the permit added burdens for subsistence users who already must hold federally qualified status, the most common collection method is opportunistic gathering and is incompatible with a permit system requiring advance authorization, and subsistence users had been engaged for nearly a decade in good faith in the regulatory process only to receive additional restrictions rather than the clarification they sought.

Removing § 13.482 does not prohibit the uses it addressed; collection of animal parts for handicrafts remains authorized under ANILCA Title VIII and applicable federal regulations. The permit requirement and any conditions attached to it are removed. The removal of this permit requirement is a deregulatory action that will benefit subsistence users by removing unnecessary administrative burdens. The definition of ''animal parts'' in § 13.420 is likewise removed as unnecessary, while the definitions of ''customary trade'' and ''handicraft'' are retained with minor technical edits to align with federal regulations at 43 CFR part 51, with NPS-specific modifications including products made from plant materials and excluding trophies or European mounts of horns or antlers. Section 13.485(b) is revised to restore pre-2017 language authorizing noncommercial gathering of plant materials and dead or downed timber for firewood without a permit.

VI. Closure and Restriction Procedures—§ 13.50 (Restored)

The 2015 rule significantly revised closure procedures in ways that reduced public engagement, eliminated durational requirements, removed specific notice methods essential to local rural residents, and recharacterized statutory ''criteria'' as discretionary ''factors.'' This rule restores the pre-2015 procedures, as follows.

(a) *Emergency closures:* 30-day maximum; may not be extended. Emergency closures affecting harvest of fish and wildlife resources require notice and hearing before taking effect. Other emergency closures take effect on notice.

(b) *Temporary closures:* affecting fish or wildlife harvest requires notice and hearing in the affected vicinity and other appropriate locations before taking effect. Other temporary closures take effect on notice. Maximum duration of 12 months may not be extended.

(c) *Permanent closures:* published as rulemaking in the **Federal Register** with a minimum 60-day public comment period and public hearings in the affected area and other appropriate locations.

(d) *Notice requirements:* all closures and restrictions shall be published in at least one newspaper of general circulation in the state and at least one local newspaper where available; posted at community post offices in the affected vicinity; made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity; and designated on a map available for public inspection at the superintendent's office and other convenient locations. The proposed rule language has been revised slightly (replacing an ''or'' with ''and') to confirm that all of these notice methods must be utilized in addition to the posting of appropriate signs.

(e) *Openings:* **Federal Register** notice required with hearings on request in the affected vicinity and other appropriate locations before a final determination.

(f) *Facility closures and restrictions:* restored as a distinct category with defined criteria (public health, safety, and protection of public property), duration (limited to the circumstance requiring closure), and notice requirements.

These restorations directly respond to concerns from rural Alaska residents and communities that the changes in 2015 to rely on website postings and discretionary notice were inadequate to inform residents of changes affecting subsistence and harvest activities in remote areas. Fixed durations and defined criteria provide predictability, consultation requirements restore meaningful government engagement, and hearing requirements restore opportunities to engage decision-makers before closures take effect.

VII. Subsistence Provisions —§§ 13.400, 13.470, 13.480, 13.490 (Restored)

As stated elsewhere, this rule does not alter the federal subsistence priority established in ANILCA, Federal Subsistence Management Program regulations, or ANILCA's rural preference for qualified users on federal public lands. Section 13.400 is revised to add clarifying language confirming that the regulations in subpart F governing subsistence uses apply to local rural residents and others authorized to conduct those activities, and recognizing that Alaska laws relating to the taking of fish and wildlife apply within park areas to the extent consistent with applicable federal law, including ANILCA and 43 CFR part 51.

The rule restores references to applicable state law in §§ 13.470 (subsistence fishing) and 13.480 (subsistence hunting and trapping) to ensure subsistence users can conduct these activities in compliance with applicable state and federal law, as was the case under regulations in effect from 1981 through 2015 for park areas.

Section 13.490 is revised to restore the requirement for adequate notice and public hearing in the affected vicinity and other appropriate locations before the superintendent temporarily closes a park area to subsistence uses of fish and wildlife. Consultation with the Federal Subsistence Board and provisions for temporary closures are retained, including the duration standard (''only so long as reasonably necessary to achieve the purposes of the closure'').

Section 13.1902(d), which imposed bait restrictions on subsistence bear harvest at Wrangell-St. Elias National Park and Preserve, is removed.

VIII. Clarifications in Response to Comments—§§ 13.35 and 13.400 (Revised)

Minor clarifying language is added to structural provisions at §§ 13.35 and 13.400 to confirm that limitations generally applicable to park visitors do not generally apply to subsistence users. Alaska park areas operate under ANILCA's balanced mandates in addition to System-wide direction. These revisions respond to concerns about confusion over which rules apply to subsistence users as they cross jurisdictional boundaries.

IX. Severability—§ 13.42(k) (Removed)

The 2024 Rule added a severability provision the NPS has determined is unnecessary and it is not retained in this rule. Notwithstanding the NPS having determined that a stand-alone severability provision is unnecessary to include in the 36 CFR part 13 regulations, the NPS intends the provisions of this final rule to be severable. If any provision of this rule, or the application of any provision to any person or circumstance, is held invalid, the NPS intends that the remainder of the rule and its application to other persons or circumstances remain in effect to the fullest extent permitted by law.

Final Rule

For the reasons stated above, the NPS rescinds the regulatory changes in 2015 that were not rescinded in 2020, the changes in 2017 except the definitions for ''customary trade'' and ''handicraft'' in 36 CFR 13.420, and the changes in 2024 in their entirety, and makes other minor improvements. Rescinding the changes restores management of Alaska park areas to the framework in effect since passage of ANILCA and restores the Congressionally directed state and federal authorities for management of hunting, fishing, and trapping as practiced in Alaska since statehood. The following table illustrates these changes and how the final rule compares to the established and modified frameworks.

TABLE 1—SUMMARY OF KEY REGULATORY CHANGES

Regarding	Former framework (before 2015)	2015/2017/2024 changes	2026 final rule
Hunting and trapping in national preserves.	Allowed under applicable federal and non-conflicting state law and regulations.	Added prohibitions on specific state-authorized harvest activities.	Restores pre-2015 framework; removes prohibition not rescinded in 2020.
Bear baiting	Allowed for all user groups under state law (since 1982).	Prohibited (2015); limits for subsistence (2017); allowed (2020); prohibited (2024).	Allowed for all user groups under state law.
Emergency closures or restrictions—duration.	30-day maximum duration; not extendable.	Extended to 60 days for fish/wildlife harvest closures; no maximum for other emergencies.	30-day maximum duration; not extendable.
Emergency closures or restrictions—hearing.	Required before closures affecting fish/wildlife harvest.	Removed	Required before closures affecting fish/wildlife harvest.
Temporary closures or restrictions—duration.	12-month maximum duration; not extendable.	No identified maximum duration	12-month maximum duration; not extendable.
Temporary closures or restrictions—hearing.	Required in affected vicinity and other appropriate locations.	Removed	Required in affected vicinity and other appropriate locations.
Closure or restriction notice—local news.	Required notice in state and regional newspaper, if available, and on local radio stations.	Optional	Required notice in state and regional newspaper, if available, and on local radio stations.
Closure or restriction notice—post offices.	Required posting in local post offices.	Optional; Provided when reasonably likely to inform residents in the affected vicinity.	Required posting in local post offices.
Closure or restriction notice—map	Required publicly available map	Optional	Required publicly available map.
Closure or restriction notice—NPS website.	Optional	Required written determination posted on NPS website.	Optional.
Permanent closures or restrictions—public comment.	**Federal Register** notice, 60-day minimum public comment period, hearings on request.	**Federal Register** notice if specific criteria are met, no required minimum public comment period length.	**Federal Register** notice, 60-day minimum public comment period, hearings on request.
Openings	**Federal Register** notice, hearings on request.	**Federal Register** notice if specific criteria are met.	**Federal Register** notice, hearings on request.
Facility closures	Separate process with criteria, duration, notice.	Removed	Separate process with criteria, duration, notice.

TABLE 1—SUMMARY OF KEY REGULATORY CHANGES—Continued

Regarding	Former framework (before 2015)	2015/2017/2024 changes	2026 final rule
Subsistence collection of animal parts.	Allowed without a permit	Allowed with a permit, defined ''animal parts'' (2017).	Allowed without a permit; no regulatory definition of ''animal parts''.
Falconry/live raptor collection	Allowed under state and federal permits.	Prohibited (2017)	Allowed under state and federal permits.
Definition of ''Trapping''	Based on taking furbearers under a trapping license.	Based on taking furbearers under a trapping license; firearm use during trapping defined (2024).	Based on taking furbearers under a trapping license.
Subsistence fishing—methods	Must comply with state and federal law.	Removed references to state law and applied nationwide regulatory prohibitions.	Must comply with state and federal law.
Subsistence hunting/trapping	Must comply with state and federal law.	Removed references to state law	Must comply with state and federal law.
Definitions of ''subsistence uses'', ''customary trade'', and ''handicraft''.	Defined ''subsistence uses'', including ''customary trade''.	Revised definitions and added definition of ''handicraft'' (2017).	No changes to pre-2015 definition of ''subsistence uses'' or 2017 definitions of ''customary trade'' and ''handicraft''.
Subsistence closures—consultation.	Consult with State before closures take effect.	Consult with State and Federal Subsistence Board before closures take effect.	Consult with State and Federal Subsistence Board before closures take effect.

Language has been added to address changes in circumstances, like relocation of the Federal Subsistence Management Program into the Office of the Secretary, and to respond to public comments, including concerns from subsistence users about which rules apply to which user groups. Ministerial edits have been made to the regulatory text that is being restored to conform to current **Federal Register** drafting standards.

Summary and Responses to Public Comments.

On March 10, 2026, the NPS published the proposed rule in the **Federal Register** (91 FR 11483). The proposed rule was open for an initial 30-day public comment period. The NPS extended the comment period on April 10, 2026, (91 FR 18340) in response to several requests for more time to review the proposal. In total, the comment period was open for 46 days. The comment period closed on April 24, 2026. The NPS invited comments through the mail, hand delivery, and through the Federal eRulemaking Portal at *https://www.regulations.gov*.

The NPS received 5,172 comments on the proposed rule, including submissions from organizations representing more than 48,000 collective signatories. A summary of the pertinent issues raised in the comments received and NPS responses are provided below.

Statutory Consistency and Priorities

1. Comment: Several commenters stated the proposed rule and its approach to management are inconsistent with NPS's obligations under the law, including the NPS Organic Act, Wilderness Act, and ANILCA, arguing that National Park System units must be managed to prioritize conservation and natural processes over consumptive uses.

NPS Response: Through ANILCA, Congress mandated that consumptive uses such as subsistence and sport hunting, fishing, and trapping be allowed in Alaska's national preserves under applicable state and federal law and that certain parks and monuments be available for subsistence uses. ANILCA §§ 203, 1313, and 1314. The continuation of these activities is one of the intrinsic values Congress saw in establishing preserves in Alaska as distinct from parks and monuments, where hunting would only continue for federally qualified users in specified areas. In its report on the language that became ANILCA through a negotiated compromise with the U.S. House of Representatives, the U.S. Senate Committee for Energy and Natural Resources explained this intentional approach:

> Like the House-passed bill, the Committee amendment directs that a preserve be managed as a national park except that all forms of hunting be permitted to continue. This includes sport, subsistence, and guided hunting . . . . The Committee also adopted an amendment clarifying that trapping shall be allowed in national preserves and that the statutory requirement that the taking of fish and wildlife be allowed does not deprive the Secretary of his traditional authority to close public lands located within conservation system units to the taking of fish and wildlife under statutory criteria. In allowing trapping to continue within preserves, it was not the intent of the Committee to allow exploitative forms of commercial trapping to occur. The intent of the committee is to allow individual Alaskans to continue to operate their own trap lines within the preserves, even though those individuals might not qualify as subsistence users . . . . The Secretary, through the National Park Service, is expected to monitor trapping operations within the preserves and the associated wildlife populations and issue appropriate regulations to insure that exploitative forms of trapping do not take place and that there is no substantial or permanent harm to the wildlife populations. S. Rep. 96–413, 96th Cong. 1st Sess. 1979, at 307–308.

Some concerns with accommodating these and other consumptive use mandates rest on the premise that managing for natural processes under the NPS Organic Act and Wilderness Act is an exclusive, independent standard from other applicable laws. That premise does not hold for the areas established and expanded under ANILCA, which referenced both laws in specifying which uses are allowed, grounds for restricting them, and procedures to enact those restrictions. Regulatory expectations discussed by the committee, such as allowing activities necessary to conduct consumptive uses and limits only where monitoring shows exploitation or substantial harm, are the ways Congress defined resource protection for these areas given the unique Alaska context. In implementing those expectations, the final rule is not deprioritizing a natural processes standard in favor of consumptive uses, it is applying the standards Congress wrote for Alaska park areas.

2. Comment: In Title VIII of ANILCA, Congress established a federal priority for customary and traditional uses of fish and wildlife resources by rural residents on federal public lands and

certain waters in Alaska. Commenters raised concerns that proposed changes would diminish the federal subsistence priority by allowing state-regulated harvest activities in national preserves, potentially increasing competition for subsistence resources with insufficient attention to subsistence users and their expertise, perspective, and needs.

NPS Response: The federal subsistence priority for rural Alaska residents cannot be diminished or overridden by state law or NPS regulation. ANILCA Title VIII and Federal Subsistence Board regulations are unchanged and addressed in this rulemaking through the restored and updated language. The final rule acknowledges subsistence opportunities and preferences are available in certain Alaska park areas under both federal and state regulations, and that NPS's authority is contingent on the Alaska-specific criteria and procedures in ANILCA.

While the State cannot implement ANILCA's rural preference under the state constitution, it remains an important manager of Alaska's fish and wildlife resources on federal lands, including harvest seasons, methods, means, limits, and other regulations. This authority was affirmed in the Alaska Statehood Act, again in section 1314 of ANILCA, and is recognized in implementing regulations for wildlife refuges at 50 CFR 36.11. On all lands, Alaska law requires that, if a portion of a stock or population can be harvested consistent with sustained yield principles, a reasonable opportunity will be provided with a preference for subsistence uses that applies to all Alaska residents.

The Federal Subsistence Board, in cooperation with Subsistence Regional Advisory Councils, Subsistence Resource Commissions, the NPS, the public, local experts, Tribes, other federal land managers, and the State of Alaska carries out the Secretary's responsibilities under Title VIII of ANILCA, which include ensuring: the continuation of subsistence uses by rural residents on federal public lands; rural residents with personal knowledge of local conditions and requirements have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska; and rural residents engaged in subsistence uses have reasonable access to subsistence resources on the public lands. The NPS has the authority to preempt state law where necessary to implement the NPS Organic Act, Wilderness Act, ANILCA, and other statutory direction. The NPS has not found it necessary to exercise that authority in issuing this rule.

The Secretary's delegation of authority to the Federal Subsistence Board is to administer the subsistence taking and uses of fish and wildlife on public lands and the related promulgation and signature authority for regulations in subparts C and D of 43 CFR part 51 and 36 CFR part 242. The Board is empowered, to the extent necessary, to implement Title VIII of ANILCA, to undertake various actions as set forth in 43 CFR 51.10(d)(4) and 36 CFR 242.10(d)(4), including the following:

- issue regulations for the management of subsistence taking and uses of fish and wildlife on public lands;
- allocate subsistence uses of fish and wildlife populations on public lands;
- ensure that the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes;
- restrict the taking of fish and wildlife on public lands for nonsubsistence uses or closing public lands to the take of fish and wildlife for nonsubsistence uses when necessary for the conservation of healthy populations of fish or wildlife, to continue subsistence uses of fish or wildlife, or for reasons of public safety or administration;
- restrict the taking of a particular fish or wildlife population on public lands for subsistence uses, closing public lands to the take of fish and wildlife for subsistence uses, or otherwise modifying the requirements for take from a particular fish or wildlife population on public lands for subsistence uses when necessary to ensure the continued viability of a fish or wildlife population, or for reasons of public safety or administration;
- establish priorities for the subsistence taking of fish and wildlife on public lands among rural Alaska residents;
- restrict or eliminate taking of fish and wildlife on public lands; and
- determine what types and forms of trade of fish and wildlife taken for subsistence uses constitute allowable customary trade.

Of note, however, the Federal Subsistence Board's regulations do not authorize subsistence uses in Glacier Bay National Park, Kenai Fjords National Park, Katmai National Park, and that portion of Denali National Park established as Mt. McKinley National Park prior to passage of ANILCA, where subsistence taking and uses are prohibited. 43 CFR 51.3(a); 36 CFR 242.3(a). Also, the subsistence regulations in 43 CFR part 51 do not supersede agency-specific regulations. *Id.* State and federal regulations can be in effect in the same area unless the Federal Subsistence Board or the NPS have closed or restricted use of the area by non-federally qualified users or to all harvest or entry.

Changes made to NPS regulations in 2015 to support the preemption of state law in national preserves removed language recognizing this unique partnership of authorities and procedures. The restored and updated language in the final rule clarifies that federally qualified users can continue subsistence uses of fish and wildlife regulated by state and federal boards consistent with NPS regulations, including Alaska-specific procedures for area closures and user restrictions. Under the final rule, Alaskans and others can continue making board proposals and guide the management of customary and traditional uses without encountering the discretionary permissions and automatic preemptions added for certain park areas in 2015 and 2017. Public use will continue to be managed in Alaska park areas in accordance with federal law and, under the final rule, more specifically in accordance with the criteria and procedures in ANILCA.

To ensure federally qualified subsistence users are unaffected or benefited by these changes, the final rule adds clarifying revisions to 36 CFR 13.35 and 13.400. These revisions confirm general limitations for park visitors do not apply to federally qualified users engaged in subsistence, including those defined as ''local rural residents'' in § 13.420 and other authorized users (*e.g.,* those with a federal harvest permit from another bureau or agency). The rule restores the regulatory framework adopted immediately after ANILCA's passage, when, as now, the State did not have a program to implement the mandates in Title VIII, see 46 FR 31836, 31839, 31860–62 (June 17, 1981). The text is updated as needed to reflect the development of a federal program to carry out those mandates.

3. Comment: A number of commenters opposed deferring to the State of Alaska in managing fish and wildlife resources, noting authorized practices may conflict with federal mandates for the NPS. Conversely, comments were received asserting the State is the appropriate and legal administrator of fish and wildlife resources on all lands in Alaska, with exceptions that do not apply in this

rulemaking, and that direction to align federal and state regulations will have positive effects.

NPS Response: The NPS does not ''defer'' to the State of Alaska in implementing federal mandates. As explained above, the State manages fish and wildlife on all lands in Alaska except as specifically modified by Congress, and the NPS manages System units consistent with the Alaska-specific criteria, procedures, and priorities outlined in ANILCA. In adopting the clarifying amendment that became ANILCA § 1314, the Senate Committee stated:

> This Section, adopted as a Committee Amendment, preserves the status quo with regard to the responsibility and authority of the State to manage fish and wildlife, and reconciles this authority with the Act, including the subsistence title. At the same time, the Section confirms the status quo with regard to the authority of the Secretary to manage the wildlife habitat on federal lands. The Section also clarifies that fishing shall be permitted in national parks and monuments and that subsistence uses shall be permitted where specifically provided by the Act. S. Rep. 96–413, at 308.

The ''status quo'' division of state-federal authorities in § 1314 is primarily about resource management and not about implementing Title VIII. It was in effect when the final rule language was initially adopted in 1981, a few months after ANILCA's passage; in 1982, when the Secretary approved the State's program to administer the federal subsistence priority; in 1985, when the Secretary intervened during the program's compliance issues (outside of parks and monuments); in 1989, when a state court found the State's program violated the Alaska Constitution; and in 1990, when the Federal Subsistence Management Program was established to administer the priority. Despite these shifts, the state-federal authorities Congress established for Alaska did not change, including NPS's limited role and responsibilities under ANILCA. The final rule acknowledges establishment of the federal program, updates references to its newly relocated regulations in 43 CFR part 51, and restores the ''status quo'' language that provided decades of stability for all park users.

The final rule also improves consistency for hunting and fishing across DOI-administered lands in Alaska, as directed in Secretary's Order 3447 § 4(b)(3), while preserving the distinctions for National Park System units outlined in ANILCA and other laws. In enacting a single, comprehensive law governing all the federal lands in one state, Congress was able to build consistencies into jurisdictional landscapes in Alaska, and, shortly after ANILCA's passage, similar regulatory language was adopted for managing public uses in Alaska's national preserves and wildlife refuges based on similar or the same provisions. See 46 FR 31818, 31819 (June 17, 1981); 46 FR 31836. With the Congressionally directed restoration of regulations for wildlife refuges in 2017, this final rule solidifies the long-standing alignments in Congress' design. Revisions in the final rule will simplify compliance and enforcement by making it easier for eligible users to cross jurisdictional boundaries while harvesting under state or federal regulations in Alaska's wildlife refuges and preserves and under federal regulations in other park areas (as noted above, Klondike Gold Rush and Sitka national historical parks, Katmai and Kenai Fjords national parks, and parts of Denali National Park are closed to harvest by law).

Conservation and Public Use

4. Comment: Several commenters expressed concern the proposed rule would harm tourism, asserting that hunting and trapping can reduce opportunities for non-consumptive uses and damage Alaska's reputation as a destination for wildlife viewing and photography.

NPS Response: Section 1313 of ANILCA recognizes that, for national preserves in Alaska, ''the Secretary may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection, or public use and enjoyment.'' Understanding that all of these reasons have implications for tourism, and using the best available information, including diverse and meaningful experiences shared by park users in their comments on the proposed rule, the NPS has not found evidence that regulated harvest impairs or is likely to impair opportunities for non-consumptive uses in Alaska's park areas.

Most areas where harvest occurs are highly remote, with few if any overlapping uses. A number of factors affect successful wildlife viewing for all user groups in all areas where animals largely dictate the encounter. Populations in Alaska park areas have been targeted by hunters and trappers for millennia and demonstrate significant variations in tolerance levels for humans regardless of their activity. Environmental analyses prepared for the 2015, 2020, and 2024 Alaska-specific rulemakings did not identify a correlation between harvest activities addressed in those rules and measurable impacts in wildlife viewing opportunities across Alaska park areas. To the extent harvest activities affect visitor experiences, those effects are more likely to be location-specific rather than indicative of a broader reduction in non-consumptive recreational opportunities across Alaska park areas. Limiting one user group without impacting other user experiences could contribute to the problem those limits are looking to resolve (*e.g.,* reducing user conflicts and barriers for allowed uses). The final rule maintains ANILCA's balanced mandates for federal public lands in Alaska.

5. Comment: Commenters expressed concerns that harvest methods authorized by the State of Alaska and available under state law will impact natural ecosystem dynamics, like predator-prey relationships and pack formations. A smaller number of commenters opposed all state-regulated harvest opportunities as potentially incompatible with or a violation of conservation purposes and values.

NPS Response: As explained in the response to Comment 3, Congress restricted the NPS's general management authority over hunting, fishing, or trapping in Alaska park areas; it affirmed the State's existing authority; and it provided that, when NPS uses its management authority to close areas to allowed uses, it must meet certain requirements, including ''consultation with the appropriate State agency having responsibility over hunting, fishing, and trapping activities.'' ANILCA § 1313 (cross-referencing § 816, where unit manager discretion to restrict regulated harvest by federally qualified subsistence users is further restricted).

State and federal managers have defined roles and enforcement obligations that work together for the safe, responsible management of Alaska's public lands. Under the final rule, NPS continues to steward habitats, protect resources, and implement closures when statutory criteria and procedures are met, in consultation with the State, which continues to establish harvest methods and other regulations in managing populations for sustainability under the Alaska Constitution. When the State and NPS work together to meet these interconnected obligations, the Federal Subsistence Management Program is more effective in exercising its delegated authority to regulate subsistence uses under ANILCA Title VIII, including necessary closures. Directing comments, proposals, and information on harvest activities to state

officials and established processes, including the Alaska Boards of Fisheries and Game, the Alaska Department of Fish and Game, and the Alaska State Legislature, or to the Federal Subsistence Board, will ensure that input is considered in the venues where population management decisions and policies are made for Alaska.

Some commenters view this intersectional management collaboration using each organization's respective authorities as a prohibited form of deference, as noted in Comment 3, or as an abdication of NPS's duty to allow for natural processes and ecosystem dynamics and to protect fish and wildlife resources for future generations, as noted in Comment 1. Many argued NPS should take a stronger position in shaping harvest regulations that affect Alaska park areas, including through discretionary preemption based on administrative criteria and values, which the restored and updated language in the final rule would not support. The NPS has the authority to preempt state law where necessary to implement the NPS Organic Act, Wilderness Act, ANILCA, and other statutory direction. The NPS has not found it necessary to exercise that authority in issuing this rule.

As explained in the detailed preamble for changes to NPS regulations in 2020, 85 FR 35181 (June 9, 2020), regulated harvest in Alaska cannot legally function as a predator control program, which can only be conducted under specific requirements in federal and state law and have not been authorized in Alaska park areas. The NPS believes the final rule language is more consistent with balanced statutory mandates for Alaska, for the reasons explained in this rulemaking and based on decades of proven workability and cooperation toward science-based, user-informed conservation objectives.

6. Comment: Regarding the NPS's closure authorities, a large number of comments specifically opposed the use of bait in harvesting bears, sharing ethical concerns and potential risks to wildlife populations and public safety.

NPS Response: Harvest methods are established under applicable state and federal regulations that are continuously refined through regional input and monitoring. These regulations, and the publicly accountable processes that create and rigorously maintain them, define ethical practices from a management standpoint. The NPS is committed to its ongoing participation in these defined regulatory processes, as a stakeholder and a resource manager with independent authorities, and to continuing to work collaboratively with the public, subsistence users, gateway communities, Alaska Native Tribes and corporations, other federal agencies, and the State in executing distinct and shared responsibilities in a transparent and consistent manner based on our respective authorities.

Harvesting bears over bait has been regulated across Alaska since 1982 with no evidence of notable public safety incidents or population-level impacts. To the contrary, this harvest method can be effective at targeting animals with an established tolerance for human activities, which are more likely to be involved in an incident, and to close the distance and expand the time available for targeting a particular sex or age class, which is a key consideration in managing populations for sustainability. Analysis supporting the rule's determinations is set out in detail in Section II of the ''Finalized Changes'' section above. The NPS will continue to monitor and may close areas if a specific concern arises using the appropriate criteria and procedures in ANILCA. Comments submitted on the proposed rule and in previous rulemakings provide detailed data and analyses that support NPS's conclusion this state-authorized activity is not detrimental to wildlife conservation and public safety at current levels.

Procedural Issues

7. Comment: Commenters questioned whether the rulemaking process meets the procedural requirements in the Administrative Procedure Act, National Environmental Policy Act, and section 810 of ANILCA, sharing concerns about sufficiency, rationale, and transparency.

NPS Response: With this final rule and associated decision-making materials, including an environmental assessment and section 810 of ANILCA analysis, the NPS has fully complied with all applicable procedural requirements. The rule is supported by a detailed administrative record, including the above-referenced analyses, public notice and comment and consultations with state officials, tribal governments, and Alaska Native corporations. This is not to imply that input provided during the comment period and consultations is uniformly supportive of the final rule, from a substantive perspective, only that, from a procedural perspective, that input was fully considered in developing the final rule.

8. Comment: Some commenters found the proposed rule unclear and potentially misleading without more information, with recurring concerns that certain provisions could lead to unintentional loopholes, inconsistent application in the field, and challenges in determining where rules apply. Commenters did not find the proposed rule made it clear what is changing for Alaska park areas.

NPS Response: The NPS recognizes that confusion can occur in any rulemaking process and has endeavored in its outreach efforts to focus on providing accurate and detailed information in open dialogue, and comments expressing confusion have influenced NPS's approach to modifications and explanations in this final rule.

One area of confusion revolves around the amount of language being changed, with a rulemaking format that makes it hard to compare versions of the regulation, and which appears to be inconsistent with NPS's statement it is making minor changes. Although the proposed and final rules contain substantial text showing edits, much of this language is not new, not all of it represents a change to current language and most of it reflects long-standing regulations in place for more than 30 years. The main goal is to make a single change across multiple provisions: a return to the framework that more closely adheres to ANILCA's requirements in implementing its mandates for Alaska park areas. Changes to the restored regulations reflect changes in the governing situation, like the creation of the Federal Subsistence Board and its relocation into the Office of the Secretary, or respond to comments on the proposed rule, which made several requests for specific information and ideas for reform. See 91 FR 11483, 11486, 11488, 11491, and 11492.

Another identified area of confusion relates to changes in definitions, specifically modifying established terms like ''subsistence uses'' and ''customary trade'' and more recent terms like ''handicraft'', leading to questions about what activities are allowed, who qualifies, and how enforcement will work. Clear definitions can help public land users and enforcement officials better understand compliance with unique laws like ANILCA.

One of the requests made in the proposed rule for specific reform ideas involves NPS's definition of ''customary trade''. 91 FR 11483, 11491. Reverting to the pre-2015 language does not seem to cover the breadth of activities implicated by this term, and if the current definition does or could do that better, retaining or reforming it would be an improvement over pre-2015 regulations. One alternative to retention would be to adopt the definition used by the Federal Subsistence Management

Program at 43 CFR 51.4, which is very similar to the current NPS definition, or to include a cross-reference to that definition in 36 CFR 13.420 along with any differences, similar to the definition for ''handicraft''. Without a clear expression of a need for reform in the comments, the final rule retains the current definitions of ''customary trade'' and ''handicraft'' (a term used in NPS's definition of ''customary trade'') to provide consistency for subsistence users and law enforcement. This change from the proposed rule also reduces the amount of edited text in the final rule, addressing the source of confusion described earlier.

The final rule does not retain the recently added definition for ''animal parts''. As noted above and in the proposed rule, 91 FR 11491, this does not mean subsistence use and gathering of animal parts is not allowed in Alaska park areas. This definition was added when NPS began regulating these activities, primarily due to concerns that general rules and policies prohibiting visitors from removing natural objects may be interpreted to prohibit subsistence uses. See 82 FR 3626, 3627 (January 12, 2017). Reflecting on these stated concerns, the definition's decade in use addressing them, comments encouraging removal of unnecessary barriers to subsistence, and statutory direction and guidance in ANILCA Title VIII, NPS does not see the same value in retaining the definition for ''animal parts'' as it does for ''customary trade'' and ''handicraft''. A basic understanding of the term should suffice for compliance and enforcement purposes.

To make the relationship between nationwide rules, administrative policies, and ANILCA easier to understand in practice moving forward, the final rule adds minor wording changes in 36 CFR 13.35 and 13.400. These adjustments are intended to reduce confusion about how System-wide prohibitions apply to local residents and others authorized to conduct subsistence activities. They also clarify that subsistence uses are not treated or managed the same way as general public uses, and that Alaska park areas operate under ANILCA's balanced mandates rather than System-wide direction alone, unless Congress states otherwise. These edits and the final rule's restoration of Alaska-specific closure procedures in the sections they address (36 CFR part 13, subparts B and F) also respond to comments expressing confusion about which authorities apply in a given situation and concerns about how closures are administered and communicated.

Several commenters cautioned that greater alignment between state and federal regulations in Alaska park areas could unintentionally give state managers too much authority over subsistence uses on federal public lands. Many expressed frustration about the overlapping state and federal systems in park areas and conflicting priorities, even with specific roles assigned to each manager. As in Comment 2, commenters noted state management actions do not always support customary and traditional uses by prioritizing opportunities for all Alaskans, marginalizing regional input, and increasing competition and harvest pressure on struggling stocks and populations, and that obscure phrasing in the proposed rule could expand the reach of those actions. Comments frequently referred to direction in ANILCA to ensure rural residents are advising in management decisions and prioritized among consumptive users of Alaska's fish and wildlife resources.

Alaska's system of ''dual management'' is a measured and complex approach to these overlapping systems to meet constitutional and statutory mandates, and commenters are correct that federal and state priorities are not always aligned, an issue of particular concern for communities that rely heavily on wild food resources. To be clear, this rule does not change ANILCA's rural subsistence priority or the intent, priorities, or structure of the Federal Subsistence Management Program. Under dual management, the State manages fish and wildlife populations according to sustained yield principles on all lands and waters unless Congress modifies that authority, like in ANILCA Title VIII, and federal agencies have their own responsibilities and authorities on federal lands to protect public safety, meet statutory purposes, and fulfill federal mandates, like the rural subsistence priority. This structure is explicitly recognized in ANILCA and the rules and land use plans that guide managers and decision-makers in Alaska. As discussed in the response to Comment 2, this rule does not change that division of authorities. State law will continue to govern harvest activities on all lands to the extent permissible under federal law. However, so long as the State cannot implement the rural subsistence priority required in ANILCA, the Secretaries of the Interior and Agriculture are responsible for administering ANILCA's framework for the subsistence taking and uses of fish and wildlife on public lands and have delegated most of their responsibilities to the Federal Subsistence Board. The NPS will carry out its respective duties to manage park areas, including consultation with the Federal Subsistence Board under the 2015 revisions to § 13.490, which is retained in the final rule. State and federal managers will carry out their respective duties, and the revisions in this rulemaking will better equip unit managers in Alaska to meet NPS's obligations within this shared system consistent with the balanced mandates in ANILCA. The NPS has the authority to preempt state law where necessary to implement the NPS Organic Act, Wilderness Act, ANILCA, and other statutory direction. The NPS has not found it necessary to exercise that authority in issuing this rule.

To help limit the potential for other misunderstandings, now or in the future, a table is included in the section entitled ''Final Rule'' above to show which regulations are changing in a substantive way with a short summary explaining the change.

9. Comment: Some comments supported or opposed changes beyond those in the proposed rule. Several urged the NPS to expand the scope of the rule by reinstating restrictions removed in 2020, by adding more restrictions, or by adding more harvest opportunities and improved access. Commenters also requested more definitions (*e.g.,* ''sport'' hunting) and expanded policy-based explanations on the circumstances where regulated harvest might conflict with National Park System purposes and values.

NPS Response: The NPS has decided that the final rule should closely adhere to the proposed rule and the framework that implemented ANILCA's balanced mandates for more than three decades. Many comments advocating broader changes, whether to restrict or expand harvest opportunities and access, reflect competing interests similar to those Congress weighed in enacting ANILCA's balanced compromise, where the type of protected area and scope of permitted uses were calibrated to accommodate Alaska-specific needs and interests within a single comprehensive statute. See, *e.g.,* 126 Cong. Rec. S11052, S11116, (Aug. 18, 1980) (statement of Sen. Tsongas) (describing the ''compromise worked out during many hours of debate and discussions on these issues'' in ''trying to protect in a balanced way the legitimate concerns of numerous interest groups'', including the State of Alaska, noting ''91.4 percent of Alaska is open to sport hunting'' under the compromise); S. Rep. 95–64, pt. 2, 95th Cong. 2d Sess. 1978, 487 (statement of Sen. Andrus) (''We have designated national park preserves

where hunting would still be permitted; we don't do that in the lower 48. Subsistence hunting would be permitted in areas where it would not in the lower 48.''); S. Rep. 96–413, at 145 (describing the amendment to designate Cape Krusenstern ''as a national monument rather than a preserve'' to reduce the potential for user conflicts, noting ''there is little sport hunting in the area at this time while this is one of the most important and concentrated subsistence use areas in the State''). Given the purpose of this rulemaking, NPS has concluded that revisiting these broader policy questions would not be warranted without a substantial basis for departing from the time-honored, Alaska-specific framework the final rule restores, addressed through a separate rulemaking process with that objective.

Adhering closely to the proposed rule, and its close adherence to the regulations that guided management of Alaska park areas from ANILCA's passage until 2015, will minimize disruption for users and managers and restore the Alaska-specific procedures they long relied on for responsible and cooperative resource management. The NPS has considered the comments encouraging additional or different action and determined that changes in the final rule must meet an exacting standard with a compelling reason, like the creation of the Federal Subsistence Management Program, or make important clarifications, like the definition for ''customary trade'' and other reforms to facilitate allowed uses and the continuation of subsistence uses. Many comments included valuable recommendations for improvements to the framework beyond the scope of this rulemaking, which would require or benefit from consultation, notice and comment, and environmental analysis in a separate rulemaking process.

In the final rule, definitions are aligned with state and federal regulations to the greatest extent practicable to promote consistency across jurisdictional boundaries and simplify compliance in the places where people hunt, fish, and trap in Alaska. Congress intended for all forms of regulated hunting to be allowed in national preserves under applicable state and federal law, where relevant distinctions between subsistence and ''sport'' hunting are made and enforced in Alaska park areas. Consistent with that direction, this rule restores the roles, responsibilities, and limitations that governed wildlife management in Alaska park areas for decades following their establishment in ANILCA. While commenters expressed differing views regarding wildlife conservation and access to harvest opportunities, the restored regulations reflect the balance Congress directed for Alaska and the framework that successfully implemented that balance for decades. The NPS has concluded that departures from this long-standing framework, whether to expand or restrict authorities, should be supported by substantial justification, thoughtful analysis, meaningful public engagement, and a demonstrated basis in law for improving upon this proven management approach for Alaska park areas.

10. Comment: Community leaders, tribal governments, Alaska-based organizations, and others shared concerns and frustration with the rulemaking process, public engagement, and government-to-government consultation, highlighting the limited amount of time for outreach and meaningful contributions.

NPS Response: The NPS takes these concerns seriously and acknowledges that 46 days is a shorter comment period than some stakeholders requested for this rule. A 15-day extension was provided in direct response to requests for more time, recognizing that extension did not fully address the concerns from affected communities. As noted above, the NPS received 5,172 comments during the public comment period for the proposed rule, including submissions from organizations representing more than 48,000 collective signatories. The NPS carefully considered all of these comments in finalizing this rule.

The NPS undertook the following steps to engage on this rulemaking. In April and May 2025, NPS sent letters to federally recognized Tribes and Alaska Native corporations with interests in Alaska park areas inviting pre-consultation on the proposed rule, following up on each letter with direct calls and emails. The letter described the proposed action at that time as recission of the 2024 Rule and reinstatement of the 2020 Rule. The NPS met in person or virtually, as indicated in the request, with every Tribal entity that requested a meeting. Following publication of the proposed rule on March 10, 2026, with an expanded proposed action, NPS presented the rule at Alaska Board of Game meetings, Subsistence Resource Commission meetings, and Subsistence Regional Advisory Council meetings across the state. A second consultation letter sent in April 2026 included information on the expanded proposed action. Formal consultation commenced following publication of the proposed rule for public comment and continued for the life of the project. The NPS followed these letters with calls and emails, and met with every entity that requested a meeting in the venue and format of their choosing to best facilitate their meaningful engagement. DOI and NPS leadership met with the Alaska Federation of Natives on April 8, 2026. NPS leadership met with the Alaska Congressional Delegation on multiple occasions during the comment period. NPS consulted directly with the Alaska Department of Fish and Game at the staff and leadership level.

NPS acknowledges some affected communities, particularly in rural areas with limited connectivity and without a regular NPS presence, may have had less opportunity to engage than those in more accessible locations. Federal Subsistence Regional Advisory Councils formally requested an extension to the public comment period, stating the initial 30-day window was unreasonably short and insufficient to analyze the complex proposed changes encompassing four separate rulemakings over the last decade. Comments noted the timing prevented most advisory bodies from reviewing and convening to discuss the rule during their scheduled meetings and emphasized the importance of meaningful and informed participation from the communities represented on the councils. The Gates of the Arctic Subsistence Resource Commission was the only commission with a scheduled meeting during the comment period that had time to review the proposed rule and prepare recommendations and was the only commission that commented on the proposed rule.

NPS has attempted to account for this in its review of the record, giving particular weight to comments from advisory bodies and entities whose mandates are specifically designed to represent the interests of rural communities. The concerns those groups have expressed, including opposition to permits, support for the rural subsistence priority, and requests for clear and accessible procedures, are reflected in the final rule.

The NPS is committed to improving government-to-government consultation processes for Alaska-specific rulemakings, including providing earlier notice of proposed actions, meaningful accommodation of advisory body meeting schedules whenever practicable, and more time for intergovernmental review prior to the publication of a proposal.

Changes From the Proposed Rule

Based on public comments received and NPS's further review, the final rule makes the following changes to the proposed rule:

1. The title of this rule has been changed to reflect its scope that addresses hunting and trapping in national preserves, but also subsistence harvest of live wildlife and plant materials, and procedures used to restrict public use and access to Alaska park areas, including for subsistence.

2. § 13.50(f), *notice methods:* The proposed rule and pre-2015 regulations could be interpreted to allow for public notice through the posting of appropriate signs, instead of or in addition to newspaper publications, radio broadcasts, post office flyers, available maps, and other methods likely to inform affected users. The final rule replaces ''or'' with ''and'' to confirm that all the listed notice methods are required, where available, rather than having an option to close areas to harvest through the posting of signs alone.

3. §§ 13.35(g) and 13.400(e), *authorized users:* In response to comments and further agency review, the final rule adds language to clarify that generally applicable limitations on park visitors do not generally apply to those authorized to harvest renewable resources for subsistence uses in park areas in Alaska, including local rural residents, as defined in § 13.420, and other federally qualified users engaged in authorized harvest activities (*e.g.,* subsistence permits issued by the U.S. Fish and Wildlife Service pursuant to the Migratory Bird Treaty Act).

4. § 13.400(e), *new citation:* A cross-reference to the Federal Subsistence Board regulations at 43 CFR part 51 was added in response to comments, including from the Alaska Federation of Natives, seeking greater specificity for subsistence users than a general reference to ANILCA as applicable federal law.

5. § 13.420, *definitions:* The proposed rule solicited comment on revising the definition of ''customary trade.'' No submissions included specific reforms that would improve upon any particular definition. Rather than reverting to the pre-2015 language, the final rule retains the current definitions of ''customary trade'' and ''handicraft'' to provide continuity and reduce confusion for subsistence users and enforcement personnel.

6. § 13.420, *revised citation:* The final rule updates the cross-reference in the definition of ''handicraft'' to Federal Subsistence Board regulations formerly located at 50 CFR part 100 which were transferred to 43 CFR part 51 to align with the transfer of the Office of Subsistence Management to the Office of the Secretary of the Interior. See 90 FR 34142 (July 18, 2025).

7. § 13.490, *consultation:* In response to comments and agency review, the requirement to consult with the Federal Subsistence Board before temporarily closing a park area to harvest for subsistence uses is retained in the final rule as an important update for ensuring rural Alaska residents have a meaningful role in the management of fish and wildlife and subsistence uses on all public lands in Alaska.

Compliance With Other Laws, Executive Orders and Department Policy

Regulatory Planning and Review Executive Orders 12866 and 14192

This rule has been determined to be significant for purposes of Executive Order 12866 and has been submitted for review by the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget (OMB). This rule is a deregulatory action under Executive Order 14192. It removes the 2017 permit requirement for collecting animal parks for handicrafts, removes restrictions for all user groups on hunting bears over bait, and removes the 2024 firearm-related definition of ''trapping'' and its associated compliance burdens, without imposing any new permit, reporting, or recordkeeping requirements on regulated entities. The rule also restores fixed procedural requirements (*e.g.,* durational limits, consultation obligations, and notice requirements) that constrain agency discretion and reduce regulatory uncertainty for the public, which the 2015 and 2017 rules had displaced with greater focus on System-wide standards and less focus on affected areas and users. Because this rule aligns federal and state requirements, rather than adding or maintaining conflicting layers of regulation, NPS does not consider it a new regulatory burden for purposes of this classification.

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

This final rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. This certification is based on information contained in the economic analyses found in the report entitled ''Benefit-Cost and Regulatory Flexibility Analyses: Alaska Wildlife, Harvest, and Access Regulations (RIN 1024–AE96).'' The report may be viewed in the docket for this rulemaking action by visiting *https://www.regulations.gov/* and searching for ''RIN 1024–AE96''.

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

This rule does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or Tribal governments or the private sector. It addresses public use of lands and waters administered by the NPS and imposes no requirements on other agencies or governments. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings—Executive Order 12630

This rule will not affect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism—Executive Order 13132

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

Civil Justice Reform—Executive Order 12988

This rule complies with the requirements of Executive Order 12988. This rule:

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

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

Consultation With Indian Tribes and ANCSA Corporations—Executive Order 13175 and Department Policy

The DOI strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. This rule was informed by feedback from Tribal entities. In April 2025, the NPS invited Alaska Native Tribes and

corporations organized under the Alaska Native Claims Settlement Act (ANCSA) to participate in pre-consultation regarding NPS's wildlife management practices in Alaska. The NPS incorporated feedback received and met with all Tribal entities that requested a meeting. The NPS has evaluated this rule under the criteria in Executive Order 13175 and under the Department's Tribal consultation and ANCSA Corporation policies. Because the rule does not restrict Title VIII subsistence harvest, the rule will not have a substantial direct effect on federally recognized Tribes or ANCSA Corporation lands, water areas, or resources. Consultation and communication with Tribes and ANCSA Corporations was considered by the NPS throughout the rulemaking process.

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

This rule does not contain information collection requirements, and a submission to the OMB under the Paperwork Reduction Act is not required. The NPS may not conduct or sponsor, and you are not required to respond, to a collection of information unless it displays a currently valid OMB control number.

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

The NPS has prepared a Wildlife, Harvest, and Access in National Parks and Preserves in Alaska Environmental Assessment (EA) to determine whether this rule will have a significant impact on the quality of the human environment under the NEPA. The EA included appropriate available information and an analysis of impacts for public safety, wildlife, federal subsistence use, and public use and experience resource issues. The EA incorporated feedback received during the public comment period on the proposed rule and during consultation with Tribes and ANCSA Corporations and with the State of Alaska. On September 28, 2026, the Regional Director, Alaska Region, signed a Finding of No Significant Impact (FONSI) that identified the preferred alternative in the EA as the selected action. This rule is not a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA is not required because of the FONSI. A copy of the EA and FONSI are available online at *https://parkplanning.nps.gov/akro* by clicking the link entitled ''*https://parkplanning.nps.gov/AlaskaWildlifeRule2026*'' and then clicking the link entitled ''Document List.''

Energy Supply, Distribution or Use—Executive Order 13211

This rule is not a significant energy action under the definition in Executive Order 13211; the rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and the rule has not otherwise been designated by the Administrator of OIRA as a significant energy action. A statement of energy effects is not required.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 13 as set forth below:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 3101 *et seq.;* 54 U.S.C. 100101, 100751, 320102; Sec. 13.1204 also issued under Pub. L. 104–333, Sec. 1035, 110 Stat. 4240, November 12, 1996.

■ 2. In § 13.1:
■ a. Remove the definition of ''Furbearer''; and
■ b. Revise the definition of ''Trapping''.
The revision to read as follows:

§ 13.1 Definitions.

* * * * *

Trapping means taking furbearers under a trapping license.

* * * * *

■ 3. In § 13.35, revise paragraph (g) to read as follows:

§ 13.35 Preservation of natural features.

* * * * *

(g) Nothing in this section shall apply to local rural residents or others authorized to take renewable resources for subsistence uses.

■ 4. In § 13.40 revise the section heading and paragraphs (d) and (e) to read as follows:

§ 13.40 Taking of fish and wildlife.

* * * * *

(d) *Hunting and trapping.* (1) Hunting and trapping are allowed in national preserves in accordance with applicable Federal and non-conflicting State law and regulations.

(2) Violating a provision of either Federal or non-conflicting State law or regulation is prohibited.

(3) Engaging in trapping activities as the employee of another person is prohibited.

(4) It shall be unlawful for a person having been airborne to use a firearm or any other weapon to take or assist in taking any species of bear, caribou, Sitka black-tailed deer, elk, coyote, arctic and red fox, mountain goat, moose, Dall sheep, lynx, bison, musk ox, wolf and wolverine until after 3 a.m. on the day following the day in which the flying occurred. This prohibition does not apply to flights on regularly scheduled commercial airlines between regularly maintained public airports.

(5) Persons transporting wildlife through park areas must identify themselves and the location where the wildlife was taken when requested by an NPS employee or other authorized person.

(e) *Closures and restrictions.* The Superintendent may prohibit or restrict the non-subsistence taking of fish or wildlife in accordance with the provisions of § 13.50. Except in emergency conditions, such restrictions shall take effect only after the Superintendent has consulted with the appropriate State agency having responsibility over fishing, hunting, or trapping and representatives of affected users.

§ 13.42 [Removed]

■ 5. Remove § 13.42.

■ 6. Revise § 13.50 to read as follows:

§ 13.50 Closure and restriction procedures.

(a) *Authority.* The Superintendent may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(b) *Criteria.* In determining whether to close an area or restrict an activity on an emergency basis, the Superintendent shall be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with the purposes for which the park area was established.

(c) *Emergency Closures.* (1) Emergency closures or restrictions relating to the taking of fish and wildlife shall be accomplished by notice and hearing.

(2) Other emergency closures shall become effective upon notice as prescribed in paragraph (f) of this section; and

(3) No emergency closure or restriction shall extend for a period exceeding 30 days, nor may it be extended.

(d) *Temporary closures or restrictions.* (1) Temporary closures or restrictions relating to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures or restrictions, and other locations as appropriate;

(2) Temporary closures shall be effective upon notice as prescribed in paragraph (f) of this section; and

(3) Temporary closures or restrictions shall not extend for a period exceeding 12 months and may not be extended.

(e) *Permanent closures or restrictions.* Permanent closures or restrictions shall be published as rulemaking in the **Federal Register** with a minimum public comment period of 60 days and shall be accompanied by public hearings in the area affected and other locations as appropriate.

(f) *Notice.* Emergency, temporary, and permanent closures or restrictions shall be:

(1) Published in at least one newspaper of general circulation in the state and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Superintendent and other places convenient to the public; and

(2) Designated by the posting of appropriate signs.

(g) *Openings.* In determining whether to open an area to public use or activity otherwise prohibited, the Superintendent shall provide notice in the **Federal Register** and shall, upon request, hold a hearing in the affected vicinity and other locations as appropriate prior to making a final determination.

(h) *Facility closures and restrictions.* The Superintendent may close or restrict specific facilities for reasons of public health, safety, and protection of public property for the duration of the circumstance requiring the closure or restriction. Notice of facility closures and restrictions will be available for inspection at the park visitor center. Notice will also be posted near or within the facility, published in a newspaper of general circulation in the affected vicinity, or made available to the public by such other means as deemed appropriate by the Superintendent. Violating facilities closures or restrictions is prohibited.

(i) *Prohibitions.* Except as otherwise specifically permitted under the provisions of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

■ 7. In § 13.400, redesignate paragraph (e) as paragraph (f) and add a new paragraph (e) to read as follows:

§ 13.400 Purpose and policy.

* * * * *

(e) The regulations in this subpart apply to local rural residents and other Alaskan individuals authorized to take renewable resources for subsistence uses. The State of Alaska is authorized to regulate the taking of fish and wildlife for subsistence uses within park areas to the extent such regulation is consistent with applicable Federal law, including but not limited to ANILCA, and Department of the Interior regulations at 43 CFR Part 51.

* * * * *

■ 8. In § 13.420:

■ a. Remove the definition for ''Animal parts''; and

■ b. Revise the definitions for ''Handicraft''; and ''Subsistence uses''.

The revisions read as follows:

§ 13.420 Definitions.

* * * * *

Handicraft. As used in this part, the term has the same meaning as used in federal subsistence regulations (43 CFR part 51) except that:

(1) The term also includes products made from plant materials; and

(2) The term does not include a trophy or European mount of horns or antlers.

* * * * *

Subsistence uses. As used in this part, the term ''subsistence uses'' shall mean the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade. For the purposes of this paragraph, the terms—

* * * * *

■ 9. Revise § 13.470 to read as follows:

§ 13.470 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law, including the provisions of § 2.3 of this chapter and § 13.40. Local rural residents in park areas where subsistence uses are allowed may fish with methods and means permitted under applicable State and Federal law.

■ 10. Revise § 13.480 to read as follows:

§ 13.480 Subsistence hunting and trapping.

Local rural residents may hunt and trap wildlife for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law.

§ 13.482 [Removed]

■ 11. Remove § 13.482.

■ 12. Revise and republish § 13.485 to read as follows:

■ a. Revise paragraph (b);

■ b. Remove paragraphs (c) through (e); and

■ c. Redesignate paragraph (f) as paragraph (c).

The revision reads as follows:

§ 13.485 Subsistence use of timber and plant material.

(a) Notwithstanding any other provision of this part, the non-commercial cutting of standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in park areas where subsistence uses are allowed as follows:

(1) For standing timber of diameter greater than three inches at ground height, the Superintendent may permit cutting in accordance with the specifications of a permit if such cutting is determined to be compatible with the purposes for which the park area was established; and

(2) For standing timber of diameter less than three inches at ground height, cutting is authorized unless restricted by the Superintendent.

(b) The noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommercial gathering of dead or downed timber for firewood, shall be allowed without a permit in park areas where subsistence uses are allowed.

(c) Notwithstanding any other provision of this part, the Superintendent, after notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular plant population. The Superintendent may make a closure under this paragraph only if necessary for reasons of public safety, administration, resource protection, protection of historic or scientific values, conservation of endangered or threatened species, or the purposes for

which the park area was established, or to ensure the continued viability of the plant population. For purposes of this section, the term ''temporarily'' shall mean only so long as reasonably necessary to achieve the purposes of the closure.

(1) If the Superintendent determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular plant population, the Superintendent may immediately close all or any portion of a park area to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(2) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and at least one local newspaper if available, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions, or both.

■ 13. In § 13.490, revise paragraph (a) to read as follows:

§ 13.490 Closure to subsistence uses of fish and wildlife.

(a) Notwithstanding any other provision of this part, the Superintendent, after consultation with the State and the Federal Subsistence Board, and after adequate notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For purposes of this section, the term ''temporarily'' shall mean only so long as reasonably necessary to achieve the purposes of the closure.

* * * * *

§ 13.1902 [Amended]

■ 14. In § 13.1902, remove paragraph (d).

Kevin J. Lilly,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2026–21299 Filed 10–16–26; 8:45 am]

BILLING CODE 4312–52–P

POSTAL SERVICE

39 CFR Part 20

Customs Requirements and Payment Procedures for Certain Customs Charges

AGENCY: Postal Service.

ACTION: Interim final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), in various sections, to update mailer responsibilities with respect to customs requirements and to establish procedures for the payment, or reimbursement, of any customs charges that are assessed, including after the purchase of postage.

DATES: *Effective:* October 19, 2026.

Comments must be received by November 18, 2026.

ADDRESSES: Mail or deliver comments to the manager of Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, RM 4446, Washington, DC 20260–5015. You may inspect and photocopy all written comments at USPS Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor N, Washington, DC by appointment only between the hours of 9 a.m. and 4 p.m. ET, Monday through Friday, by calling (202) 268–2906 in advance. Email comments, including the name and address of the commenter, to: *PCFederalRegister@usps.gov,* with a subject line of ''Customs Requirements and Payment Procedures.'' Faxed comments will not be accepted.

FOR FURTHER INFORMATION CONTACT: Michelle Lassiter at (202) 268–2914.

SUPPLEMENTARY INFORMATION: As of July 1, 2026, the European Commission eliminated the *de minimis* exemption for most low-value goods destined to the European Union customs territory. In addition, the European Commission established a new hierarchical system for determining who is responsible for paying applicable duties, taxes, and import fees for such low-value goods. In response, many postal operators within the European Union have established, and continue to adjust, their own requirements in order to implement these changes. For example, some destination postal operators within the European Union require that certain items, be sent using an approved *delivered duty paid* (DDP) solution pursuant to which applicable duties, taxes, and import fees must be paid by the mailer. Certain postal operators have adopted consequences such as fees and other charges that apply in certain situations, such as if inaccurate customs information is provided by the mailer. Additionally, when an item is sent on a *delivered duty unpaid* basis and duties, taxes, or import fees cannot be recovered from the addressee, the destination postal operator may seek to collect unpaid amounts from the mailer. Accordingly, the Postal Service is updating the mailer's responsibilities with respect to customs requirements and is establishing procedures for mailers to pay, or reimburse the Postal Service, for duties, taxes, import fees, and other charges assessed on a mailpiece, where applicable. Duties, taxes, import fees, and other related charges are not included in the postage paid by the mailer; therefore, the Postal Service may invoice the mailer for such applicable amounts when they have not been paid in full using USPS Delivered Duty Paid service.

The Postal Service adopts the described changes to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), which is incorporated by reference in the Code of Federal Regulations. We will publish an appropriate amendment to 39 CFR part 20 to reflect these changes.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

Accordingly, 39 CFR part 20 is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of the IMM as follows:

Mailing Standards of the United States Postal Service, International Mail Manual (IMM)

* * * * *

1 International Mail Services

110 General Information

* * * * *

112 Mailer Responsibility

* * * * *

[*Revise second paragraph as follows:*]

The mailer must fulfill any nonpostal export requirements described in chapter 5 and must ensure that the electronically generated customs form is complete and that all information is accurate. Certain types of goods and certain types of transactions may be subject to prohibitions, restrictions, or additional customs requirements. It is the mailer's responsibility to comply with import and export regulations and restrictions (*e.g.,* quarantine, pharmaceutical, etc.), to determine what documents and information (*e.g.,* commercial invoice, certificate of origin, power of attorney, health certificate, license, authorization for goods subject to quarantine such as plant, animal, or food products, product identification numbers, etc.) are required in the destination country, and to provide all such documents and information in a manner that is complete, accurate, and timely. If the mailer fails to comply with applicable requirements, prohibitions, and restrictions; fails to provide any required documentation or information; or provides false or incomplete information, various consequences could result, including that the mailpiece may be returned or confiscated and the mailer may be subject to additional charges.

* * * * *

[*Add a new paragraph after the third paragraph to read as follows:*]

Where the destination country requires a mailpiece to be sent using a *delivered duty paid* solution, the mailer must send the mailpiece on a *delivered duty paid* basis and must ensure that all applicable duties, taxes, and import fees (as defined in 360) are timely paid in accordance with applicable requirements. In the event the relevant party in the destination country (for example, the customs authority, postal operator (or its agent), customs broker, or customs representative) seeks to collect duties, taxes, or import fees for a mailpiece from the mailer or the Postal Service (or their representatives), and such amounts have not been paid in full, the mailer is responsible for paying, or under certain circumstances reimbursing the Postal Service for, such amounts in accordance with 424.

* * * * *

130 Mailability

131 General

* * * * *

131.3 Individual Country Prohibitions and Restrictions

* * * * *

131.34 Foreign Customs Information

[*Revise the text to read as follows:*]

Except as provided in 362 and 424, the Postal Service does not maintain or provide information concerning the assessment of duties, taxes, import fees, and other charges in other countries. If duties, taxes, import fees, or other charges are assessed, most countries will collect from the recipient a customs clearance and delivery fee in addition to the applicable duties, and taxes, import fees, or other charges. This fee may be authorized to reimburse for the costs incurred in clearing the items through customs and collecting duties at the time of delivery. The duties, taxes, import fees, and other charges, if applicable, are not included in the postage paid by the mailer.

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3 Extra Services

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360 USPS Delivered Duty Paid (DDP)

361 Description

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361.1 Definitions

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361.13 Import Fees

[*Revise the text to read as follows:*]

Import fees may be applied by customs brokers, customs representatives, government agencies, postal operators, customs authorities, and other service providers, and may include any and all fees and other charges imposed in connection with the customs processing and clearance of a mailpiece. These charges are based on many different factors and may apply even when duties and taxes are not applicable.

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4 Treatment of Outbound Mail

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420 Unpaid and Shortpaid Mail

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[*Add new section 424 to read as follows;*]

424 Unpaid Destination Customs Charges

424.1 General Procedures

Whether the mailer or addressee is responsible for paying duties, taxes, and import fees (as defined in 360) depends on various factors including, but not limited to, the customs requirements of the destination country, as applicable. When the destination customs authority or postal operator requires mail containing goods to be delivered using a *delivered duty paid* solution, the mailer may use USPS Delivered Duty Paid (DDP) service, if available, to pay applicable duties, taxes, and import fees (see 360). If any relevant party in the destination country (for example, the customs authority, postal operator (or its agent), customs broker, or customs representative) seeks to collect duties, taxes, or import fees from the mailer or the Postal Service (or their representatives), and such amounts have not been paid in full, the Postal Service (or its representative) will send an invoice to the mailer for such amounts.

424.2 Mailer Responsibilities

The mailer must pay the Postal Service (or its representative) the entire amount due in accordance with the invoice terms, even if the mailer disputes the assessment. The mailer is not relieved of its obligation to pay for duties, taxes, and import fees, regardless of whether the item is delivered, lost, damaged, or returned.

424.3 Assessments

The Postal Service is not responsible for the accuracy of duties, taxes, import fees, or other charges calculated by entities in the destination country, such as foreign customs authority, postal operator, law enforcement, or tax authorities.

424.4 Collections

If payment is not received by the Postal Service (or its representative) on or before the due date as set forth in the invoice, interest on the unpaid amounts will accrue at a rate of 6 percent per annum until the amounts are paid in full, and the Postal Service shall have the right to collect from the mailer any costs incurred by the Postal Service in connection with the collection of the unpaid amounts, to the extent permitted by applicable law. The Postal Service may, but is not required to, treat any unpaid duties, taxes, and import fees as *revenue deficiencies,* in accordance with the provisions of DMM 607.3.0.

424.5 Disputes

The mailer may dispute with the Postal Service only accounting errors related to Postal Service invoicing by seeking a refund. The Postal Service is not responsible for the accuracy of duties, taxes, import fees, or other charges calculated by entities in the destination country, such as foreign customs, postal, law enforcement, or tax authorities. Any challenges to the total

combined sum of duties, taxes, import fees, and other charges assessed by the relevant party in the destination country (for example, the customs authority, postal operator (or its agent), customs broker, or customs representative) must be addressed directly to such party without involvement from the Postal Service.

424.6 Adjustments and Credits

If the Postal Service receives a cancellation, refund, or credit for an amount that a mailer has already paid or reimbursed, the Postal Service will, if deemed practical in the Postal Service's reasonable judgment, make a corresponding adjustment or refund to the mailer, except to the extent the amount remains nonrefundable or is otherwise properly due under an applicable arrangement. When applicable duties, taxes, and import fees are paid using USPS DDP under section 360, adjustments and refunds are subject to 365.

* * * * *

Jeffrey Boblick,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2026–21310 Filed 10–16–26; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

39 CFR Part 111

New Mailing Standards for Live Animals

AGENCY: Postal Service

ACTION: Final rule.

SUMMARY: The Postal Service is revising Publication 52, *Hazardous, Restricted, and Perishable Mail* (Pub 52), to improve package integrity and container identification for live animal shipments during processing and handling.

DATES: Effective: October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Drew Mitchum, (202) 268–7351, or Jennifer Cox, (202) 268–2108.

SUPPLEMENTARY INFORMATION: The Postal Service hereby amends Publication 52, *Hazardous, Restricted, and Perishable Mail* (Pub 52 or Publication 52), with the provisions set forth herein. While not codified in title 39 of the Code of Federal Regulations (CFR), Publication 52 is a regulation of the Postal Service, and changes to it may be published in the **Federal Register**. 39 CFR 211.2(a)(2). Moreover, Publication 52 is incorporated by reference into *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) section 601.8.1, which is incorporated by reference, in turn, into the Code of Federal Regulations. 39 CFR 111.1 and 111.3. Publication 52 is publicly available, in a read-only format, via the Postal Explorer® website at *https://pe.usps.com.* In addition, links to Postal Explorer are provided on the landing page of *USPS.com,* the Postal Service's primary customer-facing website, and on *Postal Pro,* an online informational source available to postal customers.

Summary of New Measures

On August 6, 2026, the Postal Service published a notice of proposed rulemaking (91 FR 50741) requiring mailers to individually address and number live animal shipments composed of multiple containers bound together for shipment, recommended mailers write the recipient's name and address directly on the packaging of adult bird shipments and prohibited the reuse of fiberboard containers for all live animal shipments.

Response to Comments

In response to the proposed rule, the Postal Service received 32 formal responses to the proposed changes to Pub 52. The comments received are as follows:

Comment: One commenter suggested that USPS establish stronger protection against temperature extremes, minimize transportation and delays, require clear emergency procedures to protect animal welfare, require appropriate employee training, review which animals are appropriate for shipment at all and consider prohibiting live animal shipments when safe transportation can't be assured.

Response: The Postal Service appreciates this feedback. Currently, embargo notices are issued for live animal shipments when there are travel interruptions due to weather related events or holiday transportation schedules are minimized. To the extent possible, the Postal Service limits live animal exposure to temperature extremes while in transit and ensures all animals are safely shielded from the elements while awaiting transport. Alternatively, the mailer must also ensure that the live animal shipments are protected against extreme temperatures by properly packaging them and considering both originating and destinating weather conditions when shipping, especially during summer and winter seasons. The postal service has been actively creating and providing additional education related to emergency procedures and proper handling practices for live animals.

Comment: Several commenters requested that the name and address requirement be extended to all lives shipments not just adult birds, urged USPS to modify its delivery time period to 48 hours for day-old poultry, require a delivery by date on the container for day-old poultry; and employ specialized tracking and data collection on lives perished to better understand the root causes of documented issues, urges climate-controlled transportation modes, requests that USPS issue moratoriums on the acceptance of lives as it deems necessary.

Response: The addressing requirement may be considered for all live animal shipments in a future regulatory update. The Postal Service believes the 48-hour delivery time is not necessary as the conditions of acceptance are that the day-old poultry must not be more than 24 hours old, can be delivered within 72 hours of hatching and the hatching date and hour are required to be indicated on the shipment. The Postal Service utilizes tracking data to identify live animal shipments and monitors data related to incidents to determine root causes for documented issues when shipments are accurately identified by the mailer through application of the pertinent USPS extra service codes within their electronic shipping files. Climate-controlled transportation for all modes is not currently feasible, but to the extent possible, the Postal Service limits live animal exposure to temperature extremes while in transit and ensures they are shielded from the elements while awaiting transport. Alternatively, the mailer must also ensure that the live animal shipments are protected against extreme temperatures by properly packaging them and considering both originating and destinating weather conditions when shipping, especially during summer and winter seasons. As mentioned in the previous comment response, the Postal Service does employ embargoes for live animal shipments when issues arise.

Comment: Several commenters suggested that USPS require advanced reservations and confirm transportation capacity.

Response: The Postal Service is in contact with major animal shippers and is provided advance notice of large shipments of live animals.

Comment: One commenter suggested that USPS includes specific test standards for all lives outer packaging and suggests an alternative to the address and phone number requirement of a barcode instead and to require each container in a multi-container shipment to have its own address label.

Response: The Postal Service appreciates the feedback and will

possibly consider this in a future rulemaking process.

Comment: One commenter suggested that live animals should only be shipped by overnight delivery.

Response: Depending upon the type of live animal being shipped and the shipping distance, Priority Mail and USPS Ground Advantage may also be used to ensure the shipment arrives safely.

Comment: One commenter suggested that USPS prohibit the mailing of all adult roosters due to gamecock breeders and cockfighters illegal use of the Postal Service to mail animals for fighting ventures.

Response: The Postal Service permits domestic mailings of disease-free adult birds when in compliance with all applicable governmental laws and regulations, including the Lacey Act, the Endangered Species Act (ESA), the Animal Welfare Act, regulations of the U.S. Department of Agriculture, U.S. Fish and Wildlife Service, and any state, municipal, or local ordinances. Any violation of these regulations is handled by local authorities and the Postal Inspection Service.

Comment: One commenter indicates USPS has no procedures or precautions within USPS publications to exclude shipments of live animals used for animal-fighting ventures. The commenter suggests USPS refuse shipments of roosters or imposes more stringent requirements by reviewing and recording interstate health documentation for each rooster, mandate mailers provide written certification of each rooster's non-fighting purpose, limit the number of roosters that can be shipped per day and restrict the breeds of roosters that are permitted.

Response: The Postal Service will research these suggestions and determine whether more stringent requirements will be considered in a future rulemaking process.

The Postal Service adopts the following changes to Publication 52, *Hazardous, Restricted, and Perishable Mail,* incorporated by reference into Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), section 601.8.1, which is further incorporated by reference in the Code of Federal Regulations. 39 CFR 111.1, 111.3. Publication 52 is also a regulation of the Postal Service, changes to which may be published in the **Federal Register**. 39 CFR 211.2(a). Accordingly, for the reasons stated in the preamble, the Postal Service amends Publication 52 as follows:

Publication 52—Hazardous, Restricted and Perishable Mail

* * * * *

5 Perishable Matter

* * * * *

52 Animals

521 General Requirements

[Add note at the bottom of section under item c. to read as follows:]

Note: Due to the high likelihood of degradation during transportation, fiberboard containers must not be reused for live animal shipments.

* * * * *

522 Packaging and Markings

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522.1 Container Construction

[Revise section to read as follows:]

Containers used to mail perishable matter must be constructed to protect and securely contain the contents.

Shipping containers for mailable live animals must, at a minimum, be made of 275-pound test, double-wall, corrugated, weather-resistant fiberboard (W5c) or equivalent. When multiple containers are strapped together, a single shipping label should be applied but each container must have its own address label. Additionally, the containers must be numbered sequentially (*e.g.,* ''1 of 5'', ''2 of 5,'' etc.) to help ensure proper handling if they become separated during transit.

USPS-produced packaging, including Flat Rate containers, is not eligible for use. Additional container requirements apply to mailable adult birds (refer to 526.4).

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526 Mailable Live Animals

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526.4 Adult Birds

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526.42 Mailability Requirements

[Add the following to the end of the section:]

Note: It is recommended that the name and address of the recipient also be written on the packaging in addition to the shipping label.

* * * * *

USPS Packaging Instruction 10D

* * * * *

Adult Bird Boxes

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Marking

[Revise Marking section to read as follows:]

Labels and markings must be placed on the address side of the mailpiece unless specified differently in 221.1 and 325.1.

Each container must be marked with the following information:

- ''Live Birds—USPS Approved Container # (once issued).''
- Complete sender's and recipient's addresses (including phone numbers) on the outer packaging for the necessary notification by Postal Service personnel.
- Directional arrows indicating ''up'' position (on at least two sides of the container).

Note: It is recommended to write the name and address of the recipient directly on the package in case shipping label becomes detached during shipment.

* * * * *

Colleen Hibbert-Kapler,

Attorney, Ethics & Legal Compliance.

[FR Doc. 2026–21317 Filed 10–16–26; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2023–0054; FRL–12607–02–R9]

Approval and Promulgation of Implementation Plans; Arizona; Revisions to the Cleaner Burning Gasoline, Winter Oxygenated Fuel, and Gasoline Set-Aside Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is finalizing an approval of a revision to the Arizona State Implementation Plan (SIP) submitted by the Arizona Department of Environmental Quality (ADEQ). This revision includes statutes and regulations amending the Cleaner Burning Gasoline (CBG) program, which is a control measure in the greater Phoenix metropolitan area to reduce emissions of ozone-forming pollutants, carbon monoxide (CO), and particulate matter. Additionally, this revision addresses the Winter Oxygenated Fuel program to control CO emissions in the Tucson area. Finally, this revision repeals the Arizona Gasoline Set-aside (GSA) Program, applicable to the 1971 carbon monoxide nonattainment area covering Maricopa County and a portion of Pima County. This SIP revision is administrative in nature. This final action updates the existing SIP-

approved CBG program with revisions that have been adopted and implemented by the State to clarify requirements, update references, and enhance flexibility of the program and will not impose any additional costs or regulatory burdens.

DATES: This rule is effective on November 18, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2023–0054 at *https://www.regulations.gov.* All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone (415) 947–4152 or by email at *buss.jeffrey@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA. We use multiple abbreviations and terms in this final rule. While this list may not be exhaustive, for ease of reading and for reference purposes, the EPA defines the following terms and acronyms here:

ADEQ—Arizona Department of Environmental Quality
AZRBOB—Arizona Reformulated Blendstock for Oxygenate Blending
CAA—Clean Air Act
CARBOB—California Reformulated Blendstock for Oxygenate Blending
CBG—Cleaner Burning Gasoline
CBI—confidential business information
CO—carbon monoxide
EPA—Environmental Protection Agency
GSA—Gasoline Set-aside
SIP—State Implementation Plan
TSD—Technical Support Document
WMSD—Weights and Measures Services Division

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I. Executive Summary

A. What action is the EPA taking?

The EPA is approving a revision to the Arizona SIP submitted by the ADEQ. This revision includes statutes and regulations amending the CBG program and the Winter Oxygenated Fuel program to control CO emissions in the Tucson area, and it repeals the GSA Program. This action updates the existing SIP-approved CBG program with revisions that have been adopted and implemented by the State to clarify requirements, update references, and enhance flexibility of the program, and it will not impose any additional costs or regulatory burdens.

B. What is the legal authority and what are the requirements?

Under the Clean Air Act (CAA), the EPA Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations.[1] In reviewing SIP submissions, the EPA's role is to approve State choices, provided they meet the relevant criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law.

The EPA is approving this submittal under CAA section 110. Specifically, CAA section 110(k) requires SIPs to meet certain procedural requirements and requires the EPA to approve or disapprove SIP submissions. CAA section 110(l) requires States to provide public notice and an opportunity for public hearing of SIP revisions prior to their submittal and prohibits the EPA from approving any SIP revisions that would interfere with attainment or maintenance of National Ambient Air Quality Standards (NAAQS), reasonable further progress, or other applicable requirements of the CAA. The EPA finds that this SIP submittal meets all the applicable CAA requirements and the Agency approves it under CAA section 110(k)(3).

[1] 42 U.S.C. 7410(k); 40 CFR 52.02(a).

II. Summary of Proposed Action

On June 23, 2026,[2] the EPA proposed to approve the submitted statutes and rules listed in table 1 of this preamble below into the Arizona SIP. These revisions were adopted by the Arizona State Legislature and the Weights and Measures Services Division (WMSD) of the Arizona Department of Agriculture and submitted by ADEQ to the EPA on June 17, 2021.[3] Supplemental information was submitted in 2025.[4] ADEQ is the Governor's designee for submitting official revisions to the Arizona SIP to the EPA. Table 1 of this preamble also identifies the dates that statutes and rules became effective locally and the dates that they were submitted by ADEQ.[5]

[2] 91 FR 37366 (June 23, 2026).

[3] Letter dated June 17, 2021, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Deborah Jordan, Acting Regional Administrator, U.S. Environmental Protection Agency Region 9 (submitted electronically June 17, 2021).

[4] The EPA received multiple submissions from Arizona, which include the initial 2021 submittal and updates in April, June, and July 2025. This action fully addresses the State's SIP submittals made in June 17, 2021, April 14, 2025, and July 8, 2025, as further clarified in additional communications from the State included in the docket for this action. As described further below, the State's submittal also includes materials related to interim changes to statutes and rules that were previously submitted in 2013 and 2014. The EPA has not acted on those previous submittals, which are superseded by the current submittal. Material related to the interim changes is not submitted for the EPA's approval. See ADEQ, SIP Revision: 2013–2020 Arizona Cleaner Burning Gasoline Program Update and the Removal of the Gasoline Set-aside Program from the Arizona SIP (Release date: June 17, 2021) (''Staff Report''), Appendix D: Previously Submitted Plans (Not For Approval).

[5] Table 1 is substantially carried over from table 1 of the proposed rulemaking, 91 FR 37366, 37368 (June 23, 2026). However, it corrects three typos from the earlier table: (1) the entry for the second ''AAC R3–7–101'' is corrected as ''R3–7–701''; (2) the entry for ''AAC R20–2–762'' is corrected as ''AAC R3–7–762''; and the effective date in the entry for ARS 3–3492 is corrected as June 30, 2016. Additionally, table 1 more specifically identifies two statutory provisions that were submitted only in part, which were not specified by paragraph in table 1 of the proposed rulemaking: (1) ARS 3–3433 (only paragraphs (A) through (I) submitted); and (2) ARS 3–3474 (only paragraphs (A)(1), (B)(4), and (C) submitted). Each of these entries is correctly described in the TSD for the proposed rulemaking.

TABLE 1—SUBMITTED STATUTES AND RULES

Agency	Rule No.	Rule title	State effective date	Submitted
State of Arizona	ARS 3–3401 (1), (2), (4), (17), (19), (20), (22), (24), (27), (28), (29), (32).	Definitions	07/01/16	06/17/21
State of Arizona	ARS 3–3414	Powers and duties; definition	08/03/18	06/17/21
State of Arizona	ARS 3–3415	Enforcement powers of the associate director, agents and inspectors.	07/01/16	06/17/21
State of Arizona	ARS 3–3433 (A)—(I)	Standards for motor fuel; exceptions	07/01/16	06/17/21
State of Arizona	ARS 3–3473 (A)(1), (B)(4), (C).	Violations; classification; jurisdiction	07/01/16	06/17/21
State of Arizona	ARS 3–3475	Civil penalties; hearing	07/01/16	06/17/21
State of Arizona	ARS 3–3491	Standards for oxygenated fuel; volatility; exceptions	08/09/17	06/17/21
State of Arizona	ARS 3–3492	Area A; sale of gasoline; oxygen content	06/30/16	06/17/21
State of Arizona	ARS 3–3493	Area A; fuel reformulation; rules	08/09/17	06/17/21
State of Arizona	ARS 3–3495	Area B; sale of gasoline; oxygen content	08/06/16	06/17/21
WMSD	AAC R3–7–101	Definitions	11/10/18	06/17/21
WMSD	AAC R3–7–701	Definitions	11/10/18	06/17/21
WMSD	AAC R3–7–702 (A)(1)—(13), (A)(15).	Material Incorporated by Reference	11/10/18	07/08/25
WMSD	AAC R3–7–708	Gasoline Oxygenate Blends	10/02/17	07/08/25
WMSD	AAC R3–7–716	Sampling and Access to Records	11/10/18	06/17/21
WMSD	AAC R3–7–749	Definitions Applicable to Arizona CBG and Arizona Reformulated Blendstock for Oxygenate Blending (AZRBOB).	11/10/18	06/17/21
WMSD	AAC R3–7–750	Registration Relating to Arizona CBG or AZRBOB	10/02/17	06/17/21
WMSD	AAC R3–7–751	Arizona CBG Requirements	11/10/18	06/17/21
WMSD	AAC R3–7–752	General Requirements for Registered Suppliers	11/10/18	06/17/21
WMSD	AAC R3–7–753	General Requirements for Pipelines and Third-party Terminals.	10/02/17	06/17/21
WMSD	AAC R3–7–754	Downstream Blending Exceptions for Transmix	10/02/17	06/17/21
WMSD	AAC R3–7–755	Additional Requirements for AZRBOB and Downstream Oxygenate Blending.	11/10/18	06/17/21
WMSD	AAC R3–7–756	Downstream Blending of Arizona CBG with Non-oxygenate Blendstocks.	10/2/17	06/17/21
WMSD	AAC R3–7–757	Product Transfer Documentation; Records Retention	11/10/18	06/17/21
WMSD	AAC R3–7–759	Testing Methodologies	10/2/17	06/17/21
WMSD	AAC R3–7–760	Compliance Surveys	11/10/18	06/17/21
WMSD	AAC R3–7–761	Liability for Noncompliant Arizona CBG or AZRBOB	11/10/18	06/17/21
WMSD	AAC R3–7–762	Penalties	10/02/17	06/17/21
WMSD	AAC R3–7 Table A	Test Methods for Arizona CBG and AZRBOB	10/02/17	06/17/21
WMSD	AAC Title 3, Chapter 7, Article 7, Table 1.	Type 1 Arizona CBG Standards	11/10/18	06/17/21
WMSD	AAC Title 3, Chapter 7, Article 7, Table 2.	Type 2 Arizona CBG Standards	11/10/18	06/17/21

The June 23, 2026 proposal for this action also identifies statutes and rules that are superseded by the new submittal and accordingly proposed for deletion from the Arizona SIP.[6]

III. EPA Action and Public Comments

The EPA's proposed action provided a 30-day public comment period. During this period, we received one comment letter that did not oppose the proposed approval, and supported the accuracy and completeness of the record. Issues raised in this comment letter are summarized with responses below.

Comment 1: The commenter suggested that a citation, included in footnote 63 of the technical support document (TSD) for the proposed action, to a December 22, 2016 letter from the EPA to Gevo, Inc. should be corrected to refer instead to the EPA's June 12, 2018 registration approval letter for isobutanol to Butamax Advanced Biofuels LLC.

Response 1: The EPA agrees that the June 12, 2018 Butamax registration letter is the more appropriate citation. The EPA is including the correct version of the letter in the docket for this action.

Comment 2: The commenter addressed the EPA's proposed approval of a 2017 version of AAC R3–7–708 that includes references to ''ethanol'' to describe requirements for oxygenates added to gasoline. As the commenter noted, Arizona later corrected these references to specify application of these requirements to oxygenates generally (in addition to ethanol) in a version of the rule that has not yet been submitted for SIP approval. The commenter suggested that the EPA should either decline to approve this version of the rule or state expressly in the final rule's regulatory text (and not only in the TSD) that the enforceable scope of R3–7–708 extends to isobutanol blending, notwithstanding the section's ethanol-specific terms.

Response 2: The EPA acknowledges the commenter's concern regarding the enforceable scope of AAC R3–7–708 and the presence of ethanol-specific language in the submitted version of R3–7–708. As the EPA stated in the TSD for our proposed rulemaking:

[6] These rules are listed in table 2 of the proposed rule, 91 FR 37366, 37369 and 37370, and in a similar table 2 included in the accompanying TSD. The table included in the proposed rule inadvertently excluded several entries proposed for deletion (AAC R20–2–760; AAC R20–2–761; AAC R20–2–762; and AAC Title 20, Chapter 2, Article 7, tables 1 and 2). These entries are listed in table 2 of the TSD and the basis for their deletion is discussed in that document.

As a general matter, the CAA requirements for oxygenated fuel are oxygenate-neutral, in that they do not require any specific oxygenate to be used. Consistent with these requirements, the EPA has previously communicated to ADEQ that its CBG program regulations should allow oxygenates other than ethanol, and the State revised its regulations in 2018 to make this change.[7]

The EPA also explained that the language in the submitted version of AAC R3–7–708 was nonetheless acceptable:

In the context of the broader CBG program, which clearly specifies that oxygenates other than ethanol to be used, we consider this language to be acceptable because it is apparent that the references to ethanol are meant to address general requirements for oxygenates and are not intended to limit the choice of oxygenate for oxygenated fuels.[8]

The EPA reiterates here that the scope of our approval of this provision extends to all oxygenates that the Agency has registered under CAA section 211(a), which is consistent with the broader context of the submitted CBG program, notwithstanding the rule's references to ethanol. As the EPA noted in the TSD for our proposed action, the State has indicated that it plans to submit a revised version of this rule in its next SIP submittal.[9]

Comment 3: The commenter requested that the EPA state an individual basis for each of the nine categories of changes collectively described as ''administrative in nature.'' The commenter noted particularly the CARBOB Model substitution and the blendstock recertification allowance, which they characterize as introducing new compliance pathways.

Response 3: The TSD identifies multiple changes as administrative in nature and provides a general basis for the approval of such changes.[10] With respect to the CARBOB Model substitution and the blendstock recertification allowance, the Agency's proposed approval of the submitted revisions is based on the fact that the underlying measures have already been approved by the EPA and the measures have previously approved compliance pathways.[11] The submitted revisions add SIP-strengthening compliance flexibilities to previously approved regulations. The EPA has considered the underlying provisions individually in reaching this conclusion and has determined that the submitted revisions are approvable.

The EPA notes that the changes the Agency is acting on and approving strengthen the SIP by providing greater clarity to the regulated public. As stated in the TSD for the proposed action:

The EPA has long acknowledged that SIP revisions to an approved state fuel program that are administrative in nature because they improve and strengthen an existing SIP-approved fuel program are within the scope of the previous necessity finding and do not require another ''necessity'' demonstration under CAA section 211(c)(4)(C)(i).[12]

Comment 4: The commenter suggested that the EPA should clarify its expectations for the interaction between the proposed SIP approval and the EPA's national waiver of Federal enforcement which applies to state boutique fuel requirements for gasoline, including specifically whether the EPA anticipates the waiver lapsing before or shortly after this action is finalized, and what compliance transition, if any, regulated parties should expect if Federal enforcement of the approved Arizona CBG requirements resumes on short notice.

Response 4: The comment is beyond the scope of this rulemaking. The present action addresses only whether the rules submitted by Arizona comply with all applicable CAA requirements for a SIP submittal.

Comment 5: The commenter suggested that the EPA should identify a specific timeline or commitment for review of the 2023 amendments, and that the Agency should clarify how the gap in the federally enforceable SIP and the requirements that are currently in effect at the State level will be addressed and over what timeframe.

Response 5: The present action addresses only the rules submitted by Arizona. Once approved into the SIP, these rules will be federally effective and enforceable upon all regulated parties. As noted in response to Comment 2, Arizona has indicated that it plans to submit a revised version of Rule R3–7–708 in its next SIP submittal.

Comment 6: The commenter observed that the publication date of the **Federal Register** publication cited in footnote 3 of the proposal should be May 16, 1988,'' instead of ''May 16, 1998,'' and suggested that this should be changed in the final rule.

Response 6: The EPA agrees that the date for this citation was incorrectly listed in the proposed rulemaking. The EPA hereby clarifies that the correct citation is ''53 FR 17378 (May 16, 1988).''

No comments were submitted that changed the EPA's assessment of the submitted rules as described in our proposed action. Therefore, the EPA continues to find that the submitted rules should be approved into the Arizona SIP because they fulfill all relevant CAA requirements. Therefore, as authorized in CAA section 110(k)(3), the EPA is approving the submitted statutes and rules into the Arizona SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is incorporating by reference the statutes and rules as described in section II of this preamble: new sections ARS 3–3401 (1), (2), (4), (17), (19), (20), (22), (24), (27), (28), (29), (32); ARS 3–3433 (A)–(I); ARS 3–3473 (A)(1), (B)(4), (C); ARS 3–3475; ARS 3–3491; ARS 3–3492; ARS 3–3493; ARS 3–3495; AAC R3–7–101; AAC R3–7–701; AAC R3–7–702 (A)(1)–(13), (A)(15); AAC R3–7–708; AAC R3–7–716; AAC R3–7–749; AAC R3–7–750; AAC R3–7–751; AAC R3–7–752; AAC R3–7–753; AAC R3–7–754; AAC R3–7–755; AAC R3–7–756; AAC R3–7–757; AAC R3–7–759; AAC R3–7–760; AAC R3–7–761; AAC R3–7–762; AAC R3–7 Table A; AAC Title 3, Chapter 7, Article 7, Table 1; and AAC Title 3, Chapter 7, Article 7, Table 2. These statues and rules amend the Arizona Cleaner Burning Gasoline (CBG) program, which is a control measure in the greater Phoenix metropolitan area to reduce emissions of ozone-forming pollutants, carbon monoxide, and particulate matter. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of

[7] TSD at 19 (internal citations omitted).

[8] *Id.*

[9] *Id.* at 18.

[10] *Id.* at 13.

[11] *Id.* at 11 and 22.

[12] *Id.* at 13.

the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 14, 2026.

Michael Martucci,

Acting Regional Administrator, EPA Region IX.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—Arizona

■ 2. Amend § 52.120:
■ a. In paragraph (c) by:
■ i. In table 1, immediately after the heading ''Arizona Revised Statutes'':
■ A. Adding the headings ''Title 3 (Agriculture)'', ''Chapter 19 (Weights and Measures Service Division)'', and ''Article 1 (General Provisions)'' and the entry for ''3–3401 (1), (2), (4), (17), (19), (20), (22), (24), (27), (28), (29), and (32)'';
■ B. Adding the heading ''Article 3 (Method of Sale of Commodities and Services)'' and the entry for ''3–3433 (A)–(I)'' immediately after entry ''3–3401 (1), (2), (4), (17), (19), (20), (22), (24), (27), (28), (29), and (32)'';
■ C. Adding the heading ''Article 5 (Regulation)'' and the entries for ''3–3473 (A)(1), (B)(4), and (C)'' and ''3–3475'' immediately after entry ''3–3433 (A)–(I)'';
■ D. Adding heading ''Article 6 (Motor Fuel)'' and entries for ''3–3491,'' ''3–3492,'' ''3–3493,'' and ''3–3495'' immediately after entry ''3–3475''; and
■ E. Under the headings ''Title 41 (State Government)'', ''Chapter 15 (Department of Weights and Measures)'':
■ *1.* Removing the heading ''Article 1 (General Provisions)'' and the entry for ''41–2051 (6), (10), (11), (12), and (13)'';
■ *2.* Removing the heading ''Article 3 (Method of Sale of Commodities and Services)'' and the entry for ''41–2083'';
■ *3.* Removing the heading ''Article 5 (Regulation)'' and the entries for ''41–2113(B)(4)'' and ''41–2115''; and
■ *4.* Removing the heading ''Article 6 (Motor Fuel)'' and the entries for ''41–2121'', ''41–2121(5)'', ''41–2122'', ''41–2123'', ''41–2124'', and ''41–2125''; and
■ ii. In table 2, immediately after the heading ''Arizona Administrative Code'':
■ A. Adding the headings ''Title 3 (Agriculture),'' ''Chapter 7 (Department of Agriculture—Weights and Measures Services Division)'', and ''Article 1 (Administration and Procedures)'' and the entry for ''R3–7–101'';
■ B. Adding the heading ''Article 7 (Motor Fuels and Petroleum Products)'' and entries for ''R3–7–701'', ''R3–7–702 (A)(1)–(13), (A)(15)'', ''R3–7–708'', ''R3–7–716'', ''R3–7–749'', ''R3–7–750'', ''R3–7–751'', ''R3–7–752'', ''R3–7–753'', ''R3–7–754'', ''R3–7–755'', ''R3–7–756'', ''R3–7–757'', ''R3–7–759'', ''R3–7–760'', ''R3–7–761'', ''R3–7–762'', ''Table A'', ''Table 1'', and ''Table 2'' after the entry for ''R3–7–101''; and
■ C. Under the headings ''Title 20 (Commerce, Financial Institutions, and Insurance)'', ''Chapter 2 (Department of Weights and Measures)'':
■ *1.* Removing the heading ''Article 1 (Administration and Procedures)'' and the entry for ''R20–2–101''; and
■ *2.* Removing the heading for ''Article 7 (Motor Fuels and Petroleum Products)'' and the entries for ''R20–2–701'', ''R20–2–716'', ''R20–2–750'', ''R20–2–751'', ''R20–2–752'', ''R20–2–753'', ''R20–2–754'', ''R20–2–755'', ''R20–2–756'', ''R20–2–757'', ''R20–2–758'', ''R20–2–759'', ''R20–2–760'', ''R20–2–761'', ''R20–2–762'', ''Table 1'', and ''Table 2''; and
■ b. In paragraph (e), in table 3, by:
■ i. Adding the headings ''Title 3 (Agriculture)'', ''Chapter 19 (Weights and Measures Service Division)'', and ''Article 2 (State Administration of Weights and Measures)'' and entries for ''3–3414'' and ''3–3415'' immediately after the heading ''Arizona Revised Statutes'';
■ ii. Under the heading ''Title 28 (Transportation)'' by removing the headings ''Chapter 2 (Administration)'' and ''Article 6 (Unblended Gasoline Shortages)[1]'' and the entries for ''28–2701'', ''28–2702'', ''28–2703'', ''28–2704'', ''28–2705'', ''28–2706'', ''28–2707'', and ''28–2708'';
■ iii. Under the heading ''Title 41 (State Government)'' by removing the headings

''Chapter 15 (Department of Weights and Measures)'' and ''Article 2 (State Administration of Weights and Measures)'' and the entries for ''41–2065'', ''41–2066'', and ''41–2066(A)(2)''; and

■ iv. Removing footnote 1.

The revisions and additions read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

TABLE 1—EPA-APPROVED ARIZONA STATUTES

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
ARIZONA REVISED STATUTES [1]				
Title 3 (Agriculture)				
Chapter 19 (Weights and Measures Service Division)				
Article 1 (General Provisions)				
3–3401 (1), (2), (4), (17), (19), (20), (22), (24), (27), (28), (29), and (32).	Definitions	July 1, 2016	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Arizona Revised Statutes (LexisNexis, 2021). Submitted on June 17, 2021.
Article 3 (Method of Sale of Commodities and Services)				
3–3433 (A)–(I)	Standards for motor fuel; exceptions	July 1, 2016	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Arizona Revised Statutes (LexisNexis, 2021). Submitted on June 17, 2021.
Article 5 (Regulation)				
3–3473 (A)(1), (B)(4), and (C).	Violations; classification; jurisdiction	July 1, 2016	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Arizona Revised Statutes (LexisNexis, 2021). Submitted on June 17, 2021.
3–3475	Civil penalties; hearing	July 1, 2016	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Arizona Revised Statutes (LexisNexis, 2021). Submitted on June 17, 2021.
Article 6 (Motor Fuel)				
3–3491	Standards for oxygenated fuel; volatility; exceptions.	August 9, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Arizona Revised Statutes (LexisNexis, 2021). Submitted on June 17, 2021.
3–3492	Area A; sale of gasoline; oxygen content.	June 30, 2016	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Arizona Revised Statutes (LexisNexis, 2021). Submitted on June 17, 2021.
3–3493	Area A; fuel reformulation; rules	August 9, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Arizona Revised Statutes (LexisNexis, 2021). Submitted on June 17, 2021.
3–3495	Area B; sale of gasoline; oxygen content.	August 6, 2016	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Arizona Revised Statutes (LexisNexis, 2021). Submitted on June 17, 2021.
*	* *	*	*	*

[1] The statutory provisions listed in table 1 of paragraph (c) are considered regulatory. Other statutory provisions are considered nonregulatory and are listed in table 3 of paragraph (e).

* * * * *

TABLE 2—EPA-APPROVED ARIZONA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
ARIZONA ADMINISTRATIVE CODE				
Title 3 (Agriculture)				
Chapter 7 (Department of Agriculture—Weights and Measures Services Division)				
Article 1 (Administration and Procedures)				
R3–7–101	Definitions	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
Article 7 (Motor Fuels and Petroleum Products)				
R3–7–701	Definitions	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–702 (A)(1)–(13), (A)(15).	Material Incorporated by Reference	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021. ADEQ clarified and revised the June 17, 2021 submittal in a submittal dated July 8, 2025.
R3–7–708	Gasoline Oxygenate Blends	October 2, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021. ADEQ clarified and revised the June 17, 2021 submittal in a submittal dated July 8, 2025.
R3–7–716	Sampling and Access to Records	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–749	Definitions Applicable to Arizona CBG and AZRBOB.	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–750	Registration Relating to Arizona CBG or AZRBOB.	October 2, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–751	Arizona CBG Requirements	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–752	General Requirements for Registered Suppliers.	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–753	General Requirements for Pipelines and Third-party Terminals.	October 2, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–754	Downstream Blending Exceptions for Transmix.	October 2, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–755	Additional Requirements for AZRBOB and Downstream Oxygenate Blending.	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–756	Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks.	October 2, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–757	Product Transfer Documentation; Records Retention.	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–759	Testing Methodologies	October 2, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–760	Compliance Surveys	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–761	Liability for Noncompliant Arizona CBG or AZRBOB.	November 10, 2018	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
R3–7–762	Penalties	October 2, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.

TABLE 2—EPA-APPROVED ARIZONA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Table A	Test Methods for Arizona CBG and ... AZRBOB	October 2, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
Table 1	Type 1 Arizona CBG Standards	October 2, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
Table 2	Type 2 Arizona CBG Standards	October 2, 2017	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Submitted on June 17, 2021.
*	*	*	*	* * *

* * * * * (e) * * *

TABLE 3—EPA-APPROVED ARIZONA STATUTES—NON-REGULATORY

State citation	Title/subject	State submittal date	EPA approval date	Explanation
ARIZONA REVISED STATUTES				
Title 3 (Agriculture)				
Chapter 19 (Weights and Measures Service Division)				
Article 2 (State Administration of Weights and Measures)				
3–3414	Powers and duties; definition	June 17, 2021	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Arizona Revised Statutes (LexisNexis, 2021). State effective date August 3, 2018.
3–3415	Enforcement powers of the associate director, agents and inspectors.	June 17, 2021	October 19, 2026, 91 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS].	Arizona Revised Statutes (LexisNexis, 2021). State effective date July 1, 2016.
*	*	*	*	* * *

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[FR Doc. 2026–21268 Filed 10–16–26; 8:45 am]

BILLING CODE 6569–60–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[GN Docket Nos. 18–122 and 25–59; FCC 26–46; FR ID 372601]

Upper C-Band (3.98–4.2 GHz); Expanding Flexible Use of the 3.7 to 4.2 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved the information collection requirements under OMB Control Number 3060–1272, as adopted in the Commission's Report and Order, Order of Proposed Modification, and Order on Reconsideration, FCC 26–46.

DATES: Amendatory instructions 26 (47 CFR 27.1412(e)) and 35 (47 CFR 27.1419), published at 91 FR 48700, July 31, 2026, are effective on October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, Office of the Managing Director, Federal Communications Commission, at (202) 418–2918 or *Cathy.Williams@fcc.gov*.

SUPPLEMENTARY INFORMATION: This document announces that OMB approved the information collection requirements in 47 CFR 27.1412(e) and 27.1419 on September 21, 2026. The Commission publishes this document as an announcement of the effective date for these amended rules.

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received final OMB approval on September 21, 2026, for the information collection requirements contained in 47 CFR 27.1412(e) and 27.1419. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number for this information collection is 3060–1272. The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1272.

Title: 3.7 GHz Band Space Station Operator Transition Plans; 3.7 GHz

Band Incumbent Earth Station Lump Sum Payment Elections.

OMB Approval Date: September 21, 2026.

OMB Expiration Date: March 31, 2027.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Estimated Number of Respondents and Responses: 3,003 respondents and 3,003 responses.

Estimated Hours per Response: 2,720 hours per eligible space station transition plan; 32 hours per incumbent earth station lump sum payment election.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 2, 4(i), 4(j), 5(c), 201, 302, 303, 304, 307(e), and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 201, 302, 303, 304, 307(e), and 309.

Total Annual Burden: 104,160 hours.

Total Annual Cost: $540,000.

Needs and Uses

On July 22, 2026, in furtherance of the goal of releasing more mid-band spectrum into the market to support and enable next-generation wireless networks, the Federal Communications Commission (Commission) adopted a Report and Order, FCC 26–46, 91 FR 48700 (*Upper C-band R&O*), in which it reformed the use of the 4.0–4.2 GHz portion of the C-Band. The 4.0–4.2 GHz band currently is allocated in the United States exclusively for non-Federal use on a primary basis for Fixed Satellite Service (FSS) and Fixed Service.

Domestically, space station operators use the 4.0–4.2 GHz band to provide downlink signals of various bandwidths to licensed transmit-receive, registered receive-only, and unregistered receive-only earth stations throughout the United States. The *Upper C-band R&O* calls for the relocation of existing FSS operations in the C-band, making 160 megahertz (3.98–4.14 GHz) available for flexible-use terrestrial wireless service throughout the contiguous United States through a Commission-administered public auction of licenses that must be completed by July 4, 2027, pursuant to a statutory mandate in the One Big Beautiful Bill Act, Public Law 119–21, section 40002(b)(2).

The Commission adopted a robust transition schedule to achieve an expeditious clearing and relocation of FSS operations and ensure that a significant amount of spectrum is made available quickly for next-generation wireless deployments, while also ensuring effective accommodation of relocated incumbent users. Pursuant to the *Upper C-band R&O,* all incumbent FSS operations in the contiguous United States must clear the 4.0–4.16 GHz portion of the C-band by December 30, 2030, or June 30, 2031, to ensure a timely transition process. The December 30 deadline applies to the top 75 Partial Economic Areas (PEAs) and aligns with the Federal Aviation Administration's first deadline to retrofit aircraft radio altimeters. The June 30 deadline applies to all other areas.

The Commission concluded in the *Upper C-band R&O* that, before the public auction of new licenses commences, it is appropriate for potential bidders to: (1) know when they will get access to the spectrum in the 3.98–4.14 GHz portion of the C-band that is currently occupied by incumbent FSS space station operators and earth stations; and (2) have an estimate of how much they may be required to pay for incumbent relocation costs and incentive payments should they become Upper C-band wireless licensees. New Upper C-band wireless licensees are required to pay for the reasonable and necessary relocation costs of incumbent space station and incumbent earth station operators that are required to clear the 4.0–4.16 GHz portion of the C-band.

To facilitate the provision of this information to potential auction bidders, the Commission is seeking approval for a modified information collection to permit it to collect the following information from incumbents as adopted in the *Upper C-band R&O:*

Transition Plans

The *Upper C-band R&O* requires each eligible space station operator to submit to the Commission by November 5, 2026, and make available for public review, a detailed transition plan describing the necessary steps and estimated costs for the eligible space station operator to clear its existing operations in the 4.0–4.16 GHz portion of the C-band in the contiguous United States and its individual timeline for doing so. An eligible space station operator may make changes to its transition plan to update certain information or cure any defects that may be identified by the Commission or by relevant stakeholders during a public comment window.

Incumbent Earth Station Lump Sum Payment Elections

The *Upper C-band R&O* provides an incumbent earth station operator with the option of: (1) accepting reimbursement payments for its reasonable and necessary relocation costs for the transition; or (2) in lieu of actual relocation costs, opting out of the formal relocation process and accepting a lump sum reimbursement payment for its incumbent earth stations on a per-site basis based on the average, estimated cost of relocating such incumbent earth stations. The *Upper C-band R&O* directs the Wireless Telecommunications Bureau to announce the lump sum that will be available per incumbent earth station as well as the process for electing lump sum payments and requires that, no later than 60 days after the Wireless Telecommunications Bureau announces the lump sum payment amounts, an incumbent earth station operator that wishes to receive a lump sum payment make an irrevocable lump sum payment election that will apply to such earth stations in the contiguous United States.

This information collection will serve as the starting point for planning and managing the process of efficiently and expeditiously clearing the 4.0–4.16 GHz portion of the C-band, so that this spectrum can be auctioned for flexible-use service licenses.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–21324 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 91, No. 200
Monday, October 19, 2026

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–11811; Project Identifier AD–2026–00667–E]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney RTX Corporation (Type Certificate Previously Held by Pratt & Whitney Division United Technologies Corporation) Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2026–09–02, which applies to certain Pratt & Whitney RTX Corporation (PW) Model PW4074, PW4074D, PW4077, PW4077D, PW4084D, PW4090, and PW4090–3 engines. AD 2026–09–02 requires repetitive angle ultrasonic scan inspections (AUSIs) of the high-pressure compressor (HPC) 15th-stage disks, front turbine hubs, high-pressure turbine (HPT) 1st-stage air seals, and HPT 2nd-stage hubs for crack indications, and removal from service and replacement if necessary, and for certain serial numbers, removal from service and replacement of the HPT 1st-stage air seal. Since the FAA issued AD 2026–09–02, the FAA was notified that a certain part number was omitted from AD 2026–09–02 and the applicability of the optional terminating action was matched to an unrelated requirement. This proposed AD would require repetitive AUSIs of the HPC 15th-stage disks, front turbine hubs, HPT 1st-stage air seals, and HPT 2nd-stage hubs for crack indications, and removal from service and replacement if necessary, and for certain serial numbers, removal from service and replacement of the HPT 1st-stage air seal. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by December 3, 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–2026–11811; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For PW material identified in this proposed AD, contact PW, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.com;* website: *connect.prattwhitney.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (562) 627–5373; email: *molly.a.sturgis@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–2026–11811; Project Identifier AD–2026–00667–E'' 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 revise 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 Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. 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 2026–09–02, Amendment 39–23322 (91 FR 30191, May 22, 2026) (AD 2026–09–02), for PW Model PW4074, PW4074D, PW4077, PW4077D, PW4084D, PW4090, and PW4090–3 engines. AD 2026–09–02 was prompted by an analysis of an event involving an International Aero Engines, LLC (IAE LLC) Model PW1127GA–JM engine, which experienced an HPC 7th-stage integrally bladed rotor (IBR–7) separation that resulted in an aborted takeoff. Following this event, the manufacturer analysis found that the failure of the HPC IBR–7 was caused by a nickel powdered metal anomaly,

similar in nature to an anomaly previously observed. The analysis also concluded that there is an increased risk of failure for additional nickel powdered metal parts in certain nickel powdered metal production campaigns, and these parts are susceptible to failure much earlier than previously determined. AD 2026–09–02 requires repetitive AUSIs of the HPC 15th-stage disks, front turbine hubs, HPT 1st-stage air seals, and HPT 2nd-stage hubs for crack indications, and removal from service and replacement if necessary, and for certain serial numbers, removal from service and replacement of the HPT 1st-stage air seal. The FAA issued AD 2026–09–02 to prevent failure of the HPC 15th-stage disk, front turbine hub, HPT 1st-stage air seal, and HPT 2nd-stage hub. The unsafe condition, if not addressed, could result in uncontained disk failure, release of high energy debris, damage to the engine, damage to the airplane, and possible loss of the airplane.

Actions Since AD 2026–09–02 Was Issued

Since the FAA issued AD 2026–09–02, the FAA has become aware that the manufacturer revised PW Alert Service Bulletin (ASB) PW4G–112–A72–368, dated June 20, 2024 (PW ASB PW4G–112–A72–368) to include HPT 2nd-stage hub part number (P/N) 53L402, which was not identified in PW ASB PW4G–112–A72–368 and inadvertently omitted from AD 2026–09–02. Additionally, the applicability of the optional terminating action was matched to paragraph (g)(1) of AD 2026–09–02, which is an unrelated requirement.

FAA's Determination

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

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed PW ASB PW4G–112–A72–368, Revision No. 1, dated September 20, 2024, which specifies procedures for performing repetitive AUSIs on affected HPT 2nd-stage hubs.

This proposed AD would also require the following material, which the Director of the Federal Register approved for incorporation by reference as of June 26, 2026 (91 FR 30191, May 22, 2026).

- PW ASB PW4G–112–A72–365, Revision No. 1, dated June 20, 2024, which specifies procedures for performing repetitive AUSIs on affected HPC 15th-stage disks.
- PW ASB PW4G–112–A72–366, dated June 20, 2024, which specifies procedures for performing repetitive AUSIs on affected HPT 1st-stage air seals.
- PW ASB PW4G–112–A72–367, dated June 20, 2024, which specifies procedures for performing repetitive AUSIs on affected front turbine hubs.

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

Proposed AD Requirements in This NPRM

This proposed AD would require repetitive AUSIs of the HPC 15th-stage disks, front turbine hubs, HPT 1st-stage air seals, and HPT 2nd-stage hubs for crack indications, and removal from service and replacement if necessary. This proposed AD would also require, for certain serial numbers, removal from service and replacement of the HPT 1st-stage air seal.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 124 engines installed on airplanes of U.S. registry. The FAA estimates that 124 engines will need AUSIs of the HPC 15th-stage disk, front turbine hub, HPT 2nd-stage hub, and HPT 1st-stage air seal; and 6 engines will need replacement of the HPT 1st-stage air seals.

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
AUSI of HPC 15th-stage disk	4 work-hours × $85 per hour = $340	$0	$340	$42,160
AUSI of front turbine hub	5 work-hours × 85 per hour = 425	0	425	52,700
AUSI of HPT 2nd-stage hub	5 work-hours × 85 per hour = 425	0	425	52,700
AUSI of HPT 1st-stage air seal	5 work-hours × 85 per hour = 425	0	425	52,700
Replace certain HPT 1st-stage air seals (6 engines).	1 work-hour × 85 per hour = 85	763,000	763,085	4,578,510

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace HPC 15th-stage disk	10 work-hours × $85 per hour = $850	$312,000	$312,850
Replace front turbine hub	10 work-hours × 85 per hour = 850	910,000	910,850
Replace HPT 2nd-stage hub	10 work-hours × 85 per hour = 850	816,000	816,850
Replace HPT 1st-stage air seal	10 work-hours × 85 per hour = 850	763,000	763,850

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 2026–09–02, Amendment 39–23322 (91 FR 30191, May 22, 2026); and

■ b. Adding the following new airworthiness directive:

Pratt & Whitney RTX Corporation (Type Certificate Previously Held by Pratt & Whitney Division United Technologies Corporation): Docket No. FAA–2026–11811; Project Identifier AD–2026–00667–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 3, 2026.

(b) Affected ADs

This AD replaces AD 2026–09–02, Amendment 39–23322 (91 FR 30191, May 22, 2026) (AD 2026–09–02).

(c) Applicability

This AD applies to all Pratt & Whitney RTX Corporation (PW) Model PW4074, PW4074D, PW4077, PW4077D, PW4084D, PW4090, and PW4090–3 engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section; 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by an analysis of an event involving an International Aero Engines, LLC Model PW1127GA–JM engine, which experienced a high-pressure compressor (HPC) 7th-stage integrally bladed rotor separation that resulted in an aborted takeoff. The FAA is issuing this AD to prevent failure of the HPC 15th-stage disk, front turbine hub, high-pressure turbine (HPT) 1st-stage air seal, and HPT 2nd-stage hub. The unsafe condition, if not addressed, could result in uncontained disk failure, release of high energy debris, damage to the engine, damage to the airplane, and possible loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For HPT 1st-stage air seals with a serial number identified in table 1 to paragraph (g)(1) of this AD: At the next piece part opportunity after the effective date of this AD, remove the HPT 1st-stage air seal from service and replace with a part eligible for installation.

TABLE 1 TO PARAGRAPH (g)(1)—HPT 1ST-STAGE AIR SEALS AFFECTED SERIAL NUMBERS

Serial No.	Part No. (P/N)
CKLBME2702	50L663
CKLBME2703	50L663
CKLBME2704	50L663
CKLBME2705	50L663
CKLBME2711	50L663
CKLBMS8019	50L959

(2) At the next piece part opportunity after the effective date of this AD and thereafter at every piece part opportunity, perform angle ultrasonic scan inspections (AUSIs) of the HPC 15th-stage disk, front turbine hub, HPT 1st-stage air seal, and HPT 2nd-stage hub for crack indications in accordance with the applicable service material specified in paragraph (g)(2)(i) through (iv) of this AD.

(i) For HPC 15th-stage disks: Accomplishment Instructions, paragraph 4.A or 4.B., of PW Alert Service Bulletin (ASB) PW4G–112–A72–365, Revision No. 1, dated June 20, 2024.

(ii) For front turbine hubs: Accomplishment Instructions, paragraph 4.A or 4.B., of PW ASB PW4G–112–A72–367, dated June 20, 2024.

(iii) For HPT 1st-stage air seals: Accomplishment Instructions, paragraph 4.A or 4.B., of PW ASB PW4G–112–A72–366, dated June 20, 2024.

(iv) For HPT 2nd-stage hubs: Accomplishment Instructions, paragraph 4.A or 4.B., of PW ASB PW4G–112–A72–368, Revision No. 1, dated September 20, 2024.

(3) If during any inspection required by paragraph (g)(2) of this AD, any crack indication is found, before further flight, remove the part from service and replace with a part eligible for installation.

(h) Definitions

For the purpose of this AD:

(1) A ''piece part opportunity'' is one of the conditions specified in paragraph (h)(1)(i) through (iv).

(i) The HPC 15th-stage disk is removed from the engine and all blades are removed.

(ii) The front turbine hub is removed from the engine and all blades are removed.

(iii) The HPT 2nd-stage hub is removed from the engine and all blades are removed.

(iv) The HPT 1st-stage air seal is fully disassembled from the engine.

(2) A ''part eligible for installation'' is:

(i) An HPC 15th-stage disk having P/N 51S115, 51S315, 55H615, or 56H015 that has passed the angle ultrasonic scan inspection (AUSI) required by paragraph (g)(2)(i) of this AD.

(ii) An HPC 15th-stage disk having P/N 51S115 or 56H015 that has a certificate of conformance that shows compliance with Non-Destructive Inspection Procedure (NDIP)-1276.

(iii) An HPC 15th-stage disk having P/N 51S315 or 55H615 that has a certificate of conformance that shows compliance with NDIP–1289.

(iv) A front turbine hub having P/N 55L801 or 55L901 that has passed the AUSI required by paragraph (g)(2)(ii) of this AD.

(v) A front turbine hub having P/N 55L801 that has a certificate of conformance that shows compliance with NDIP–1273.

(vi) A front turbine hub having P/N 55L901 that has a certificate of conformance that shows compliance with NDIP–1288.

(vii) An HPT 1st-stage air seal having P/N 50L663 or 50L959 that has passed the AUSI required by paragraph (g)(2)(iii) of this AD.

(viii) An HPT 1st-stage air seal having P/N 50L663 that has a certificate of conformance that shows compliance with NDIP–1286.

(ix) An HPT 1st-stage air seal having P/N 50L959 that has a certificate of conformance that shows compliance with NDIP–1287.

(x) An HPT 2nd-stage hub having P/N 53L202, 53L402, or 54L802 that has passed the AUSI required by paragraph (g)(2)(iv) of this AD.

(xi) An HPT 2nd-stage hub having P/N 53L202 that has a certificate of conformance that shows compliance with NDIP–1274.

(xii) An HPT 2nd-stage hub having P/N 53L402 or 54L802 that has a certificate of conformance that shows compliance with NDIP–1275.

(xiii) Any HPC 15th-stage disk, front turbine hub, HPT 1st-stage air seal, or HPT 2nd-stage hub that is new, zero-time, and that has an FAA Form 8130–3 from the original equipment manufacturer for new production dated July 1, 2025, or later.

(i) Optional Terminating Action—Airworthiness Limitations Section (ALS) Revision

Revising the ALS of the existing engine manual and the operator's existing approved maintenance program or inspection program, as applicable, by incorporating the information in figure 1 to paragraph (i) of this AD, constitutes terminating action for the actions required by paragraphs (g)(2) and (3) of this AD.

FIGURE 1 TO PARAGRAPH (i)—ALS ADDITIONAL INSPECTIONS

Engine manuals P/N 51A345 and 51A751	B. Parts requiring inspection description	CIR Manual 51A750 inspection check-02 update to include
Chapter/Section 05–10–00 PW4000 SERIES ENGINE MANUAL ENGINE—AIRWORTHINESS LIMITATIONS—TIME LIMITS. P/N 51A345 TASK 05–10–01–990–004. 5. Critical Life Limited Part Inspection and Critical Part Inspection. P/N 51A751 TASK 05–10–01–990–007. 5. Critical Life Limited Part Inspection and Critical Part Inspection.	Seal—Air, HPT 1st-Stage.	TASK 72–52–19–200–001. 1. Non-Destructive Inspection—Stage 1 HPT Airseal Angle Ultrasonic Inspection (1) Do an Angle Ultrasonic Inspection for P/N 50L663 by NDIP–1286 and for P/N 50L959 by NDIP–1287.
Chapter/Section 05–10–00 PW4000 SERIES ENGINE MANUAL ENGINE—AIRWORTHINESS LIMITATIONS—TIME LIMITS. P/N 51A345 TASK 05–10–01–990–004. 5. Critical Life Limited Part Inspection and Critical Part Inspection.. P/N 51A751 TASK 05–10–01–990–007. 5. Critical Life Limited Part Inspection and Critical Part Inspection.	Hub, Turbine Front Assembly (1st-Stage).	TASK 72–52–05–200–001. 1. Non-Destructive Inspection—Turbine Front Hub (Stage 1) Angle Ultrasonic Inspection (1) Do an Angle Ultrasonic Inspection for Assembly P/N 55L221 or Detail P/N 55L801 by NDIP–1273 and for Assembly P/N 55L521 or Detail P/N 55L901 by NDIP–1288.
Chapter/Section 05–10–00 PW4000 SERIES ENGINE MANUAL ENGINE—AIRWORTHINESS LIMITATIONS—TIME LIMITS. P/N 51A345 TASK 05–10–01–990–004. 5. Critical Life Limited Part Inspection and Critical Part Inspection. P/N 51A751 TASK 05–10–01–990–007. 5. Critical Life Limited Part Inspection and Critical Part Inspection.	Hub, Turbine Rear Assembly (2nd-Stage).	TASK 72–52–06–200–001. 1. Non-Destructive Inspection—Turbine Intermediate Hub (Stage 2) Angle Ultrasonic Inspection (1) Do an Angle Ultrasonic Inspection for Assembly P/N 53L232 and Detail P/N 53L202 by NDIP–1274 and for Assembly P/N 53L332 and Detail P/N 53L402 or Assembly P/N 54L832 or 54L932 and Detail P/N 54L802 by NDIP–1275.
Chapter/Section 05–10–00 PW4000 SERIES ENGINE MANUAL ENGINE—AIRWORTHINESS LIMITATIONS—TIME LIMITS. P/N 51A345 ..... TASK 05–10–01–990–004. 5. Critical Life Limited Part Inspection and Critical Part Inspection. P/N 51A751 ..... TASK 05–10–01–990–007. 5. Critical Life Limited Part Inspection and Critical Part Inspection.	HPC Disk 15th-Stage	TASK 72–35–92–200–001. 1. Non-Destructive Inspection—HPC Disk 15th-Stage Angle Ultrasonic Inspection (1) Do an Angle Ultrasonic Inspection for P/N 55H615 and P/N 51S315 by NDIP–1289. TASK 72–35–92–200–001–A. 1. Non-Destructive Inspection—HPC Disk 15th-Stage Angle Ultrasonic Inspection (1) Do an Angle Ultrasonic Inspection for P/N 56H015 and P/N 51S115 by NDIP–1276.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Additional Information

For more information about this AD, contact Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (562) 627–5373; email: *molly.a.sturgis@faa.gov.*

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference

(IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

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

(3) The following material was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) Pratt & Whitney RTX Corporation (PW) Alert Service Bulletin (ASB) PW4G–112–A72–368, Revision No. 1, dated September 20, 2024.

(ii) [Reserved]

(4) The following material was approved for IBR on June 26, 2026 (91 FR 30191, May 22, 2026).

(i) PW ASB PW4G–112–A72–365, Revision No. 1, dated June 20, 2024.

(ii) PW ASB PW4G–112–A72–366, dated June 20, 2024.

(iii) PW ASB PW4G–112–A72–367, dated June 20, 2024.

(5) For PW material identified in this AD, contact PW, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.com;* website: *connect.prattwhitney.com.*

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

(7) 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 October 14, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–21298 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–11813; Project Identifier MCAI–2025–01835–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 supersede Airworthiness Directive (AD) 2025–09–07, which applies to certain Airbus SAS Model A330–243, –243F, –841, and –941 airplanes. AD 2025–09–07 requires revising the existing airplane flight manual (AFM) by providing instructions to address dual loss of radio management panel (RMP) data synchronization, and the existing minimum equipment list (MEL) by removing relief for an inoperative RMP 3. Since the FAA issued AD 2025–09–07, a modification that addresses the unsafe condition has been developed. This proposed AD would continue to require the actions specified in AD 2025–09–07 and would require modifying the airplane. This proposed AD also reduces the applicability. This proposed AD would also prohibit 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 December 3, 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–2026–11813; 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–2026–11813.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA 98198. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Frank Carreras, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3539; email: *frank.carreras@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–2026–11813; Project Identifier MCAI–2025–01835–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 Frank Carreras, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3539; email: *frank.carreras@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

The FAA issued AD 2025–09–07, Amendment 39–23028 (90 FR 17888, April 30, 2025) (AD 2025–09–07), for

certain Airbus SAS Model A330–243, –243F, –841, and –941 airplanes. AD 2025–09–07 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued EASA AD 2025–0043, dated February 19, 2025 (EASA AD 2025–0043), to correct an unsafe condition. EASA later revised EASA AD 2025–0043 and issued EASA AD 2025–0043R1, dated August 7, 2025 (EASA AD 2025–0043R1) to reduce the applicability by removing airplanes that are not affected by the unsafe condition.

AD 2025–09–07 requires revising the existing AFM by providing instructions to address dual loss of RMP data synchronization, and the existing MEL by removing relief for an inoperative RMP 3. The FAA issued AD 2025–09–07 to address loss of radio communication, uncommanded changes of transponder and traffic alert and collision avoidance system (TCAS) settings, and activation of standby navigation mode on all RMPs. This condition, if not corrected, could result in total loss of radio communication if RMP 3 is inoperative prior to dispatch, including loss of transponder functionality and standby navigation. The FAA considered AD 2025–09–07 to be an interim action and stated that, once a modification was developed, approved, and available, the FAA might consider additional rulemaking. The manufacturer has since developed a modification that would terminate the actions required by AD 2025–09–07. The FAA has determined that this modification must be required.

Actions Since AD 2025–09–07 Was Issued

Since the FAA issued AD 2025–09–07, EASA superseded EASA AD 2025–0043, dated February 19, 2025, and issued EASA AD 2025–0286, dated December 17, 2025 (EASA AD 2025–0286) (also referred to as the MCAI), to correct an unsafe condition on certain Airbus SAS Model A330–941 airplanes. The MCAI states that occurrences were reported of loss of data synchronization between the RMPs and the audio management unit, which can result in the loss of control of radio communication, uncommanded changes of transponder and TCAS settings, and the activation of standby navigation mode on all RMPs. This condition, if not corrected, could lead to total loss of control of radio communications, including the loss of communications, transponder functionality, standby navigation, or any combination of these. To address this condition, Airbus designed and certified modification 211442 (install wiring and software L4.3 standard for digital audio) and published service information that provides instructions for installing that modification on in-service airplanes; EASA AD 2025–0286 retains the AFM and MEL requirements of EASA AD 2025–0043R1 and adds a requirement to modify the airplane.

This proposed AD would reduce the applicability and only apply to certain Model A330–941 airplanes. Airbus SAS Model A330–243, –243F, and –841 airplanes are not affected by the identified unsafe condition. The FAA is proposing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–11813.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2025–0286 specifies procedures for modifying the airplane by installing wiring and software (the digital radio and audio integrating management system (DRAIMS) L4.3 configuration). EASA AD 2025–0286 also specifies revising the AFM and the MEL and, after the modification is accomplished, prohibits installing affected parts.

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 retain all requirements of AD 2025–09–07 and reduce the applicability of AD 2025–09–07. This proposed AD would also require accomplishing the modification specified in EASA AD 2025–0286 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD. Accomplishing that modification would terminate the retained AFM and MEL revision requirements. This proposed AD would also prohibit the installation of affected parts under certain conditions. See ''Differences Between This Proposed AD and the MCAI'' for a discussion of the general differences included in this AD.

Differences Between This Proposed AD and the MCAI

This proposed AD does not adopt paragraphs (1), (2), and (3) of EASA AD 2025–0286 (EASA's retained AFM and master minimum equipment list requirements). Instead, this proposed AD retains and restates the corresponding AFM and MEL revision requirements of AD 2025–09–07 in paragraphs (g) and (h) of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some 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 2025–0286 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2025–0286 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 2025–0286 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 2025–0286. Material required by EASA AD 2025–0286 is available at *regulations.gov* by searching for and locating Docket No. FAA–2026–11813 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 12 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2025–09–07	2 work-hours × $85 per hour = $170	$0	$170	$2,040
New proposed actions	6 work-hours × $85 per hour = $510	1,242	1,752	21,024

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2025–09–07, Amendment 39–23028 (90 FR 17888, April 30, 2025); and

■ b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2026–11813; Project Identifier MCAI–2025–01835–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 3, 2026.

(b) Affected ADs

This AD replaces AD 2025–09–07, Amendment 39–23028 (90 FR 17888, April 30, 2025) (AD 2025–09–07).

(c) Applicability

This AD applies to Airbus SAS Model A330–941 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0286, dated December 17, 2025 (EASA AD 2025–0286).

(d) Subject

Air Transport Association (ATA) of America Code 23, Communications.

(e) Unsafe Condition

This AD was prompted by reports of loss of data synchronization between the radio management panels (RMPs) and the audio management unit. The FAA is issuing this AD to address such loss of data synchronization, which can result in the loss of control of radio communication, uncommanded changes of transponder and Traffic Alert and Collision Avoidance System (TCAS) settings, and the activation of standby navigation mode on all RMPs. The unsafe condition, if not addressed, could result in the total loss of radio communications if RMP 3 is inoperative prior to dispatch, including the loss of transponder functionality and standby navigation.

(f) Compliance

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

(g) Retained Airplane Flight Manual (AFM) Revision, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2025–09–07, with no changes. Within 7 days after May 15, 2025 (the effective date of AD 2025–09–07), revise the Emergency Procedures section of the existing AFM to include the information in figure 1 to paragraph (g) of this AD. This may be done by inserting a copy of figure 1 to paragraph (g) of this AD into the existing AFM. Using a different document with information identical to that contained in figure 1 to paragraph (g) of this AD is acceptable for compliance with the requirements of this paragraph.

FIGURE 1 TO PARAGRAPH (g)—AFM PROCEDURE

Dual loss of RMP data synchronization
Switch off RMP 1 and RMP 2. *Note: When RMP 1 and RMP 2 are switched off:* *—The aural alerts are not available on loudspeakers.* *—The communication is only available on RMP 3.* Check communication, transponder, TCAS and radio navigation settings.

(h) Retained Minimum Equipment List (MEL) Revision, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2025–09–07, with no changes. Before further flight after accomplishing the requirements of paragraph (g) of this AD, revise the existing FAA-approved MEL to prohibit airplane dispatch (operation) with an inoperative RMP 3 under the MEL item equivalent to FAA master minimum equipment list 23–81–01.

(i) Retained Credit for Previous Actions, With No Changes

This paragraph restates the credit specified in paragraph (i) of AD 2025–09–07, with no changes.

(1) This paragraph provides credit for the AFM revision required by paragraph (g) of this AD, if the revision was performed before May 15, 2025 (the effective date of AD 2025–09–07) using Airbus A330/A340 Operations Engineering Bulletin 58, issue 1.0, dated February 7, 2025.

(2) This paragraph provides credit for the AFM revision required by paragraph (g) of this AD, if the revision was performed before May 15, 2025 (the effective date of AD 2025–09–07) using Airbus A330 Airplane Flight Manual Temporary Revision TR819, Issue 1, dated March 6, 2025.

(j) New Requirements

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0286. Doing the modification required by this paragraph terminates the requirements of paragraphs (g) and (h) of this AD. After the modification has been done, the AFM revision required by paragraph (g) of this AD may be removed from the AFM and the MEL revision required by paragraph (h) of this AD may be removed from the MEL.

(k) Exceptions to EASA AD 2025–0286

(1) Where EASA AD 2025–0286 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt paragraphs (1), (2), and (3) of EASA AD 2025–0286.

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0286.

(l) 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 (m)(1) of this AD and email to: *AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the 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 the European Union Aviation Safety Agency (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 (l)(2) of this AD, if any material referenced in EASA AD 2025–0286 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.

(m) Additional Information

(1) For more information about this AD, contact Frank Carreras, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3539; email: *frank.carreras@faa.gov.*

(2) For Airbus 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 *airworthiness.A330-A340@airbus.com;* website *airbus.com.*

(n) 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 2025–0286, dated December 17, 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 98198. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on October 14, 2026.

Lona C. Saccomando,

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

[FR Doc. 2026–21334 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–11814; Project Identifier MCAI–2026–00715–R]

RIN 2120–AA64

Airworthiness Directives; Airbus 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 all Airbus Helicopters Model AS350B3, AS355F, AS355F1, AS355F2, AS355N, AS355NP, EC130B4, and EC130T2 helicopters. This proposed AD was prompted by a report of the loss of the tightening torque between the upper ball bearing end and a main rotor (MR) servo-control. This proposed AD would require an inspection of the nut tightening torque of the upper ball bearing end of all the MR servo-controls and, depending on the results, corrective actions. The proposed AD would also require reporting the inspection results. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by December 3, 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–2026–11814; 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; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* website: *easa.europa.eu.*

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

FOR FURTHER INFORMATION CONTACT: Aryanna Sanchez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (520) 990–9321; email: *aryanna.t.sanchez@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–2026–11814; Project Identifier MCAI–2026–00715–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,* 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 Aryanna Sanchez, 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

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2026–0132, dated July 8, 2026 (EASA AD 2026–0132) (also referred to as the MCAI), to correct an unsafe condition on all Airbus Helicopters Model AS 350 B3, AS 355 F, AS 355 F1, AS 355 F2, AS 355 N, AS 355 NP, EC 130 B4, and EC 130 T2 helicopters. The MCAI states a report was received of the loss of the tightening torque between the upper ball bearing end and an MR servo-control. The MCAI also states further investigations determined that the presence of paint or protection on the nut retainer (lock-washer) is the root cause for this loss of tightening torque, and that this deficiency may occur on any of the three (forward, left, and right) MR servo-controls installed on a helicopter.

The FAA is issuing this proposed AD to inspect the nut tightening torque of the upper ball bearing end of all the MR servo-controls and, if necessary, accomplish corrective actions. The unsafe condition, if not addressed, could result in the disconnection of the upper ball bearing end from the MR servo-control and loss of control of a helicopter.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–11814.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed EASA AD 2026–0132, which specifies procedures for a one-time inspection and thereafter, after each removal and installation of an MR servo-control, inspection of the nut tightening torque of the upper ball bearing end of the forward, left, and right MR servo-controls, having a part number (P/N) and manufacturer P/N as identified in Appendix 1 of the MCAI, and the associated nut retainer (lock-washer) having manufacturer P/N 360A27–2121–20 or 365A27–8193–20. Depending on the results, the MCAI specifies procedures for re-inspecting the nut tightening torque and accomplishing corrective actions, including inspecting the threads of the MR servo-control and, if necessary, cleaning them; replacing the ball bearing end; replacing the MR servo-control; or contacting AH [Airbus Helicopters] for approved instructions. EASA AD 2026–0132 also requires reporting of all inspection results.

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 EASA AD 2026–0132, 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 MCAI specifies contacting Airbus Helicopters if an unacceptable value of the nut tightening torque is found, this proposed AD would require performing corrective actions in accordance with a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus Helicopters' Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

Interim Action

The FAA considers that this proposed AD would be an interim action. If final actions are later identified, the FAA might consider further rulemaking.

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 EASA AD 2026–0132 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2026–0132 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 2026–0132 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 2026–0132. Material required by EASA AD 2026–0132 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–11814 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 980 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 the nut tightening torque of the upper ball bearing end.	1 work-hour × $85 per hour = $85	$190	$275	$269,500
Report inspection results	1 work-hour × $85 per hour = $85	0	85	83,300

The FAA estimates the following costs to do any replacements that would be required based on the results of the proposed inspection. The agency has no way of determining the number of helicopters that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Inspect ball bearing end threads	1 work-hour × $85 per hour = $85	$0	$85.
Inspect the MR servo-control threads	1 work-hour × $85 per hour = $85	$0	$85.
Clean MR servo-control threads	1 work-hour × $85 per hour = $85	$0	$85.
Replace one ball bearing end	1 work-hour × $85 per hour = $85	Up to $530	Up to $615.
Replace one MR servo-control	4 work-hours × $85 per hour = $340	Up to $54,300	Up to $54,640.

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.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to take approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177–1524.

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 Helicopters: Docket No. FAA–2026–11814; Project Identifier MCAI–2026–00715–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 3, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Helicopters Model AS350B3, AS355F, AS355F1, AS355F2, AS355N, AS355NP, EC130B4, and EC130T2 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 6710, Main rotor control.

(e) Unsafe Condition

This AD was prompted by a report of the loss of the tightening torque between the upper ball bearing end and a main rotor (MR) servo-control. The FAA is issuing this AD to inspect the nut tightening torque of the upper ball bearing end of all the MR servo-controls and, if necessary, accomplish corrective actions. The unsafe condition, if not addressed, could result in the disconnection of the upper ball bearing end from the MR servo-control and loss of control of a helicopter.

(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 European Union Aviation Safety Agency (EASA) AD 2026–0132, dated July 8, 2026 (EASA AD 2026–0132).

(h) Exceptions to EASA AD 2026–0132

(1) Where EASA AD 2026–0132 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2026–0132 refers to flight hours, this AD requires using hours time-in-service.

(3) Where paragraph (5) of EASA AD 2026–0132 and the material referenced in EASA AD 2026–0132 specify to contact AH [Airbus Helicopters] for corrective actions and instructions, this AD requires accomplishing corrective actions in accordance with a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus Helicopters' Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(4) Where the material referenced in EASA AD 2026–0132 specifies discarding certain parts, this AD requires removing those parts from service.

(5) Where the material referenced in EASA AD 2026–0132 specifies ''check'', this AD requires replacing that text with ''inspection''.

(6) This AD does not adopt the ''Remarks'' section of EASA AD 2026–0132.

(i) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the following:

(1) Airbus Service Bulletin AS350–67–30–0002, dated 01 April 2026.

(2) Airbus Service Bulletin AS355–67–30–0001, dated 01 April 2026.

(3) Airbus Service Bulletin EC130–67–30–0001, dated 01 April 2026.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Additional Information

For more information about this AD, contact Aryanna Sanchez, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (520) 990–9321; email: *aryanna.t.sanchez@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2026–0132, dated July 8, 2026.

(ii) [Reserved]

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

(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 October 15, 2026.

Steven W. Thompson,

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

[FR Doc. 2026–21387 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AF82

Further Definition of ''Swap''—Inclusions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Consistent with its jurisdiction over swaps, the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing to further define the term ''swap'' to explicitly include event contracts, including those based on sports-, politics-, cultural-, and weather-related events (the ''Proposal'').

DATES: Comments must be received by November 18, 2026.

ADDRESSES: You may submit comments, specifically referencing ''Further Definition of 'Swap'—Inclusions'' and RIN 3038–AF82, by any of the following methods:

• *Regulations.gov:* Go to *https://www.regulations.gov* and press the ''Search'' button, then proceed as follows:

1. Under Refine Documents Results—check the box to ''Only show documents open for comment'';

2. Under Agency—select ''See More'' and check the box for ''Commodity Futures Trading Commission,'' then press the Apply button;

3. Identify this Proposal in the list of CFTC documents open for comment, press the ''Comment'' button to open the submission form, and follow the instructions on the form.

Alternatively, if you are viewing this Proposal on *www.federalregister.gov,* click the ''Submit A Public Comment'' button at the top of the page to open the comment form. Follow the instructions on the form to submit your comment to *Regulations.gov.*

• *Mail:* Send to—Christopher Kirkpatrick, Secretary of the

Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Address to—CFTC Comment Submission, Attn: Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

Please submit your comments using only one of these methods. To avoid possible delays with mail or in-person deliveries, submissions through *Regulations.gov* are encouraged. As required by the Administrative Procedure Act, a plain language summary of the rule is also available at *Regulations.gov*.[1]

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission's consideration, please contact the CFTC personnel listed in this Notice under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission's procedures in 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (FOIA) of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this Proposal, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

[1] 5 U.S.C. 553(b)(4).

FOR FURTHER INFORMATION CONTACT: Tyler S. Badgley, General Counsel; Aaron M. Levine, Deputy General Counsel for Regulation, *rulemaking@cftc.gov,* 202–418–5000, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') established a comprehensive regulatory framework for swaps.[2] Section 712(d)(1) of the Dodd-Frank Act provides that the Commission and the Securities and Exchange Commission (''SEC''), in consultation with the Board of Governors of the Federal Reserve System (the ''Federal Reserve Board''), shall jointly further define, among other terms, the term ''swap.'' [3] Pursuant to this requirement, in 2012, the Commission and the SEC, in consultation with the Federal Reserve Board, issued a final rule further defining the term ''swap'' and other terms.[4]

This Proposal seeks to clarify that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are swaps within the CFTC's jurisdiction. The CFTC has historically recognized that many event contracts are covered by the Commodity Exchange Act's (the ''CEA'') swap definition.[5] Under section 1a(47)(A) of the CEA, the term swap is defined ''broadly.'' [6] As discussed further in this section below, CEA section 1a(47)(A)(ii) defines ''swap'' to include ''any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.'' [7]

The broad nature of clause (ii) of the swap definition is in keeping with the broad definition of the term ''commodity'' in the CEA. The 1974 amendments to the CEA expanded the definition of the term ''commodity'' to encompass ''all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.'' [8] In 2000, Congress reaffirmed the broad scope of the commodity definition in adding the term ''excluded commodity'' to the CEA—which, despite the name, *is* a commodity.[9] This term includes, among other indices and measures, any ''occurrence, extent of an occurrence, or contingency'' of financial, commercial, or economic consequence that is beyond the control of any party to the relevant derivatives contract and is not based on a change in the price, rate, value, or level of a physical commodity.[10] Derivatives

[2] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, 1641 (2010). The text of the Dodd-Frank Act is available at *http://www.cftc.gov/LawRegulation/OTCDERIVATIVES/index.htm.*

[3] Dodd-Frank Act sec. 712(d)(1), 15 U.S.C. 8302(d)(1) (directing the CFTC and SEC to undertake joint rulemaking on covered topics). The CFTC shares jurisdiction over mixed swaps and security futures with the SEC, and the SEC has sole jurisdiction over security-based swaps. *See* Commodity Exchange Act (''CEA'') sec. 1a(44), 7 U.S.C. 1a(44), and secs. 3(a)(55) and 3(a)(68) of the Securities Exchange Act of 1934 (''Exchange Act''), 15 U.S.C. 78c(a)(55) and 78c(a)(68). The Commission has consulted with the Federal Reserve Board by sharing this Proposal.

[4] Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 FR 48208 (Aug. 13, 2012) (''Further Definition Release'').

[5] Event contracts might be structured as other instruments such as futures contracts, which are excluded from the statutory definition of ''swap.'' CEA section 1a(47)(B), 7 U.S.C. 1a(47)(B) (providing ''exclusions'' from the definition of ''swap'' under the CEA, including futures, options on futures, securities such as options on securities and indexes of securities, security-based swaps, and debt securities). Certain event contracts may be security-based swaps or other instruments subject to the SEC's jurisdiction. *See* 7 U.S.C. 1a(47)(B) (providing ''exclusions'' from the definition of ''swap'' under the CEA, including for securities such as security based- swaps, certain options, and debt securities); *see also, e.g.,* 15 U.S.C. 78c(a)(68)(A) (defining ''security-based swap'' under the Securities Exchange Act of 1934). This Proposal does not propose to further define the term ''security-based swap.''

[6] *United States* v. *Phillips,* 155 F.4th 102, 113 (2d Cir. 2025).

[7] 7 U.S.C. 1a(47)(A)(ii).

[8] *See* CEA sec. 1a(9), 7 U.S.C. 1a(9) (defining ''commodity'').

[9] The definition of ''excluded commodity'' was adopted as part of an amendment to the CEA to exclude certain contracts based on financial commodities or commodities with an infinite supply from the requirement that contracts for the sale of a commodity for future delivery be traded on an exchange registered with the CFTC (the ''exchange trading requirement''). *See infra* note 72 and accompanying text. Still, the ''excluded commodities'' are within the definition of ''commodity.'' *See United States* v. *Wilkinson,* 986 F.3d 740, 745 (7th Cir 2021) (futures based on ''excluded commodities'' ''remain 'commodities' under the Act as a whole'').

[10] CEA sec. 1a(19), 7 U.S.C. 1a(19). Specifically, the statute provides that the term ''excluded commodity'' includes ''an occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or level of a commodity not described in clause (i)) that is—(I) beyond the control of the parties to the relevant contract,

Continued

contracts based on these ''excluded commodities'' are subject to the Commission's jurisdiction just as derivatives based on other commodities are.

The definition of ''excluded commodity'' makes clear that events that fall within the definition, including those related to sports, politics, culture, and weather, are themselves commodities.[11] The CFTC has a long history of regulating event contracts. ''Since 1992, Commission-regulated exchanges have listed for trading a variety of commodity futures and options contracts with payout terms based on'' events ''as diverse as regional insured property losses, the count of bankruptcies, temperature volatilities, corporate mergers, and corporate credit events,'' and in subsequent years, event contracts encompassed ''the accomplishment of certain scientific advances, world population levels, the adoption of particular pieces of legislation,'' and even ''the length of celebrity marriages.'' [12] In 1993, the Commission issued a no-action letter to Iowa Electronic Markets, allowing the facility to list event contracts tied to U.S. and Canadian elections.[13] In 2004, the CFTC designated the first contract market (''DCM'') dedicated to listing contracts based on events that are excluded commodities.[14] Initially, these contracts were structured as commodity options known as ''binary options,'' the cash settlement of which was based on whether a specified event had occurred.[15]

Under the plain language of the CEA, event contracts are implicated by four clauses of the ''swap'' definition.

First, CEA section 1a(47)(A)(ii) defines ''swap'' to include ''any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.'' [16]

Second, CEA section 1a(47)(A)(i) includes binary options and other commodity options in the ''swap'' definition by including ''any agreement, contract, or transaction . . . that is a put, call, cap, floor, collar, or similar option of any kind that is for the purchase or sale, or based on the value, of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind.'' [17]

Third, CEA section 1a(47)(A)(iv) includes in the ''swap'' definition ''an agreement, contract, or transaction that is, or in the future becomes, commonly known to the trade as a swap.'' [18]

Finally, CEA section 1a(47)(A)(vi) makes clear that the ''swap'' definition includes ''any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (v)'' of CEA section 1a(47)(A).[19]

In addition to the ''swap'' definitions provided by the statute, the Dodd-Frank Act included several provisions that give the Commission authority to further define ''swap.'' First, Dodd-Frank Act section 712(d)(2), 15 U.S.C. 8302(d)(1), directs the CFTC and SEC, in consultation with the Federal Reserve Board, to ''further define'' the term ''swap.'' [20] Second, Dodd-Frank Act section 721(b), 15 U.S.C. 8321(a)(2), permits the CFTC to define any term included in an amendment to the CEA in Subtitle A of the Wall Street Transparency and Accountability Act of 2010, which includes the term ''swap.'' Third, Dodd-Frank Act section 721(b), 15 U.S.C. 8321(b), directs the CFTC to further define ''swap'' to include transactions and entities that have been structured to evade Subtitle A.

In recent months, States have taken actions and courts have issued rulings that undermine the CFTC's jurisdiction over event contracts. The State of Minnesota enacted a criminal prohibition on the operation or facilitation of a ''prediction market,'' which purports to make it a felony to offer event contracts on athletic events, elections, policymaking decisions, and a variety of other events.[21] The State of Arizona filed a ''twenty-count criminal information'' against a DCM in Arizona Superior Court for offering event contracts on sports and elections in the State.[22] The State of New York sought a temporary restraining order in State court that would prohibit a DCM from offering event ''contracts relating to sports, culture, elections, and other events'' ''within or from New York or to persons in New York.'' [23] Because that DCM is headquartered in New York, that relief threatens to prohibit it from offering event contracts nationwide. That same DCM has also been ordered by State trial courts to geofence its offering of sports-related event contracts in the States of Michigan, Washington, and Nevada.[24]

agreement, or transaction; and (II) associated with a financial, commercial, or economic consequence,'' where ''clause (i)'' refers to the first clause of the definition. CEA sec. 1a(19)(iv), 7 U.S.C. 1a(19)(iv).

[11] *See* CFTC, *Statement of Commissioner Brian D. Quintenz on ErisX RSBIX NFL Contracts and Certain Event Contracts* (Mar. 25, 2021) (''When we think of commodities, we think of tangible things. . . . But what about an event? An election? Whether the Summer Olympics will occur in Japan? A . . . football game? Those, too, are commodities!''), available at *https://www.cftc.gov/PressRoom/SpeechesTestimony/quintenzstatement032521.*

[12] Concept Release on Appropriate Regulatory Treatment of Event Contracts, 73 FR 25669, 25670–71 (May 7, 2008).

[13] CFTC Staff Letter No. 93–66 (June 18, 1993), available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@lrlettergeneral/documents/letter/93-66.pdf.*

[14] *See* CFTC Release No. 4894–04, *CFTC Designates HedgeStreet as a Contract Market and as a Registered Clearing Organization* (Feb. 20, 2004), and the related DCM Order of Designation for HedgeStreet, Inc. (Feb. 18, 2004), available at *https://www.cftc.gov/sites/default/files/opa/press04/opa4894-04.htm.* In 2009, HedgeStreet changed its name to North American Derivatives Exchange, Inc., or Nadex, and in 2025, Nadex transitioned to the *Crypto.com* platform. *See* summary of registration, available at *https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizations/34536.* It continues to list contracts on foreign exchange, equity indices, commodity prices, and digital assets.

[15] *See, e.g.,* Letter from HedgeStreet, Inc. to David Stawick, Sec'y, CFTC, *Re: Rule Certification: HedgeStreet's listing of new Germany 30 Binary Hedgelet Contracts* (Oct. 30, 2008), available at *https://www.cftc.gov/sites/default/files/stellent/groups/public/@rulesandproducts/documents/ifdocs/rul103008hedgestreet001.pdf.*

[16] 7 U.S.C. 1a(47)(A)(ii).

[17] 7 U.S.C. 1a(47)(A)(i). A binary option is thus a type of swap which is an ''option whose payoff is either a fixed amount or zero.'' *See* CFTC, *Futures Glossary,* available at *https://www.cftc.gov/LearnAndProtect/AdvisoriesAndArticles/CFTCGlossary/index.htm#B.*

[18] 7 U.S.C. 1a(47)(A)(iv).

[19] 7 U.S.C. 1a(47)(A)(vi).

[20] As mentioned, the CFTC and SEC, in consultation with the Federal Reserve Board, first further defined ''swap'' in a 2012 joint rulemaking. Further Definition Release, 77 FR 48208. In that rulemaking, the CFTC and SEC noted that, while ''[t]he statutory definitions of the terms 'swap' and 'security-based swap' are detailed and comprehensive, . . . the definitions could be read to include certain types of agreements, contracts, and transactions that previously have not been considered swaps or security-based swaps, and nothing in the legislative history of the Dodd-Frank Act appears to suggest that Congress intended such agreements, contracts, or transactions to be regulated as swaps or security-based swaps.'' The CFTC and SEC thus used their authority ''to further clarify the treatment under the definitions of certain types of agreements, contracts, and transactions.'' *Id.* at 48211.

[21] *United States* v. *Minnesota,* Nos. 26–cv–2661, 26–cv–2778, 26–cv–2841, __F. Supp. 3d __, 2026 WL 2150211, at *4–5 (D. Minn. July 27, 2026) (citing Minn. Stat. 609.7615, subd. 1(e)).

[22] *KalshiEX LLC* v. *Johnson,* 832 F. Supp. 3d 954, 958 (D. Ariz. 2026).

[23] *People of the State of New York* v. *KalshiEX LLC,* Index No. 453272/2026, Doc. 3 at 2 (N.Y. Sup. Ct. July 31, 2026); *see People of the State of New York* v. *KalshiEX LLC,* No. 1:26-cv-06550, Dkt. No. 1 (S.D.N.Y. July 31, 2026) (removed to Federal court).

[24] *Nessel* v. *KalshiEX LLC,* No. 26–1087–CZ at 3–4 (30th Jud. Dist. Circuit Ct. June 29, 2026); *State of Washington* v. *KalshiEX, LLC,* No. 26–2–10264–3 SEA (King Cnty. Superior Ct. Aug. 12, 2026); *State*

To date, three Federal courts of appeals have issued rulings concerning whether an event contract whose underlying is related to an outcome of a sporting event is a swap under CEA section 1a(47)(A)(ii). In April 2026, a divided panel of the United States Court of Appeals for the Third Circuit held in *KalshiEX, LLC* v. *Flaherty* that because ''sports-related event contracts are traded on a CFTC-licensed DCM and depend on event outcomes associated with economic consequences, they fit within the Act's definition of 'swaps' subject to the CFTC's jurisdiction.'' [25] The dissenting judge also agreed that a ''plain reading of the Act's text suggests that [ ] sports-event contracts fit comfortably within the statutory definition.'' [26]

In August 2026, the United States Court of Appeals for the Ninth Circuit adopted the opposite interpretation of CEA section 1a(47)(A)(ii).[27] After acknowledging that ''the CEA expressly preempts state law regulating swaps 'traded or executed on' a DCM,'' the court rejected the ''dictionary definitions'' and ''plain-language appeal'' of the Third Circuit's interpretation and concluded that, as used in the CEA, ''event'' means something different from ''a thing that happens or takes place.'' [28] The court stated that the ''substance'' of the sports event contracts at issue was ''sports gambling, regardless of whether [the DCM] calls them swaps'' (and, by inference, regardless of whether the CFTC regulates them as swaps).[29] It expressed concern that the plain-text interpretation of the definition swap would subject bingo games and ping-pong matches to the CFTC's jurisdiction.[30] For these and other reasons involving the court's understanding of the CEA's ''context'' and ''history,'' [31] the court ultimately ''conclude[d] that these sports event contracts are likely not swaps under the CEA.'' [32] The Ninth Circuit did not address whether sports event contracts could qualify as swaps under other prongs of the CEA swap definition, including sections 1a(47)(A)(i) and (iv). A petition for rehearing and rehearing en banc has been filed in that case.[33]

In September 2026, a panel of the United States Court of Appeals for the Sixth Circuit also held that sports-related event contracts are not ''swaps,'' albeit for somewhat different reasons than the Ninth Circuit panel.[34] Unlike the Ninth Circuit, the Sixth Circuit acknowledged that ''[d]ictionaries commonly define an 'event' to include an 'outcome,' '' and ''nothing in the statutory text provides a clear indication that the event must be defined to exclude outcomes.'' [35] Thus, ''it would be reasonable to describe the Giants winning the Super Bowl'' as an ''event,'' even if it is also ''the outcome of the game.'' [36] However, the court held that sports events are not ''associated with a potential financial, economic, or commercial consequence,'' explaining that the relevant event must be ''*inherently* associated with a 'financial, economic, or commercial consequence.' '' [37]

As the above discussion demonstrates, there is widespread confusion and disuniformity about the definition of swap. The Commission therefore proposes to exercise its statutory authority to ''further define'' swap and expressly clarify that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are swaps.

Statutory Authority

Section 712(d)(1) of the Dodd-Frank Act provides that the Commission and the SEC, in consultation with the Federal Reserve Board, shall jointly further define, among other terms, the term ''swap.'' [38] Section 712(d)(2)(A) further empowers the Commission and the SEC, in consultation with the Federal Reserve Board, to ''jointly adopt such other rules regarding such definitions as the [CFTC and SEC] determine are necessary and appropriate, in the public interest, and for the protection of investors.'' [39]

II. Proposed Rule

The Commission is proposing to further define the term swap in the context of event contracts. Specifically, the Commission proposes to add new paragraph (2)(i)(G) to the definition of ''swap'' in § 1.3 of the Commission's regulations.[40] This proposed addition identifies as swaps event contracts, including, in a non-exhaustive list, those based on sports-, politics-, cultural-, and weather-related events.[41] As discussed in more detail below, event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are financial instruments that are commonly known to the trade as swaps, structured as binary options, and/or structured to make payment dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence. It is the Commission's view that the best reading of the statute is that event contracts based on sports-, political-, cultural-, or weather-related events qualify as swaps under each of these statutory prongs. In addition, the Commission's exercise of its express statutory authority to ''further define'' the term ''swap'' provides an independent legal basis to deem these contracts as swaps.[42]

First, the Commission believes that event contracts, including those based on sports-, politics-, cultural-, and weather-related events are ''commonly known to the trade as a swap'' within the meaning of prong (iv) of the swap definition.[43] The Commission

of Nevada ex rel. Nevada Gaming Control Board v. *KalshiEX, LLC,* No. 260000050–1B (1st Jud. Dist. Ct. Nev.).

[25] ,172 F.4th 220, 228 (3d Cir. 2026) (citing 7 U.S.C. 2(a)(1)(A), 1a(47)(A)(ii)).

[26] *Id.* at 223 (Roth, J., dissenting).

[27] *KalshiEX, LLC* v. *Assad,* No. 25–7516, __F.4th __, 2026 WL 2543846, at *8-*15 (9th Cir. Aug. 28, 2026).

[28] *Id.* at 8. The court did not offer a competing definition of ''event.''

[29] *Id.* at 10.

[30] *Id.* at 11 (quoting *Flaherty,* 172 F.4th at 228).

[31] *Id.* at 9 (citation omitted).

[32] *Id.* at 15.

[33] *KalshiEX LLC* v. *Assad,* No. 25–7516, Dkt. No. 206.1 (9th Cir. Sep. 9, 2026); Fed. R. App. P. 41(b) (mandate does not issue until 7 days after entry of an order denying timely petition for panel rehearing or rehearing en banc).

[34] *KalshiEX LLC* v. *Schuler,* Nos. 26–3196, 26–5235, __F.4th __, 2026 WL 2884087 (6th Cir. Sept. 25, 2026).

[35] *Id.* at * 9.

[36] *Id.*

[37] *Id.* at *11 (emphasis added).

[38] Dodd-Frank Act sec. 712(d)(1), 15 U.S.C. 8302(d)(1) (directing the CFTC and SEC to undertake joint rulemaking on covered topics). This release proposes a rule of the CFTC that addresses matters within the exclusive jurisdiction of the CFTC. The SEC joins in proposing this rule in satisfaction of the statutory requirement in section 712(d)(1). The Proposal does not address or otherwise relate to matters within the jurisdiction of the SEC.

[39] Dodd-Frank Act sec. 712(d)(2)(A), 15 U.S.C. 8302(d)(2)(A).

[40] 17 CFR 1.3.

[41] As described above in note 5, event contracts might be structured as other instruments such as futures contracts, which are excluded from the statutory definition of ''swap.'' Additionally, certain event contracts may be security-based swaps or other instruments subject to the SEC's jurisdiction. The event contracts at issue in this Proposal are those that are within the definition of ''swap'' subject to the CFTC's jurisdiction, and not those that might be futures or SEC-regulated instruments. Furthermore, the proposed addition would not reach casino-style gambling products, which, as the Commission describes in a separate rulemaking, are not swaps subject to the Commission's jurisdiction.

[42] *Loper Bright Enterprises* v. *Raimondo,* 603 U.S. 369, 395 (2024) (''In a case involving an agency, of course, the statute's meaning may well be that the agency is authorized to exercise a degree of discretion. . . . For example, some statutes 'expressly delegate[ ]' to an agency the authority to give meaning to a particular statutory term.'' (quoting *Batterton* v. *Francis,* 432 U.S. 416, 425 (1977)); *id.* at 395 n.5 (citing examples).

[43] CEA sec. 1a(47)(A)(iv), 7 U.S.C. 1a(47)(A)(iv).

understands the phrase ''commonly known to the trade as a swap'' as a residual, catch-all prong intended to cover instruments that, in the market's view, are swaps.[44] The Commission further understands ''the trade'' in this context to mean those who participate in the derivatives markets, including the CFTC, its registrants, and traders, rather than some broader group, such as the general public.[45] Furthermore, the Commission notes that this standard does not require universal recognition—''commonly known'' is not the same as ''universally known.'' In this regard, the scope of prong (iv) should be informed by the actual practice of market participants and the longstanding regulatory treatment of instruments by the CFTC.

For decades, the CFTC's position has been that event contracts are derivatives subject to its jurisdiction, whether as ''swaps'' or as ''binary options'' (which are themselves swaps).[46] The CFTC's 1993 no-action letter to Iowa Electronic Markets allowed the facility to list event contracts tied to U.S. and Canadian elections.[47] The CFTC issued a concept release in 2008 acknowledging its regulatory-oversight responsibility for event contracts.[48] It approved event contracts on box-office receipts in 2010.[49] The Commission also issued an order penalizing Blockratize, Inc. (d/b/a *Polymarket.com*) for offering event contracts on various economic, political, and sports events without registering with the Commission, explaining that the event contracts ''constitute swaps under the CFTC's jurisdiction.'' [50] Furthermore, the CFTC has filed civil-enforcement actions and obtained civil penalties against persons that engage in insider trading or manipulative activity around event contracts.[51] The United States has also brought commodity-fraud charges for insider trading of event contracts on the theory that event contracts are swaps under the CEA.[52]

Market participants have also overwhelmingly recognized that event contracts are swaps by complying with the CFTC's swap regulatory regime just as they do when listing, clearing, or trading other swaps. For example, over the past several years, DCMs have self-certified thousands of event contracts based on sports, politics, cultural events, and weather to the Commission.[53] This includes both new entrants into the market and longstanding exchanges like CME Group (''CME''), which has self-certified numerous event contracts based on sports and elections as swaps.[54] And in comments to the CFTC, CME has recognized that ''event contracts and swaps are not new and have been subject to the existing regulatory scheme for years without issue,'' and that the CEA's ''Core Principles[ ] provide[ ] the proper structure to regulate these products.'' [55] Cboe Global Markets has likewise stated in comments that event contracts ''generally fall within the CEA's broad definition of 'swap,' '' absent a statutory exception.[56] Consistent with this commonly held market view, such Commission registrants have not sought to register at the State level or offer products under State gambling laws. Instead, they offer event contracts for multilateral trading on a national, competitive market, just like other derivatives.

Other market participants likewise treat event contracts as swaps and trade them as they do other derivatives products. For example, institutional traders act as market makers on prediction markets—earning revenue by capturing the bid-ask spread directly from peer-to-peer trading volume, unlike traditional sports betting where centralized sportsbooks extract a static ''vig'' from fixed odds. Similar to how such firms provide liquidity in other financial markets, these participants support price discovery based on shifting supply and demand rather than odds manually adjusted by a bookmaker.[57] And a wide array of market participants [58] have looked to prediction markets to hedge various risks, including those related to sports, weather, and legislative outcomes.[59] Together, the Commission preliminarily concludes that this market practice provides compelling evidence that such event contracts are, in fact, commonly known to the trade as swaps, satisfying prong (iv).[60]

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[44] *See Coinbase Fin. Mkts., Inc.* v. *Raoul,* No. 1:25–cv–15406, 1:26–cv–03659, 1:26–cv–07363, 2026 WL 2969682, at * 7 (N.D. Ill. Oct. 2, 2026) (the CEA's ''[s]tructure elsewhere,'' including the prong (iv) ''clause includ[ing] contracts 'known to the trade as a swap,' '' ''reinforces [the statute's] breadth'').

[45] The Commission and the SEC said as much when they further defined the term ''swap'' to include non-deliverable forwards (''NDFs''). *See* Further Definition Release, 77 FR at 48254–56. That release noted that ''*at least some market participants* view NDFs as swaps today, and thus NDFs also may fall within clause (A)(iv) of the swap definition.'' *Id.*at 48255, n. 537(emphasis added).

[46] *See supra* notes 12–15 and accompanying text; Prediction Markets; Public Interest Determinations, 91 FR 35806, 35813–17 (June 12, 2026) (recounting history).

[47] CFTC Staff Letter No. 93–66 (June 18, 1993), available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@lrlettergeneral/documents/letter/93-66.pdf.*

[48] 73 FR at 25670–73.

[49] Statement of the Commission approving certain MDEX contracts (June 14, 2010) (MDEX Statement) at 1, available at *https://www.cftc.gov/idc/groups/public/@otherif/documents/ifdocs/mdexcommissionstatement061410.pdf.*

[50] CFTC, *Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions* (Jan. 3, 2022).

[51] *CFTC* v. *Van Dyke,* No. 1:26–cv–3369 (S.D.N.Y.) (U.S. servicemember who used sensitive nonpublic information to trade event contracts related to the ouster of Venezuelan President Nicolás Maduro); *CFTC* v. *Spagnuolo,* No. 1:26–cv–4419 (S.D.N.Y.) (Google employee who used nonpublic information to trade event contracts related to Google's Year in Search list); CFTC, *Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions,* at 5 (July 31, 2026) (imposing penalties on former Congressman George Santos for manipulative activity around State of the Union event ''contract that is commonly known to the trade as a swap''); CFTC, *Order Instituting Proceedings Pursuant to Section 6(c) and (d) of the Commodity Exchange Act, Making Findings, and Imposing Remedial Sanctions,* at 5 (Aug. 28, 2026) (imposing penalties on a former presidential teleprompter operator for insider trading presidential speech event ''contracts that are commonly known to the trade as swaps'').

[52] *United States* v. *Van Dyke,* No. 1:26–cr–156 (S.D.N.Y.); *United States* v. *Spagnuolo,* No. 1:26–mj–02020 (S.D.N.Y.).

[53] *See* CFTC, *Designated Contract Market Products,* available at *https://www.cftc.gov/IndustryOversight/IndustryFilings/TradingOrganizationProducts?.*

[54] *Id.*

[55] Letter from Jonathan Marcus to Christopher Kirkpatrick (Apr. 30, 2026) at 2.

[56] Letter from Patrick Sexton to Christopher Kirkpatrick (May 5, 2026) at 3, available at *https://comments.cftc.gov/PublicComments/ViewComment.aspx?id=115665&SearchText=cboe.*

[57] *Susquehanna Starts Trading Desk for Event Contracts on Kalshi,* Bloomberg Law (Apr. 3, 2024), available at *https://news.bloomberglaw.com/crypto/susquehanna-starts-trading-desk-for-event-contracts-on-kalshi; Citadel Securities Looks at Prediction Markets as Trading Scales,* Bloomberg (Apr. 16, 2026), *https://www.bloomberg.com/news/articles/2026-04-16/citadel-securities-looks-at-prediction-markets-as-trading-scales.*

[58] *E.g., Prediction Markets Take a Swing at Hedging for US Small Business,* Reuters (Aug. 28, 2026), available at *https://www.reuters.com/business/prediction-markets-take-swing-hedging-us-small-businesses-2026-08-28/.*

[59] *Goat herding hedge: How Susquehanna and Kalshi are helping this company offset a change in California law,* CNBC (Aug. 13, 2026), available at *https://www.cnbc.com/2026/08/13/how-a-california-goat-herding-company-is-hedging-against-risk-of-higher-wages.html; Insurer Uses Kalshi to Hedge $3 Million LSU Coaching Bonus,* ProgramBusiness (Sept. 9, 2026), *https://programbusiness.com/news/insurer-uses-kalshi-to-hedge-3-million-lsu-coaching-bonus/; Kalshi and the Weather Co. join forces on climate trades,* Wall Street Journal (Aug. 27, 2026), available at *https://www.wsj.com/finance/kalshi-and-the-weather-co-join-forces-on-climate-trades-76b7e307?msockid=0138621f0143697837f9753100d168d7.*

[60] This industry position is reinforced by experts in the field, including scholars and financial trade publications, who refer to event contracts as swaps. *See, e.g.,* Aaron Klein, Sam Henry Lazarus, & Siddharth Singh, *Five highlights from Brookings' prediction market events,* The Brookings Institution (June 25, 2026), available at *https://www.brookings.edu/articles/five-highlights-from-brookings-prediction-market-events/. See also* Justin Wolfers & Eric Zitzewitz, *Prediction Markets,* 18 J. Econ. Persp. 107 (2004) (examining event contracts as financial instruments that function as contingent

Second, the Commission believes that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, fall within prong (ii) of the swap definition, which encompasses any agreement, contract, or transaction whose underlying is an occurrence or contingency ''associated with a potential financial, economic, or commercial consequence.'' [61] The Third Circuit's *Flaherty* decision adopted this conclusion in the context of sports-related event contracts, and the reasoning applies more generally as well. Applying the plain text of the statute, the court held that ''[t]he outcome of a sports event certainly can be associated with a potential financial, economic, or commercial consequence,'' and that sports-related event contracts traded on a CFTC-licensed DCM ''fit within the Act's definition of 'swaps' subject to the CFTC's jurisdiction.'' [62] In reaching that conclusion, the court expressly endorsed the district court's identification of the broad range of economic stakeholders—including sponsors, advertisers, television networks, sports franchises, and local and national communities—whose financial interests are directly affected by sporting event outcomes, finding that identification of such stakeholders was sufficient to satisfy the ''associated with a potential financial, economic, or commercial consequence'' standard.[63] Even the dissent conceded that a plain reading of the Act's text suggests that sports-related event contracts fit comfortably within the statutory definition.[64] And the court confirmed that the Commission's statutory authority to further define ''swap'' would be valuable in this area.

While the Sixth and Ninth Circuit panels took a different view of section 1a(47)(A)(ii) of the CEA, their reasoning was substantially based on the concern that treating sports event contracts as swaps would also subject casino-style gambling to the CFTC's jurisdiction.[65] As the Commission explains in a separate Interim Final Rule, the swap definition does not encompass casino-style gambling wagers, sports or otherwise.[66] Additionally, the Ninth Circuit relied on CFTC Rule 40.11 to conclude that ''gaming-related contracts'' are ''bar[red]'' from ''being listed on a DCM.'' [67] Even assuming that premise, the Commission notes that CFTC Rule 40.11 does not provide a basis to conclude that event contracts are not swaps or that event contracts could be subject to State gambling law. Indeed, as the concurrence and other courts have recognized, the statutory provision that undergirds CFTC Rule 40.11 affirmatively contemplates that event contracts are swaps subject to the CFTC's exclusive jurisdiction.[68] Regardless, to the extent that the Ninth Circuit panel's reasoning was based on a CFTC regulation, this Proposal would serve to clarify by federal regulation that event contracts are swaps. Accordingly, there would no longer be a valid basis to interpret CFTC regulations to conclude that event contracts are not swaps.

Third, the Commission believes that event contracts may independently satisfy the first prong of the swap definition. The Commission's preliminary reasoning is based on a plain reading of section 1a(47)(A)(i) of the CEA. Section 1a(47)(A)(i) explicitly defines a swap to include any agreement, contract, or transaction that is a ''put, call, cap, floor, collar, or similar option of any kind'' that is ''based on the value[ ] of 1 or more . . . commodities . . . or other financial or economic interests or property of any kind.'' [69] In this regard, the Commission notes that many event contracts are structured as binary options, meaning that the contract's payout is a predetermined fixed amount (typically, one dollar) if the underlying condition is satisfied, and zero if it is not. Courts [70] and the CFTC [71] have repeatedly affirmed that binary option event contracts are a type of swap subject to the Commission's jurisdiction. Because, as described above, an event (such as a sports-, politics-, cultural-, or weather-related event) is an excluded commodity, a binary option event contract referencing such an event is a swap within the Commission's jurisdiction.

The term ''excluded commodity,'' including ''an occurrence, extent of an occurrence, or contingency . . . that is—(I) beyond the control of the parties to the relevant contract, agreement, or transaction; and (II) associated with a financial, commercial, or economic consequence,'' has long been interpreted broadly. This definition was added to the CEA by the Commodity Futures Modernization Act of 2000 (''CFMA'').[72] The CFMA provided for a near-complete exemption from the exchange trading requirement for swaps in an ''excluded commodity'' between institutional traders.[73] In other words, these commodities are defined as ''excluded'' because the CFMA exempted swaps involving them from the exchange trading requirement.

However, swaps in excluded commodities remained within the jurisdiction of the CFTC. The CEA, as amended by the CFMA in 2000, provided that off-exchange swaps in ''excluded commodities'' between institutional traders would remain subject to CEA sections 5b and 12(e)(2).[74] Notably, CEA section 12(e)(2) provided at that time that the CEA ''shall supersede and preempt the application of any State or local law that prohibits or regulates gaming or the operation of bucket shops (other than antifraud provisions of general applicability) in the case of . . . (B) an agreement, contract, or transaction that is excluded from this chapter under section . . . 2(d) . . . of this title . . . (regardless of whether any such agreement, contract, or transaction is otherwise subject to this chapter).'' [75] Thus, in 2000, Congress clarified that the CFTC's exclusive jurisdiction

claims to aggregate information and forecast uncertain events); Anthony M. Diercks, Jared D. Katz, & Jonathan H. Wright, *Kalshi and the Rise of Macro Markets,* Fed. Rsrv. Bd., Fin. & Econ. Discussion Series 2026–010 (Feb. 2026).

[61] CEA sec. 1a(47)(A)(ii), 7 U.S.C. 1a(47)(A)(ii).

[62] *Flaherty,* 172 F.4th at 227–228.

[63] *Id.* at 227.

[64] *Id.*

[65] *Assad,* 2026 WL 2543846, at 11–12; *Schuler,* 2026 WL 2884087, at * 14–15.

[66] *See* Further Definition of ''Swap'' to Exclude Casino-Style Gambling Products (Oct. 9, 2026), available at *https://www.cftc.gov/media/14726/IFREventContractsSwapExclusion100926/download.*

[67] *Schuler,* 2026 WL 2884087, at *13; *see* 17 CFR 40.11.

[68] *Assad,* 2026 WL 2543846, at *19 (Lee, J., concurring); *see* 7 U.S.C. 7a–2(c)(5)(C).

[69] 7 U.S.C. 1a(47)(A)(i).

[70] *See, e.g., CFTC* v. *Banc de Binary,* No. 2:13–cv–00992, Dkt. No. 169–1 at 18 ¶ 65 (D. Nev. Feb 26, 2016) (Consent Order for Permanent Injunction) (noting that ''Dodd-Frank defined an option as a swap'' and that ''[t]he binary options offered by Banc de Binary are 'commodity options.' ''); *CFTC* v. *Trade Exchange Network Ltd.,* 117 F. Supp. 3d 29, 36 (D.D.C. 2015) (noting that ''limited risk contracts based on a simple yes/no market proposition like will the markets go up by the end of the trading week . . . possess all the characteristics of contracts that are known to the trade as 'binary options.' '').

[71] *See, e.g., In re* Blockratize, Inc., CFTC Dkt. No. 22–08, at 4 (Jan. 3, 2022) (Order Instituting Proceedings) (noting that ''[s]uch event contracts, each of which is composed of a pair of binary options, constitute swaps under the CFTC's jurisdiction''), available at *https://www.cftc.gov/media/6891/enfblockratizeorder010322/download; see also* CFTC Staff Letter No. 25–23 (July 22, 2025) (granting CME no-action relief from certain swap data reporting requirements for certain binary options), available at *https://www.cftc.gov/PressRoom/PressReleases/9099-25.*

[72] Public Law 106–554, app. E, 114 Stat. 2763A–365 (2000). The definition of ''excluded commodity,'' CEA sec. 1a(19), 7 U.S.C. 1a(19), has remained unchanged since enactment.

[73] 7 U.S.C. 2(d) (2000 Main Ed.).

[74] 7 U.S.C. 2(d)(1) (2000 Main Ed.) (referring to 7 U.S.C. 7a–1 and 7 U.S.C. 16(e)(2)(B)).

[75] 7 U.S.C. 16(e)(2)(B) (2000 Main Ed.). The term ''this chapter'' refers to Chapter I of Title 7 of the U.S. Code, where the CEA is codified.

preempted State law—even as to off-exchange transactions—by explicitly providing that State gaming laws would not apply to off-exchange swaps in excluded commodities between institutional traders.

The CFMA was driven by the November 1999 report of the President's Working Group on Financial Markets, which was composed of the Secretary of the Treasury, and the Chairs of the CFTC, the SEC, and the Federal Reserve Board (''PWG Report'').[76] The PWG Report concluded, among other things, that off-exchange swaps between institutional traders should be excluded from the CEA, unless the swap involves a non-financial commodity with a finite supply.[77] The ''excluded commodity'' definition enacted in the CFMA was therefore intended to encompass all types of swaps except for those based on non-financial commodities with a finite supply.

In 2010, the Dodd-Frank Act created a framework within the CEA for the on-exchange execution, clearing and reporting of the previously over-the-counter (''OTC'') swap markets. Among other things, the Dodd-Frank Act repealed the exclusion that had been added by the CFMA to CEA section 2(d),[78] and required retail swap transactions (*i.e.,* transactions not between eligible contract participants (''ECPs'')) to be entered into on a DCM.[79]

Finally, the Special Rule added by Dodd-Frank to the CEA clarifies that the CFTC has jurisdiction over ''[e]vent contracts,'' including event contracts based on non-financial commodities. The Special Rule provides that ''[i]n connection with the listing of agreements, contracts, transactions, or *swaps* in *excluded commodities* that are based upon the occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or levels of a commodity described in section 1a(2)(i) of this title), by a designated contract market or swap execution facility, the Commission may determine that such agreements, contracts, or transactions are contrary to the public interest if the agreements, contracts, or transactions involve—(I) activity that is unlawful under any Federal or State law; (II) terrorism; (III) assassination; (IV) war; (V) gaming; or (VI) other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest.[80] This rule confirms that the term ''excluded commodities'' includes ''occurrence[s]'' that ''involve'' various non-financial events, including but not limited to terrorism, assassination, war, and gaming. It also confirms that ''swaps'' can be ''based upon'' such non-financial activities. Thus, the notion that the ''event'' referred to in the second prong of the ''swap'' definition must ''be one inherently associated with a financial, economic, or commercial consequence'' is incompatible with the text of the Special Rule.[81]

The Special Rule has particular significance for sports-related event contracts. Applying the plain text of the statute, sports are a type of ''gam[e].''[82] Accordingly, sports-related event contracts are ''based upon'' an ''occurrence, extent of an occurrence, or contingency'' that ''involve[s]'' ''gaming.'' Far from exempting sports-related contracts from the CFTC's jurisdiction, this provision confirms that such instruments can be ''swaps'' in ''excluded commodities'' and that they are within the CFTC's jurisdiction.[83]

Some courts and States have expressed the view that some, but not all, event contracts are swaps on the theory that certain underlying sports, political, cultural, or weather events are not associated with a potential financial, economic, or commercial consequence.[84] This argument would at most affect the applicability of the first and second prongs of the ''swap'' definition, but it would not affect the fourth prong, *i.e.,* that the contracts are commonly known to the trade as a ''swap.'' Furthermore, to the extent there is uncertainty about whether particular underlying sports, political, cultural, or weather events have potential financial consequences, the Commission's exercise of its power to further define ''swap'' confers on the Commission the authority to determine which contracts qualify as ''swaps.''

The Commission also notes that it retains authority under the Special Rule to prohibit event contracts involving ''gaming'' that are contrary to the public interest, and that the Commission has proposed to consider whether a contract has utility for price discovery, hedging, and economic decisions in making public-interest determinations.[85] Indeed, that proposal distinguishes between sports event contracts ''depend[ing] on the aggregate performance over an extended period of play''—which ''may serve price discovery functions and provide meaningful information''—from ''event contracts settling on the type of a specific play called for or executed by a specific player or team, the type or outcome of a specific pitch thrown by a specific pitcher, the outcome of a specific shot taken by a specific player, or whether a specific player or team commits a specific foul or penalty''—which, among other things, ''do not provide meaningful information.''[86]

The Commission also preliminarily believes there typically are potential financial, economic, or commercial consequences associated with underlying sports, political, cultural, and weather events that are the subject of event contracts. Importantly, the statute uses the word ''potential,'' which is broad.[87] So even if the financial consequences of a particular event are not felt right away—indeed, even if they never *actually* occur—an event contract remains a swap so long as there is potential for commercial ramifications.[88] For example, it may be difficult to empirically verify that there are financial consequences associated with a particular city reaching a temperature of 97 to 98 degrees on a given day, as opposed to 95 to 96 degrees. By inserting the word ''potential'' into the swap definition, Congress signaled that it did not wish

[76] Report of The President's Working Group on Financial Markets, *Over-the-Counter Derivatives Markets and the Commodity Exchange Act,* 17 (Nov. 1999), available at *https://home.treasury.gov/system/files/236/Over-the-Counter-Derivatives-Market-Commodity-Exchange-Act.pdf.*

[77] *Id.* at 1.

[78] Dodd-Frank Act sec. 723(a)(1), 7 U.S.C. 2 (striking and replacing CEA sec. 2(d)).

[79] CEA sec. 2(e), 7 U.S.C. 2(e). The term ''eligible contract participant'' is defined in CEA sec. 1a(18), 7 U.S.C. 1a(18).

[80] 7 U.S.C. 7a-2(c)(5)(C)(i) (emphases added).

[81] *Schuler,* 2026 WL 2884087, at * 11.

[82] *KalshiEX LLC* v. *CFTC,* No. 23–cv–3257, 2024 WL 4164694, at * 12 (D.D.C. Sept. 12, 2024).

[83] *Flaherty,* 172 F.4th at 231 (''Congress gave the CFTC exclusive jurisdiction over trades on DCMs, provided for continued tate regulation of trades conducted off DCMs, and recognized that while event contracts could involve gaming, the CFTC has discretionary power to review and prohibit those contracts.''); *Minnesota,* 2026 WL 2150211, at * 13 (''In combination with the congressional decision to give the CFTC exclusive jurisdiction over swaps, allowing the CFTC to either permit event contracts in these categories or declare them contrary to the public interest suggests, at least preliminarily, that Congress intended DCM-based transactions over these prediction markets to be governed by the CFTC.''); *KalshiEX LLC* v. *Johnson,* 832 F. Supp. 3d 954, 965 (D. Ariz. 2026) (''By directing the CFTC to review event contracts and prohibit those contrary to the public interest, Congress placed event contracts under the CFTC's exclusive authority.''); *Raoul,* 2026 WL 2969682, at * 10 (The Special Rule ''belies that the Commodity Exchange Act has nothing to do with'' sports event contracts.).

[84] *E.g., Minnesota,* 2026 WL 2150211, at * 15.

[85] 91 FR at 35829–30.

[86] *Id.* at 35835–37.

[87] *Alabama Power Co.* v. *Costle,* 636 F.2d 323, 353 (D.C. Cir. 1979) (recognizing that ''potential . . . will always and inherently exceed actual'').

[88] *Minnesota,* 2026 WL 2150211, at * 12 (''The occurrence of the event in question does not have to ultimately result in a financial, economic, or commercial consequence to meet the definition. It is enough that such consequences are foreseeable future possibilities.'').

for the Commission to engage in this exercise. Temperature has the potential to cause financial consequences for agriculture, energy usage, participation in outdoor activity, and more—event contracts based on temperature therefore satisfy the ''potential financial, economic, or commercial consequence'' requirement.

Sports events likewise can be associated with potential economic consequences. Most obviously, when a team succeeds in the postseason, that team is able to play more home games, which generates additional ticketing revenue for the franchise and economic opportunity for nearby businesses like restaurants and hotels.[89] For example, the New York Knicks' 2026 championship-winning postseason run generated around $380 million for New York City's economy.[90] Similarly, after the Milwaukee Bucks won the 2021 NBA Finals, the City of Milwaukee estimated that the team's postseason performance generated $2.7 million in economic impact to the city in the first round, $12.8 million in the second round, $14.1 million in the third round, and $28 million in the final round—thus, each time the Bucks won a round of the playoffs, there were concrete economic consequences for Milwaukee.[91] Postseason success also affects a sports team's valuation. Madison Square Garden Sports, the Knicks' parent company, doubled in market value over the course of a year because of the team's championship-winning performance.[92] At least at some level of generality, it is inescapably true that sports events are associated with potential economic consequences.

The result of single regular-season games are associated with potential economic consequences, too. Studies have verified that a single win in a college football game can result in millions of dollars in additional revenue to the program.[93] And when a team wins a game, that has direct commercial consequences for businesses around the stadium, as fans are more likely to spend money at those establishments in celebration.

In-game events and contingencies are also associated with potential economic consequences. For example, a close game is more likely to have higher television viewership than a blowout, and thus, the spread of a game is associated with potential economic consequences.[94] Player contracts often have bonuses associated with specific statistical results, like the number of touchdowns scored or receptions made, so player performance within a game has potential economic consequences.[95]

Business promotions can amplify these economic consequences. For example, a furniture store in Houston, Texas, runs a regular promotion in which customers who spend a minimum amount will get their purchases refunded if the Houston Astros win the World Series, creating a direct link between the outcome of the World Series and financial consequences for numerous furniture purchasers in Houston.[96] Similarly, a New York bar promised free drinks to patrons if the Knicks won the first NBA Finals game, which also linked the outcome of the game to an economic consequence.[97] Businesses also structure promotions around whether particular events occur within a game. For example, when the Cincinnati Reds hit a home run in the 4th inning, ticketholders get a reward from Chick-fil-A,[98] when the Minnesota Vikings intercept a pass, Caribou Coffee offers a buy-one-get-one drink deal,[99] and Delta Air Lines' loyalty program customers earn one mile for each Seattle Seahawks passing yard in a season.[100]

The list of examples could extend indefinitely. The salient point is that many sports-, politics-, cultural, and weather-related events are associated with potential economic consequences, and thus event contracts that are predicated on those events are swaps subject to the Commission's exclusive jurisdiction. To the extent a sports-, politics-, cultural-, or weather-related event is not associated with a potential economic consequence and does not satisfy any other prong of the swap definition, the Commission retains authority to stay the listing of that contract.[101]

For these reasons, the Commission is proposing to amend the ''swap'' definition to explicitly identify event contracts, including those based on sports-, politics-, cultural-, and weather-related events, as swaps within the Commission's jurisdiction. Specifically, the Commission proposes to add paragraph (2)(i)(G) to § 1.3's definition of ''swap'' [102] to provide that the term swap includes ''[e]vent contracts, including those based o\n sports-, politics-, cultural-, and weather-related events.'' And, as set forth in a separate Interim Final Rule,[103] the Commission does not intrude upon existing regulation of in-person and online casino-style gambling by doing so. Rather, the Commission proposes, consistent with its clear statutory mandate, to regulate only event contracts, including those based on

[89] For example, as the Northern District of Illinois recently recognized, ''[a]t a financial level, sports [event contracts] can resemble credit default swaps'' in their potential financial, economic, or commercial consequences. *Raoul,* 2026 WL 2969682, at * 11. ''Broadcasters depend on the total number of games played in a best-of-seven matchup like the NBA Finals and the World Series,'' with a ''difference in advertising revenue between a four-game series and a seven-game series . . . cost[ing] NBC between $25 million and $35 million,'' and affecting ''[a]rena and concession companies,'' who ''often get paid a percentage of sales during games, meaning their revenue correlates with the number of games, too. Meanwhile, sponsors' returns on endorsements depend on players performing well.'' *Id.*

[90] CNBC, *Knicks' postseason run brought $380m in economic activity, says NYCEDC's Jeanny Pak* (June 18, 2026), available at *https://www.cnbc.com/video/2026/06/18/knicks-postseason-run-brought-380m-in-economic-activity-says-nycedcs-jeanny-pak.html.*

[91] Visit Milwaukee, *Economic Impact Data for Milwaukee Bucks Championship* (Dec. 9, 2021), available at *https://www.visitmilwaukee.org/press-releases/post/2885682-economic-impact-data-for-milwaukee-bucks-championship/.*

[92] Jack Pitcher & Andrew Beaton, *The Only Thing Hotter Than the Knicks Is Their Stock Price,* Wall Street Journal (June 8, 2026), available at *https://www.wsj.com/sports/basketball/knicks-nba-finals-msg-stock-b0f2dd31.*

[93] Doug J. Chung, *How Much is a Win Worth? An Application to Intercollegiate Athletics,* Management Science 63, no. 2, at 548–565 (February 2017).

[94] Austin Karp, *CFP First Round viewership falls 7% in second year amid blowouts, NFL doubleheader gains,* Sports Business Journal (Dec. 24, 2025), available at *https://www.sportsbusinessjournal.com/Articles/2025/12/24/cfp-first-round-viewership-falls-7-in-second-year-amid-blowouts-nfl-doubleheader-gains/; NFL's wild-card ratings tumble amid blowouts,* Reuters (Jan. 15, 2025) *https://www.reuters.com/sports/nfls-wild-card-ratings-tumble-amid-blowouts-flm-2025-01-16/.*

[95] Zach Kruse, *How Packers WR Christian Watson can make another $15M in contract incentives,* Packers Wire (June 19, 2026), available at *https://packerswire.usatoday.com/story/sports/nfl/packers/2026/06/19/christian-watson-contract-packers-incentives-catches-yards-touchdowns-pro-bowl/90619346007/.*

[96] Chad Washington, *'Mattress Mack' uses a prediction market to wager on the Astros' postseason hopes,* KTSM 9 News, available at *https://www.ktsm.com/news/state-news/mattress-mack-uses-a-prediction-market-to-wager-on-the-astros-postseason-hopes/amp/.*

[97] Catherina Gioino, *This NYC bar just covered everyone's tabs because the Knicks won, and used Kalshi to hedge their bets,* Fortune (June 3, 2026), available at *https://fortune.com/2026/06/03/nyc-bar-knicks-kalshi-win-prediction-market/.*

[98] Chick-fil-A Free Chicken Promotion, available at *https://www.mlb.com/reds/tickets/specials/chick-fil-a-runs* (last visited Oct. 14, 2026).

[99] BOGO Ball Presented by Caribou Coffee, available at *https://www.vikings.com/fans/promos/caribou-coffee-promo* (last visited Oct. 14, 2026).

[100] *First and 10: 12Status program kicks off a decade of awarding Seattle Seahawks fans,* Delta News Hub (Aug. 28, 2026), available at *https://news.delta.com/first-and-10-12status-program-kicks-decade-awarding-seattle-seahawks-fans.*

[101] *See* 17 CFR 40.2(c).

[102] 17 CFR 1.3.

[103] *See supra* note 66.

sports-, politics-, cultural-, and weather-related events.

The classifications proposed here are for purposes of the Commodity Exchange Act. Federal tax treatment and associated information reporting, withholding, registration, and payment obligations are determined under the Internal Revenue Code and applicable Treasury regulations and Internal Revenue Service guidance.

III. Request for Comment

The Commission welcomes public comments from all interested persons regarding any aspect of the Proposal.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act [104] (''RFA'') requires Federal agencies, in proposing rules, to consider the impact of those rules on small entities, and to provide a regulatory flexibility analysis with respect to such impact.[105] The regulations proposed herein would directly affect DCMs, swap execution facilities (''SEFs''), swap dealers, major swap participants, and ECPs. The Commission has previously determined that that DCMs are not considered ''small entities'' for purposes of the RFA.[106] Similarly, the Commission previously concluded that SEFs are not small entities for the purpose of the RFA.[107] The Commission has also previously stated its belief in the context of relevant rulemakings that SEFs' market participants, which are all required to be ECPs [108] as defined in section 1a(18) of the CEA,[109] are not small entities for purposes of the RFA.[110] Likewise, the Commission has previously concluded that Swap Dealers and Major Swap Participants are not small entities for purposes of the RFA, due in part to the minimum capital and margin requirements applicable to such entities.[111]

For these reasons, under section 3(a) of the RFA,[112] the Chairman, on behalf of the Commission, certifies that this Proposal will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comment on this determination. This document serves as notification to the Small Business Administration of the Commission's certification of no effect.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'') [113] imposes certain requirements on federal agencies, including the Commission, in connection with conducting or sponsoring any ''collection of information,'' as defined by the PRA. Under the PRA, 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 control number from the Office of Management and Budget (''OMB'').[114] The PRA is intended, in part, to minimize the paperwork burden created for individuals, businesses, and other persons as a result of the collection of information by Federal agencies, and to ensure the greatest possible benefit and utility of information created, collected, maintained, used, shared, and disseminated by or for the Federal government.[115] The PRA applies to all information, regardless of form or format, whenever the Federal government is obtaining, causing to be obtained, or soliciting information, and includes required disclosure to third parties or the public, of facts or opinions, when the information collection calls for answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons.[116]

This Proposal would not impose any new collection of information requirements that require approval of OMB under 44 U.S.C. 3507(d), nor would it amend or otherwise revise any existing collection of information subject to the PRA. The Proposal clarifies the definition of ''swaps'' to, consistent with its jurisdiction, explicitly include event contracts, including those based on sports-, politics-, cultural-, and weather-related events.

The Proposal does not establish any new reporting requirement under the CEA or the Commissions' regulations applicable to any Commission registrant or market participant; establish any new recordkeeping requirement beyond those already imposed under the CEA and the Commission's existing regulations, which are currently approved by OMB under existing control numbers; impose any new third-party disclosure obligation; or modify the substantive scope, frequency, form, or content of any existing information collection of the Commission currently approved by OMB.

The Proposal does not alter the burden associated with existing collections currently approved by OMB. Any incremental activity that may occur as an indirect consequence of registrants electing to conduct business within the federal regulatory perimeter clarified by this proposed rule reflects the application of existing, previously approved information collections to a new class of underlying transactions and does not itself constitute a new or revised collection of information within the meaning of the PRA.

Accordingly, the requirements of the PRA do not apply to this rulemaking. The Commission invites public comment on its determination that no additional recordkeeping or information collection requirements, or changes to existing collection requirements, would result from the Proposal.

C. Consideration of Benefits and Costs

1. Introduction

The Commission is mindful of the economic effects, including the benefits and costs, of the Proposal. Section 15(a) of the CEA requires the Commission to consider the benefits and costs of its actions before promulgating a regulation under the CEA or issuing certain orders.[117] As required by section 15(a), the Commission evaluates these benefits and costs evaluated in light of five broad areas of market and public concern: (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations.

The Proposal further defines the term ''swap'' under CEA section 1a(47) to include event contracts, including those based on sports-, politics-, cultural-, and weather-related events.[118] It is the

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[104] 5 U.S.C. 601 *et seq.*

[105] *See* 5 U.S.C. 603. The RFA applies to rules subject to notice-and-comment rulemakings issued pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b), or any other law. *Id.*

[106] *See* Policy Statement and Final Establishment of Definitions, 47 FR 18618 (Apr. 30, 1982).

[107] SEF Core Principles Final Rule, 78 FR 33476, 33548 (June 4, 2013) (citing 47 FR at 18621) (discussing DCMs); A New Regulatory Framework for Clearing Organizations, 66 FR 45604, 45609 (Aug. 29, 2001) (discussing registered DCOs).

[108] 17 CFR 37.703.

[109] 7 U.S.C. 1(a)(18).

[110] Opting Out of Segregation Final Rule, 66 FR 20740, 20743 (Apr. 25, 2001) (stating that ECPs by the nature of their definition in the CEA should not be considered small entities).

[111] Swap Dealer and Major Swap Participant Recordkeeping, Reporting, and Duties Rules; Futures Commission Merchant and Introducing Broker Conflicts of Interest Rules; and Chief Compliance Officer Rules for Swap Dealers, Major Swap Participants, and Futures Commission Merchants Final Rule, 77 FR 20128, 20194 (Apr. 3, 2012).

[112] 5 U.S.C. 605(b).

[113] 44 U.S.C. 3501 *et seq.*

[114] *See* 44 U.S.C. 3507(a)(3); 5 CFR 1320.5(a)(3).

[115] *See* 44 U.S.C. 3501.

[116] *See* 44 U.S.C. 3502(3).

[117] 7 U.S.C. 19(a).

[118] *See* 7 U.S.C. 1a(47).

Commission's preliminary belief that the Proposal would not change the legal rights or obligations of market participants under the CEA because the Commission already treats event contracts as swaps under existing law. Instead, the Commission preliminarily believes that the Proposal will reduce interpretive uncertainty and facilitate uniform nationwide treatment of event contracts under the exclusive jurisdiction of the Commission.

The Commission qualitatively discusses the benefits and costs of the Proposal below because it is not practicable to quantify the effect of greater regulatory certainty on market participant behavior.

2. Baseline

The baseline against which the benefits and costs of the Proposal are measured consists of the current regulatory framework and the current state of the event contracts market.

a. Regulatory Baseline

The Commission has exclusive jurisdiction to regulate transactions involving swaps (other than security-based swaps, which the SEC regulates, and mixed swaps, over which it shares jurisdiction with the SEC).[119] The Commission preliminary believes that under the plain language of the CEA, event contracts, including event contracts based on sports-, politics-, cultural-, and weather-related events, are swaps.[120] For example, CEA section 1a(47)(A)(ii) defines ''swap'' to include ''any agreement, contract, or transaction . . . that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence.'' [121] It is the Commission's preliminary belief that this comprehensive definition captures many event contracts, which are a type of swap where payment is triggered by ''the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence,'' such as a political election or a sporting event.[122]

Accordingly, it is the Commission's preliminary belief that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are subject to Federal law concerning swaps, including that retail participants may only trade swaps on a DCM.[123] DCMs listing event contracts must comply with the substantive and procedural requirements that apply to a DCM's listing of derivative contracts for trading.[124] In particular, these requirements include adherence to the Core Principles for DCMs, including listing only contracts that are not readily susceptible to manipulation, preventing market disruption, and protecting of markets and market participants.[125]

However, certain State regulators have asserted that certain event contracts—particularly those based on sports-related events—are subject to their laws regulating gaming and other matters. These other legal regimes have various, sometimes conflicting, requirements that states have purported to apply to event contracts.[126]

b. Current Event Contract Markets

The number of DCMs listing event contracts and the volume of trading in such contracts have increased significantly in recent years. For example, as of September 1, 2026, at least seven DCMs registered with the CFTC offer contracts that include event contracts based on sports-related events to U.S. persons. More than fifteen pending DCM applications have been filed since 2025. Many of these newly designated DCMs and platforms with pending applications have stated they intend to offer contracts that could be considered event contracts. In August 2026, average monthly trading volume in event contracts was about $1.5 billion across all DCMs reporting to the Commission.[127] Of that volume, approximately $1.2 billion was in event contracts based on sports-related events; approximately $11 million was in event contracts based on politics-related events, including elections-related event contracts; and approximately $4 million was in event contracts based on weather-related events.[128]

3. Benefits

Because the Commission does not expect the Proposal to change the legal rights or obligations of market participants under the CEA, it is the Commission's preliminary belief that the primary benefit of this Proposal would be added certainty that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are swaps that are subject to the exclusive jurisdiction of the CFTC. Although the extent of the benefit may be limited by the ongoing efforts of certain state regulators to assert their jurisdiction over certain event contracts, market participants—including DCMs listing event contracts— may benefit by spending less time and fewer resources determining which regulatory regime applies and by saving the costs of complying with various State regulatory regimes.

4. Costs

It is the Commission's preliminary belief that there should be negligible costs from codifying that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are swaps subject to the Commission's exclusive jurisdiction, as there would be no expected changes required of market participants under the CEA or the Commission's regulations.

However, the Proposal may result in indirect costs to the extent that market participants respond to the added certainty by shifting activity toward the CFTC swaps framework. For example, States might receive less fee and other revenue if entities choose to structure their business operations as DCMs instead of structuring their operations within State regulatory frameworks. It is also possible that costs could also result from the potential transition, generating short-term frictions. For example, market participants could incur reconciling costs where Federal and State regulatory regimes overlap during the transition, such as unwinding or

[119] *See* 7 U.S.C. 2(a)(1)(A).

[120] *See* 7 U.S.C. 1a(47); *supra* section I; *see also, e.g., Flaherty,* 172 F.4th at 227 (holding that a ''plain reading of the Act's text suggests that Kalshi's sports-event contracts fit comfortably within the statutory definition''). *But see Assad,* 2026 WL 2543846.

[121] 7 U.S.C. 1a(47)(A)(ii); *see supra* note 15 and accompanying text. Other clauses in the statutory definition of the term ''swap'' are also relevant. *See supra* notes 16–18.

[122] As described above, such contracts may also be swaps under other prongs of the definition.

[123] *See* 7 U.S.C. 2(e) (requirement that persons other than ECPs transact swaps on a DCM). The term ''eligible contract participant'' is defined in CEA sec. 1a(18), 7 U.S.C. 1a(18), and generally includes only institutional investors. In addition to DCMs, an SEF may make any swap, including an [event contract] that is a swap, available for trading. *See* CEA sec. 5h, 7 U.S.C. 7b–3. However, swap trading on an SEF is not available to the general public, but rather only to ECPs.

[124] *See generally* CEA sec. 5, 7 U.S.C. 7. SEFs are subject to similar requirements. *See* CEA sec. 5h, 7 U.S.C. 7b–3.

[125] *See* 7 U.S.C. 7(d).

[126] *Compare Flaherty,* 172 F.4th at 227, *with Assad,* 2026 WL 2543846.

[127] Estimated based on nonpublic daily trade and reporting data reported by DCMs under rule 16.02. *See* 17 CFR 16.02; *see also* Kaitlyn Radde, *Trading Volume on Prediction Markets Has Soared in Recent Months,* Pew Research Center (May 27, 2026), available at *https://www.pewresearch.org/?p=306935*.

[128] Estimated based on nonpublic daily trade and reporting data reported by DCMs under CFTC Rule 16.02, 17 CFR 16.02.

maintaining State licenses in parallel with CFTC-regulated obligations during the transition.

5. Section 15(a) Factors

a. Protection of Market Participants and the Public

The Commission preliminarily believes that classification certainty provided by the Proposal may allow market participants to more readily operate within the Federal swaps framework and its attendant protections. Insofar as this certainty leads to an increase in the number of event contracts listed on DCMs, the protection of market participants and the public may be advanced by application of the Core Principles to the market. However, certainty provided by the Proposal could be perceived as a safety signal by retail participants. This may raise risk appetite for certain categories of event contracts as retail market participants may update their beliefs about oversight of these products and under-weigh their inherent risk and increase their exposure to these products without parallel improvements in disclosure or education that could improve comprehension of risks related to event contracts based on sports-, politics-, cultural-, or weather-related events.

b. Efficiency, Competitiveness, and Financial Integrity of Futures Markets

The Commission preliminarily believes that the Proposal is unlikely to affect the efficiency or financial integrity of the futures markets, but there could be effects on the swaps market. To the extent that firms restructure their operations from State regimes to the Federal swaps regime, the Proposal could facilitate direct competition between CFTC-regulated DCMs and State-regulated businesses. However, because the Federal swaps regime requires infrastructure with fixed costs, certainty provided by the Proposal might favor incumbent DCMs with established infrastructure and customer bases. Furthermore, the Commission preliminarily believes that clarifying that event contracts are swaps may advantage exchanges already configured for Federal compliance relative to state-licensed platforms, shifting costs unevenly where new entrants may face higher fixed costs to reach swaps compliance scale, potentially reducing competitive pressure on fees, service quality, and innovation diversity at the margin.

c. Price Discovery

The Commission preliminarily believes that price discovery for event contracts will not be materially affected because the Proposal does not alter trading rules, exchange requirements, or information-dissemination obligations for the contracts it covers, which the Commission already expects to trade on DCMs subject to existing Core Principles.

d. Sound Risk Management Practices

The Commission preliminarily believes that risk management practices will not be materially affected because the Proposal does not alter the application of Commission requirements regarding risk management, including DCM risk-management Core Principles.

e. Other Public Interest Considerations

Codification of the Commission's understanding that event contracts, including those based on sports-, politics-, cultural-, and weather-related events, are swaps may improve legal predictability and administrability, consistent with the CEA's purpose of encouraging effective self-regulation of trading facilities, clearing systems, and market participants. The Commission preliminarily believes that the Proposal may reduce the resources market participants devote to complying with various, sometimes-contradictory State regulatory regimes.

But, insofar as the certainty provided by the Proposal increases the volume of event contracts listed on DCMs, the Commission preliminarily believes that retail market participants could be harmed because some event contract trading characteristics (such as outcomes occurring at unpredictable intervals, perception of skill-based decision making, near-miss experiences, and potential for loss-chasing behavior) can be associated with addictive potential. It is possible that these characteristics can lead to financial harm to participants who accumulate losses through high-frequency trading, allocate disproportionate resources to trading activity, and have trouble disengaging voluntarily.

6. Regulatory Alternatives

Given the Proposal seeks to articulate the Commission's existing jurisdiction over swaps, the Commission has not identified any viable regulatory alternatives.

D. Antitrust Laws

Section 15(b) of the CEA requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of the CEA as well as the policies and purposes of the CEA, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of the CEA.[129]

The Commission preliminarily believes that the public interest to be protected by the antitrust laws is the promotion of competition. The Commission has considered this Proposal to determine whether it is anticompetitive and has identified no anticompetitive effects. Having done so, it also has not identified any less anticompetitive means of achieving the purposes of the CEA.

E. Executive Orders 12866, 13563, and 14192

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; and distributive impacts). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President's priorities.

OMB has determined that this action is a significant regulatory action as defined under section 3(f) of Executive Order 12866 and therefore this action has been reviewed by OMB, consistent with Executive Order 14215.

This Proposal, if finalized as proposed, is not expected to be an Executive Order 14192 regulatory action, because it imposes no more than *de minimis* net costs.

List of Subjects in 17 CFR Part 1

Swaps.

For the reasons set forth in the preamble, the Commodity Futures

[129] 7 U.S.C. 19(b).

Trading Commission proposes to amend 17 CFR part 1 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6l, 6m, 6n, 6o, 6p, 6r, 6s, 7, 7a–1, 7a–2, 7b, 7b–3, 8, 9, 10a, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24 (2012).

■ 2. In § 1.3, in the definition of the term, *Swap,* revise paragraphs (2)(i)(E) and (F) and add paragraph (2)(i)(G) to read as follows:

§ 1.3 Definitions.

* * * * *

Swap. * * *

(2) * * *

(i) * * *

(E) A forward rate agreement;

(F) A non-deliverable forward involving foreign exchange; and

(G) Event contracts, including those based on sports-, politics-, cultural, and weather-related events.

* * * * *

Issued in Washington, DC, on October 15, 2026, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

NOTE: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Further Definition of ''Swap''—Inclusions—Commission Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026–21377 Filed 10–16–26; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2026–1162]

RIN 1625–AA00

Safety Zone; FRL Inaugural Invitational eFoil Exhibition Race, Miami Marine Stadium Basin, Miami, FL

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 in the Miami Marine Stadium Basin in connection with the FRL Inaugural Invitational eFoil Exhibition Race. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards associated with eFoil race operations. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless specifically authorized by the Captain of the Port, Sector Miami. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before November 18, 2026.

ADDRESSES: To submit comments and view available documents, go to *https://www.regulations.gov* and search for USCG–2026–1162.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, contact MST2 Elliot Cortes, Sector Miami Waterways Management Division, U.S. Coast Guard; telephone 786–295–9051, or email *SectorMiamiWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background and Authority

The Coast Guard was notified that an organization will be hosting the FRL Inaugural Invitational eFoil Exhibition Race on November 15, 2026, at the Miami Marine Stadium Basin, Miami, FL. Hazards from eFoil racing include high-speed blunt force impacts, propeller lacerations, and lithium battery failures. The Captain of the Port Sector Miami (COTP) has determined that potential hazards associated with eFoil racing are a safety concern for anyone within 100 yards of race operations. 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 on November 15, 2026, from 8:00 a.m. until 9:00 p.m. The safety zone would cover all navigable waters within 100 yards of the race area. 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, 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. This regulation will only impact a small area for a few hours. 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.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), if this proposed rule will affect your small business, organization, or governmental jurisdiction and you have questions, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Small businesses may send comments to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards by calling 1–888–REG–FAIR (1–888–734–3247).

B. Collection of Information

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

C. Federalism and Indian Tribal Governments

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

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

D. Unfunded Mandates Reform Act

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

E. Environment

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

This proposed rule is a safety zone. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2026–1162 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.T07–1162 to read as follows:

§ 165.T07–1162 Safety Zone; FRL Inaugural Invitational eFoil Exhibition Race, Miami Marine Stadium Basin, Miami, FL

(a) *Location.* The following area is a safety zone: All waters of Miami Marine Stadium Basin, from surface to bottom, encompassed by a line connecting the following points beginning at 25.745062, −80.166891, 25.743008, −80.164699, thence to 25.741214, −80.166992, 25.743201, −80.169185 and back to the beginning point. These coordinates are based on the World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Sector Miami (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) 642–7271. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 8 a.m. to 9:00 p.m. on November 15, 2026.

C.J. Barger,

Captain, U.S. Coast Guard, Acting Captain of the Port Sector Miami.

[FR Doc. 2026–21305 Filed 10–16–26; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

[NPS–GAAR–NPS0043903; XXXXXX]

RIN 1024–AF12

Gates of the Arctic National Park and Preserve; Use of Off-Road Vehicles for Subsistence Purposes by Residents of Anaktuvuk Pass

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) proposes to amend special regulations for Gates of the Arctic National Park and Preserve (Gates) to establish a process by which the Superintendent can establish reasonable mitigation measures on the use of off-road vehicles (ORVs) for subsistence purposes by local rural residents of Anaktuvuk Pass, but only when such use is causing or likely to cause an adverse impact to public health and safety, resources, historic or scientific values, subsistence uses, or endangered or threatened species.

DATES: Comments must be received by 11:59 p.m. ET on December 18, 2026.

ADDRESSES: You may submit comments by any of the following methods:

(1) *Electronically:*

• *Go to the* ***Federal Register*** *website: https://www.federalregister.gov.* In the search box, enter 1024–AF12, the regulation identifier number (RIN) for this rulemaking. Click on the green ''Submit a Public Comment'' button at the top of the document and follow the instructions for submitting comments; or

• *Go to the Federal eRulemaking Portal: https://www.regulations.gov.* In the Search box, enter 1024–AF12, the RIN for this rulemaking. On the resulting page, select the Dockets tab and then click on the title of the rule. Next, click the ''Open for Comments'' box, then click the blue ''Comment'' box and follow the instructions for submitting comments.

(2) *By hard copy:*

• *Mail to:* Superintendent, Gates of the Arctic National Park and Preserve, 101 Dunkel St., Suite 110, Fairbanks, AK 99701.

Instructions: Comments will not be accepted by fax, email, or in any way other than those specified above. All submissions received must include the words ''National Park Service'' or ''NPS'' and must include the docket number or RIN (1024–AF12) for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to view the proposed rule and comments received, go to *https://www.regulations.gov* and search for ''1024–AF12.'' Be sure to check the Dockets Tab, Documents Tab, and Comment Tab for possible results.

FOR FURTHER INFORMATION CONTACT: Mark Dowdle, Superintendent, Gates of the Arctic National Park and Preserve; (907) 519–0420; *mark_dowdle@nps.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. In compliance with the Providing Accountability Through Transparency Act of 2023, the plain language summary of the proposal is available on *Regulations.gov* in the docket for this rulemaking.

SUPPLEMENTARY INFORMATION:

Background

ORV Use by Residents of Anaktuvuk Pass

Anaktuvuk Pass is a small remote village, without road access, entirely within the administrative boundaries of Gates. Anaktuvuk Pass, named ''the place of caribou droppings,'' sits along an ancient migration route that has guided the caribou—and the people who follow them—for centuries. Most of the residents of Anaktuvuk Pass are inland Iñupiat, or Nunamiut people, and Anaktuvuk Pass is their last remaining settlement. These nomadic people roamed the Brooks Range for generations, living off the land, before dispersing in the early 1900s due to the collapse of the caribou population. By the 1940s, several Nunamiut families returned to their ancestral home, settling in the broad, treeless valley of Anaktuvuk Pass, decades before the 1980 establishment of Gates. Many residents continue to rely on subsistence activities like caribou hunting to support their way of life.

In 2024, Anaktuvuk Pass was home to 395 residents, with Iñupiat making up over 84% of the population. The community's economy is intertwined with the land, primarily relying on subsistence hunting of caribou. The pursuit of caribou, along with fishing and gathering, sustains the community.

Anaktuvuk Pass residents have long relied on motorized access, including snowmachines in winter and ORVs in summer, to pursue subsistence resources. The final nomadic Nunamiut relocated to the modern-day village during the 1950s. After permanent settlement, Nunamiut were unable to follow the caribou during their seasonal migrations, the people of Anaktuvuk Pass ventured out from the village within what is today, Gates, to subsistence hunt. Beginning in the 1960s, and increasing during the 1970s, ORVs were regularly used by the residents of Anaktuvuk Pass engaging in subsistence activities. In the years leading up to and immediately following the passage of the Alaska National Interest Lands Conservation Act (ANILCA), residents of Anaktuvuk Pass relied increasingly on ORVs for subsistence hunting as was documented in a 1985 study titled, *In the National Interest: A Geographically Based Study of Anaktuvuk Pass Iñupiat Subsistence Through Time.*

The first documented observance of an ORV by residents of Anaktuvuk Pass is believed to have occurred in 1950 when the United States Geological Survey brought multiple large, tracked vehicles to the village to conduct summer exploration and mapping work. By the early 1970s, the number of ORVs owned and operated by residents of Anaktuvuk Pass began to increase. By 1980, the year ANILCA became law, it is estimated there were between fifteen and twenty-eight ORVs in Anaktuvuk Pass. ORVs in Anaktuvuk Pass were regularly deployed in the 1970s as the primary means of summer transportation that allowed subsistence hunters to reach and transport game farther from the village and considered the only effective means of subsistence hunting in the summer. ORV use had been particularly important for reaching locations fairly distant from the village where subsistence species are likely to be encountered during the summer months. Subsistence hunters interviewed about their summer hunts explained they used their ORVs to ''bring meat back after animals had been killed out in the field'' and traveled extensively throughout the region to find caribou. Additional information available to NPS demonstrates that ORVs were used around Anaktuvuk Pass for subsistence purposes in Gates before its establishment. *See, e.g.,* U.S. Army Corps of Engineers, Effects of All Terrain Vehicle Traffic on Tundra Terrain Near Anaktuvuk Pass, Alaska (1988); NPS, Effects of All-Terrain Vehicle Use in the Vicinity of Anaktuvuk Pass, Gates of the Arctic National Park, Alaska: I. Study of Established, Recovery, and New Trail Segments (1988); and NPS, The Anaktuvuk Pass All-Terrain Vehicle Study 1986–1988: A Narrative Report of Field Operation and Dispersed ATV Use (1989).

ANILCA Statutory Framework

Title VIII of ANILCA establishes a statutory framework intended to protect subsistence uses by rural Alaska residents. Congress expressly recognized the importance of subsistence resources to the physical, economic, traditional, and cultural well-being of rural Alaska communities and directed that such uses be protected on the public lands of Alaska. Section 201(4)(a) of ANILCA established Gates and provides, among other things, that subsistence uses by local residents shall be permitted in the park where such uses are traditional, in accordance with title VIII of ANILCA. In turn, Section 811(a) of ANILCA provides that the Secretary ''shall ensure that rural residents engaged in subsistence uses have reasonable access to subsistence resources on the public lands.'' 16 U.S.C. 3121(a). Section 811(b) of ANILCA provides that ''[n]otwithstanding any other provision

of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation.'' 16 U.S.C. 3121(b). ANILCA's text is clear and unambiguous, reflecting Congress's express intent ''to provide the opportunity for rural residents engaged in a subsistence way of life to continue to do so.'' 16 U.S.C. 3111(1).

Through enactment of this language, Congress directed that reasonable subsistence access be ensured and that traditionally employed means of surface transportation be permitted for subsistence purposes, subject only to reasonable regulation. Accordingly, Title VIII reflects a congressional policy favoring the continuation of subsistence uses and the practical ability of rural residents to reach and harvest subsistence resources. These congressional findings and policies inform the NPS's interpretation of Sections 811(a) and 811(b) and confirm that ANILCA's subsistence provisions are intended to preserve meaningful and practical access for subsistence purposes.

ANILCA distinguishes between requiring subsistence access and regulating subsistence access. Section 811(b) directs that the Secretary ''shall permit'' appropriate use of traditionally employed means of surface transportation for subsistence purposes while authorizing reasonable regulation of those uses. Accordingly, an agency may take only reasonable measures necessary to address demonstrated impacts of a means of surface transportation within the scope of Section 811(b), while at the same time ensuring that reasonable access is maintained consistent with the purposes of Title VIII.

NPS Prohibition of ORV Subsistence Access to Gates

On January 28, 1986, an official within the NPS Alaska Regional Office sent a memorandum to the superintendent of Gates concluding that all-terrain vehicles (ATVs) do not constitute means of surface transportation that have been ''traditionally'' employed for subsistence purposes in Gates. The terms ORV and ATV have been used interchangeably over time to refer to similar classes of vehicles. The 1986 Memorandum stated that ''until it can be shown that ATVs are traditional in [Gates] as defined by Webster and Black [dictionaries], they are prohibited for subsistence uses in the park.'' The 1986 Memorandum thus concluded that ATVs ''are not permitted by ANILCA'' and had ''not been shown to be a traditionally employed means of surface transportation for subsistence uses.'' This interpretation of ''traditional'' and the prohibition on ATV use for subsistence purposes was incorporated into the Gates General Management Plan (GMP), which stated that within Gates, ''the use of ORVs, which are defined in the GMP to include ATVs, for subsistence is not allowed because the use has not been shown to be a traditional means of access.''

On December 17, 1992, NPS entered into a land exchange agreement (1992 Agreement) with the Nunamiut Corporation, the city of Anaktuvuk Pass, and the Arctic Slope Regional Corporation that was amended in 1993 and 1994. In 1996, Congress ratified the 1992 Agreement in section 302 of the Omnibus Parks and Public Lands Management Act of 1996 (Act). In the Act, Congress recognized that ''[u]nlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access to pursue caribou and other subsistence resources.'' Public Law 104–333, 110 Stat. 4093 (1996).

The 1992 Agreement allowed some ATV access in Gates for subsistence uses. Specifically, certain non-wilderness areas of Federally-owned park land were opened to dispersed ATV use. The land exchange agreement was intended in part ''to resolve the longstanding dispute over subsistence use of ATVs only on public lands in and around Anaktuvuk Pass.'' H.R. Rep. No. 104–8 (1995). However, the land exchange agreement did not ''conf[i]rm or deny that ATV access to public lands for subsistence use is a statutorily protected traditional access right under ANILCA,'' and did ''not purport to resolve this issue.'' *Id.* Accordingly, the dispute over whether ORVs, including ATVs, may be used in Gates continued. Local residents of Anaktuvuk Pass contend the ATV access granted by the 1992 Agreement is insufficient for Anaktuvuk Pass residents who rely on subsistence uses, in part, because caribou herds now migrate further west and south of the village. As a result, local residents have reported that the subsistence hunters of Anaktuvuk Pass are unable to reach the caribou needed to feed their community because they are prohibited from using ORVs within the boundaries of Gates where the caribou now frequently congregate during hunting season.

On May 16, 2026, Secretary of the Interior Doug Burgum issued a Memorandum concluding that:

> NPS's 1986 interpretation is inconsistent with ANILCA's broader statutory context regarding the continuance of subsistence uses. . . . The better reading of the term ''traditionally employed'' in Section 811(b) is one that allows for the continuation of surface transportation means that were in use for subsistence purposes at the time of Gates' creation. This interpretation is bolstered by ANILCA's legislative history as well as the agency interpretations associated with ANILCA implementing regulations enacted in 1981.

The Memorandum concludes that information contained in several studies from the mid- to late-1980s ''demonstrates that ORVs were used for subsistence purposes in Gates before its establishment.'' The Memorandum adopted technical corrections to the GMP that removed language that adopted the NPS's previous interpretation of ''traditional'' in the 1986 Memorandum. The language of the GMP was revised to state that in Gates, ''the use of ORVs for subsistence is allowed because the use has been shown to be a traditional means of access.''

Proposed Rule

Purpose for the Rule

The NPS is proposing to amend the special regulations for Gates to codify in NPS regulations that, for purposes of implementing section 811(b) of ANILCA, off-road vehicles (ORV) used by local rural residents of Anaktuvuk Pass constitute a means of surface transportation traditionally employed for subsistence purposes. This rule would codify technical corrections made to the 1986 GMP for Gates that reversed a previous conclusion that ORVs did not meet the dictionary definitions of ''traditional'' and were thus prohibited for subsistence purposes in Gates. This prohibition had confined local residents of Anaktuvuk pass to areas where subsistence uses were unreachable and only certain types of ORVs were allowed. As stated in a Memorandum issued by Secretary Burgum on May 16, 2026, that made the technical corrections to the GMP, the prohibition was based on a misreading of ANILCA, including lack of consideration of ANILCA's statutory purpose. The Memorandum directed NPS to ''complete a regulatory process in consultation with key stakeholders within six months of this decision to

enact the minimal regulations that may be necessary to avoid adverse impacts.'' This rule would implement that direction by establishing a process by which the Superintendent can establish reasonable mitigation measures on the use of ORVs for subsistence purposes by local rural residents of Anaktuvuk Pass, but only when such use is causing or likely to cause an adverse impact.

The purpose of this proposed rule is to provide regulatory certainty and clarity regarding use of ORVs for subsistence purposes in Gates consistent with Federal law. This proposed rule implements ANILCA's affirmative protections for subsistence access within the specific factual circumstances present in Gates, where the residents of Anaktuvuk Pass rely extensively on subsistence resources for food security and cultural continuity. It reflects NPS's determination, based on the text of ANILCA, Congress's findings and statements of policy, the legislative history of Title VIII, and documented longstanding use of ORVs by residents of Anaktuvuk Pass, that ORVs constitute a means of surface transportation traditionally employed for subsistence purposes within the meaning of Section 811(b). This rule does not create a new subsistence access right. Rather, it provides a clear regulatory framework governing the exercise of an existing statutory right recognized and protected by ANILCA, as further explained below.

Consistency With ANILCA

The NPS's 1986 Memorandum was based on a misinterpretation of the phrase ''traditionally employed'' in ANILCA as explained in the Secretary's May 16, 2026, Memorandum. To reach the conclusion that ORV use was not ''traditionally employed,'' NPS looked to dictionary definitions of the word ''traditional'' rather than considering the meaning of ''traditionally employed'' in the context of ANILCA, the purpose behind the statute, the history of the peoples and lands, and the priority placed on subsistence uses. The dictionary definitions, generic definitions without the unique context of Alaska and ANILCA, employed concepts like ''successive generations,'' ''[c]ultural continuity embodied in a massive complex of evolving social attitudes, beliefs,'' and ''[a]n inherited or established way of thinking, feeling or doing.'' Based on this context-less definition, the NPS concluded in 1986 that ORV use was not ''traditional'' and prohibited its use, thereby cutting off the community of Anaktuvuk Pass from rights preserved by ANILCA that should have been recognized with the passage of that Act.

The NPS's 1986 interpretation was inconsistent with ANILCA's broader statutory context regarding the continuance of subsistence uses. Congress generally sought to preserve the status quo with respect to subsistence with a focus on its continuation. The better reading of the term ''traditionally employed'' under Section 811(b) is one that allows for the continuation of surface transportation means that were in use, for some decades, for subsistence purposes at the time of Gates' creation. This interpretation is bolstered by ANILCA's legislative history. The section-by-section analysis in the Senate Committee on Energy and Natural Resources report for the bill that became ANILCA stated that the text of ANILCA Section 811 ''recognize[d] the importance of'' snowmobiles and motorboats. S. Rep. No. 96–413 at 275 (1979). Those means of access were not singled out as the exclusive means of subsistence access, but rather, as illustrative examples of ''means of surface transportation traditionally employed.''

Applying the correct interpretation of ANILCA Section 811 within the greater context of ANILCA requires the conclusion that ORV use was ''traditionally employed'' by local rural residents of Anaktuvuk Pass given the extensive factual record of that use as explained above. This proposed rule would codify the technical corrections to the GMP made by the Secretary's May 16, 2026, Memorandum in order to foster consistency and certainty for the residents of Anaktuvuk Pass who rely on subsistence uses for village life and well-being, consistent with the requirements of ANILCA.

In addition to codifying the proper interpretation of ''traditionally employed'' made by the Secretary's Memorandum, this rule allows the NPS to take reasonable mitigation measures consistent with ANILCA. Section 811(b) of ANILCA provides that ''use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents'' is subject to ''reasonable regulation.'' 16 U.S.C. 3121(b). Such regulation should be narrowly tailored and minimally burdensome to accomplish ANILCA's statutory mandate, as stated in Section 811(a) of ANILCA, that the Secretary shall ''ensure that rural residents engaged in subsistence uses have reasonable access to subsistence resources on the public lands.'' 16 U.S.C. 3121(b). Specific to Gates, Section 201(4) of ANILCA expressly requires NPS to permit subsistence uses by local residents in Gates where such uses are traditional.

Regulations governing subsistence uses in National Park System units in Alaska are in 36 CFR part 13, subpart F. These regulations authorize closure and restrictions of subsistence uses under certain conditions across all Alaska park areas, but specific System units have regulations tailored to the circumstances of subsistence use in those units. The management approach to implementing mitigation measures that is proposed in this rule is tailored to the specific statutory, factual, and geographic circumstances of Anaktuvuk Pass within Gates.

Consistent with the isolated location of Anaktuvuk Pass, the absence of road access, the community's reliance on subsistence resources, and the limited number of local residents engaged in such activities, the NPS has determined that the general regulatory framework found in 36 CFR 13.460 for prohibitions and closures on subsistence ORV use is not the management approach best suited to these circumstances. Rather, the NPS has determined that a narrowly tailored regulatory framework is appropriate here because it protects access required by ANILCA while preserving the agency's authority to address demonstrated adverse impacts when supported by specific facts and evidence.

This approach would allow the NPS and the residents of Anaktuvuk Pass to work together to manage the critical resources of Gates, combining local traditional knowledge and empirical science, for all of its purposes as directed by Congress in Section 201(4)(a) of ANILCA.

In developing this proposed rule, the NPS recognizes the importance of consultation with key stakeholders including the Nunamuit people, the community of Anaktuvuk Pass, and associated entities and has engaged with stakeholders accordingly. The current regulatory process reflects continued consultation, coordination, and cooperation with the local community and stakeholders that will persist through this regulator process and beyond. DOI is seeking comment on the proposed rule. In particular, DOI is interested in information about the number of ORVs in use annually in Gates for subsistence purposes and information about the expected change as a result of this proposed regulation. DOI also requests comments on the costs and benefits of the proposed rule.

Elements of the Rule

The rule adds a new section 13.1005 to 36 CFR part 13, subpart M, Special

Regulations—Gates of the Arctic National Park and Preserve. The title of this section is ''Off-road vehicle use for subsistence purposes in Gates of the Arctic National Park and Preserve.''

Paragraphs (a), (b), and (c) of § 13.1005 would codify the technical change made by the Secretary's May 16, 2026, Memorandum. Paragraph (a) would establish that operating a motor vehicle off road in Gates is prohibited except by authorized residents engaged in subsistence uses as already defined in 36 CFR 13.420. ''Authorized residents'' would be defined as local rural residents of Anaktuvuk Pass, reflecting the unique needs of this small, land-locked, rural community. Paragraph (b) would provide that ORVs constitute a means of surface transportation traditionally employed for subsistence purposes by authorized residents of Anaktuvuk Pass and that such use is permitted pursuant to section 811(b) of ANILCA. Paragraph (c) would address the scope of that use for subsistence purposes.

Paragraphs (d), (e), and (f) of § 13.1005 would establish specific requirements that must be met before the superintendent can establish reasonable mitigation measures to avoid adverse impacts from subsistence ORV use by local rural residents of Anaktuvuk Pass.

Paragraph (d) would provide an operating standard, requiring that the authorized use be conducted in a manner that prevents waste or unnecessary damage to park resources, avoids the herding, harassment, hazing or driving of wildlife, and is reasonably related to lawful subsistence uses.

Paragraph (e) would place certain limitations on ORV use. It would establish a presumption in favor of ORV uses for subsistence purposes as defined in the rule and allow the implementation of reasonable mitigation measures (including closures) to address impacts of such use as long as that mitigation does not require authorized residents to incur unreasonable costs. This paragraph also would establish procedures for the imposition of mitigation measures. Paragraph (e)(1) would provide that the need for mitigation measures must be based on clear evidence that the use is causing or likely to cause an adverse impact. The rule would require the Superintendent to develop a written determination that articulates why the impact is an adverse impact and explains why the mitigation measures are the least restrictive measures capable of mitigating the identified adverse impact. The rule would require that the written determination be supported by specific and articulable facts in the administrative record. Paragraph (e)(2) would require the Superintendent to provide authorized residents notice of proposed mitigation measures 30 days in advance. The rule would require that the notice contain the information required in (e)(1), be published in the **Federal Register** and otherwise disseminated through means of notification reasonably expected to reach authorized residents, and invite authorized residents to consult with the Superintendent. Paragraph (e)(3) would require consultation with authorized residents and hold one public hearing before implementing the mitigation measures. Paragraph (e)(4) would provide that the Superintendent may issue a final written determination following the consultation and 30-day advance notice period providing that the final determination contains the information required in (e)(1) and explains why the findings have not changed since the initial notice. The rule also would require that the final determination address input from authorized residents and allow continuing reasonable access by ORV to subsistence resources during the mitigation period. Paragraph (e)(5) would allow mitigation measures to be imposed, with the concurrence of the Regional Director, to address an emergency situation without advance notice or consultation provided that such emergency mitigation measures must expire after 45 days. The rule would require that notice of an emergency mitigation measure be provided to authorized residents as soon as practicable after implementation of the mitigation measure.

Paragraph (f) of the rule would clarify that nothing in the new § 13.1005 authorizes recreational ORV use. Paragraph (g) would explain that the regulations in the rule would govern if there is a conflict with prior agency policy or park planning documents concerning whether the ORVs are traditionally employed for subsistence use in Gates. Paragraph (h) of the rule would define ''adverse impact'' as a direct significant impact to public health and safety, resources, historic or scientific values, subsistence uses, or endangered or threatened species. This paragraph also would require that adverse impacts be currently occurring or reasonably foreseeable.

Compliance With Other Laws, Executive Orders, and Department Policy

Regulatory Planning and Review (Executive Orders 12866 and 14192)

This rule has been determined to be significant for purposes of Executive Order 12866. The NPS will determine whether this rule is an Executive Order 14192 deregulatory action after consideration of public comments.

Regulatory Flexibility Act

This proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). No small entities would be directly regulated by this rule, which would codify the allowance of subsistence ORV use by local rural residents of Anaktuvuk Pass in NPS regulations, and establish specific requirements that must be met before the superintendent can establish reasonable mitigation measures to avoid adverse impacts from such use. This action is not expected to have adverse economic effects on any sector, including small entities. For these reasons, the NPS certifies that this rule would not have a significant economic impact on a substantial number of small entities; therefore, a regulatory flexibility analysis is not required.

Congressional Review Act

This proposed rule, if finalized, is not anticipated to be a major rule under 5 U.S.C. 804(2). This proposed rule:

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

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

(c) Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531) requires that agencies assess whether a rule would impose a Federal mandate that may result in the expenditure by State, local, and Tribal governments in the aggregate, or by the private sector of $100,000,000 or more (adjusted annually for inflation) in any 1 year. As of 2025, that threshold is approximately $206 million (2024 dollars). This rule would not result in expenditures by State, local, or Tribal

governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

Takings (Executive Order 12630)

This proposed rule would not effect a taking of private property or otherwise have takings implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this proposed rule would not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. This rule would only affect use of federally administered lands and waters. It would have no direct effects on other areas. A federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This proposed rule complies with the requirements of Executive Order 12988. This proposed rule:

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

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

Consultation With Alaska Native Tribes and Alaska Native Corporations (Executive Order 13175 and Department Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. The NPS has evaluated this proposed rule under the criteria in Executive Order 13175 and under the Department's consultation policy and has tentatively concluded that this rule would not have substantial direct effects on Alaska Native Tribes or Alaska Native Corporation lands, water areas, or resources. Additionally, the Department requests comments on the proposed rule.

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

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

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

A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. This rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA. The NPS has determined that changes in this rule are categorically excluded under the DOI NEPA Handbook Appendix § 2 (February 2026), § 12.5A(10), which covers modifications or revisions to existing regulations, or the promulgation of new regulations for NPS-administered areas, provided the modifications, revisions or new regulations do not: (a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it; (b) introduce noncompatible uses which might compromise the nature and characteristics of the area, or cause physical damage to it; (c) conflict with adjacent ownerships or land uses; or (d) cause a nuisance to adjacent owners or occupants. The NPS will document the application of this categorical exclusion to this rule.

Effects on the Energy Supply (Executive Order 13211)

This proposed rule is not a significant energy action under the definition in Executive Order 13211; this proposed rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy, and this proposed rule has not otherwise been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. A Statement of Energy Effects in not required.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 13 as set forth below:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 3101 *et seq.;* 54 U.S.C. 100101, 100751, 320102; Sec. 13.1204 also issued under Pub. L. 104–333, Sec. 1035, 110 Stat. 4240, November 12, 1996.

■ 2. Add § 13.1005 to subpart M as follows:

§ 13.1005 Off-road vehicle use for subsistence purposes in Gates of the Arctic National Park and Preserve.

(a) *General prohibition.* Operating a motor vehicle off road in Gates of the Arctic National Park and Preserve is prohibited except by authorized residents as defined in this section when engaged in subsistence uses as defined by § 13.420 of this part. For purposes of this subpart, ''authorized residents'' means local rural residents of Anaktuvuk Pass.

(b) *Permitted use.* For purposes of implementing section 811(b) of ANILCA, off-road vehicles constitute a means of surface transportation traditionally employed for subsistence purposes by authorized residents. As a result, off-road vehicles are permitted to be used by authorized residents for subsistence purposes in Gates of the Arctic National Park and Preserve.

(c) *Scope of use.* Vehicles authorized under paragraph (b) of this section may be used for subsistence uses defined by § 13.420 of this part.

(d) *Operating standard.* Use authorized by this section must be conducted in a manner that:

(1) Prevents waste or unnecessary damage to park resources;

(2) Avoids the herding, harassment, hazing, or driving of wildlife; and

(3) Is reasonably related to lawful subsistence uses.

(e) *Limitations on off-road vehicle use.* The regulations contained in this section establish a presumption in favor of the subsistence uses described in this section. The Superintendent may require the implementation of reasonable mitigation measures (including closures) to address impacts of off-road vehicle use authorized by this section, which do not cause local authorized residents to incur unreasonable costs. Mitigation measures may only be required in compliance with the following procedures:

(1) The need for mitigation measures must be based upon clear evidence that such use is causing or is likely to cause an adverse impact as defined in paragraph (h) of this section. In support of any such measures, the Superintendent must develop a written determination that:

(i) Articulates why the impact supporting the need for mitigation measures constitutes an adverse impact as defined in paragraph (h) of this section;

(ii) Articulates why the mitigation measures are the least restrictive measures capable of mitigating the identified adverse impact; and

(iii) Is supported by specific, articulable facts in the administrative record.

(2) The Superintendent must provide authorized residents with notice of proposed mitigation measures at least 30 days prior to requiring such measures. The notice must:

(i) Contain the information required in paragraph (e)(1);

(ii) Be published in the **Federal Register** and disseminated through means of notification reasonably expected to reach authorized residents; and

(iii) Invite authorized residents to consult with the Superintendent consistent with paragraph (e)(3).

(3) Prior to implementing mitigation measures to address adverse impacts defined in paragraph (h), the Superintendent must participate in meaningful consultation with authorized residents, to include at least one public hearing.

(4) Following consultation and the 30-day notice period, the Superintendent may issue a final written determination requiring compliance with the proposed mitigation measures, provided that the final determination must:

(i) Contain the information required in paragraph (e)(1) and explain why the Superintendent's findings have not changed since issuance of the notice required by paragraph (e)(2);

(ii) Address input from authorized residents provided during the consultation process; and

(iii) Allow continuing reasonable use of off-road vehicles for subsistence purposes during the mitigation period.

(5) Mitigation measures may be imposed, with the concurrence of the Regional Director, to address an emergency situation without advance notice or consultation and shall expire after 45 days. Notice of a mitigation measure to address an emergency situation must be provided to authorized residents as soon as practicable after implementation of the mitigation measure.

(f) *No recreational authorization.* Nothing in this section authorizes recreational off-road vehicle use.

(g) *Relationship to other authorities.* This section implements sections 201(4)(a) and 811 of ANILCA for Gates of the Arctic National Park. In the event of a conflict between this section and prior agency policy or park planning documents concerning whether the vehicles described in paragraph (b) are traditionally employed for subsistence use in Gates, this section governs.

(h) *Definition of adverse impact.* For purposes of this section, ''adverse impact'' means a direct significant impact to public health and safety, resources, historic or scientific values, subsistence uses, or endangered or threatened species. For purposes of this section, adverse impacts to Gates of the Arctic National Park and Preserve must be currently occurring or reasonably foreseeable and cannot be based on impacts that are remote, speculative, dependent on uncertain future events, based on generalized climatic patterns, or derived from any type of modeling.

(i) *Applicability.* The regulations in this section apply notwithstanding any other provision contained in this chapter.

Dated: October 14, 2026.

Kevin J. Lilly,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2026–21300 Filed 10–16–26; 8:45 am]

BILLING CODE 4312–52–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2024–0600; FRL–13422–01–R9]

Air Quality Plan; Arizona; Agricultural Best Management Practices Rules for the West Pinal County PM_{10} Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to approve a revision to the Arizona Department of Environmental Quality (ADEQ or ''State'') portion of the Arizona State Implementation Plan (SIP). This revision concerns emissions of particulate matter (PM) that are 10 micrometers (μm) or smaller in diameter (PM_{10}) from agricultural crop and animal operations in the West Pinal County PM_{10} nonattainment area. We are proposing to approve two local rules to regulate these emission sources under the Clean Air Act (CAA or ''Act'').

DATES: Comments must be received on or before November 18, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2024–0600 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Alina Batool, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; telephone number: (415) 972–3345; email address: *batool.alina@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA. We use multiple abbreviations and terms in this proposed rule. While this list may not be exhaustive, for ease of reading and for reference purposes, the EPA defines the following terms and acronyms here:

AAC—Arizona Administrative Code
ADEQ—Arizona Department of Environmental Quality
AgBMP—agricultural best management practices
A.R.S.—Arizona Revised Statures
BACM—best available control measures
BMP—best management practices
CAA—Clean Air Act
CBI—confidential business information
CFR—Code of Federal Regulations
EPA—Environmental Protection Agency
NAAQS—national ambient air quality standards
PM—particulate matter
PM_{10}—particulate matter less than 10 μm in diameter
SIP—State Implementation Plan
TSD—technical support document

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I. Executive Summary

A. What Action is the EPA Taking?

The EPA is proposing to approve an August 13, 2026, SIP submittal from Arizona that requests to add two rules to the Arizona SIP. The rules relate to Arizona's Agricultural Best Management Practices (AgBMP) program and are from the Arizona Administrative Code (AAC): Title 18, Chapter 2, Section 610.03, ''Agricultural PM General Permit for Crop Operations; Pinal County PM Nonattainment Area,'' amended April 2, 2026 (''R18–2–610.03''), and R18–2–611.03, ''Agricultural PM General Permit for Animal Operations: Pinal County PM Nonattainment Area,'' amended April 2, 2026 (''R18–2–611.03''). These rules only apply within the West Pinal County PM_{10} nonattainment area within Pinal County, Arizona, and were submitted to support the State's attainment plan for the area, including the requirement to meet the Best Available Control Measures (BACM) requirement. Previously, the EPA proposed, but did not finalize, a limited approval and limited disapproval of earlier versions of these two rules.[1] The rules were recently revised by Arizona's AgBMP Committee and we are now proposing to fully approve them under the CAA.

R18–2–610.03 regulates PM_{10} emissions from commercial crop operations in the West Pinal County PM_{10} nonattainment area. R18–2–611.03 regulates PM_{10} emissions from commercial dairy operations, beef cattle feedlots, commercial poultry facilities, and commercial swine facilities in the West Pinal County PM_{10} nonattainment area. Both rules require operators to implement best management practices (BMPs) selected from regulatory menus to reduce fugitive PM_{10} emissions from their operations. If finalized as proposed, R18–2–610.03 and R18–2–611.03 would be incorporated into the federally enforceable portion of the Arizona SIP.

B. What is the legal authority and what are the requirements?

We are taking this proposed action under section 110 of the CAA. Pursuant to CAA section 110(a), States are required to submit SIPs to the EPA that provide for the implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS). CAA section 110(k) requires SIPs to meet certain procedural requirements and requires the EPA to approve or disapprove SIP submissions. CAA section 110(l) requires States to provide public notice and an opportunity for public hearing of SIP revisions prior to their submittal and prohibits the EPA from approving any SIP revisions that would interfere with attainment or maintenance of a NAAQS, reasonable further progress, or other applicable requirements of the CAA. If a SIP submittal meets all the applicable CAA requirements, then the EPA must approve the submittal under CAA section 110(k)(3).

For this submittal to be approved, we must consider CAA requirements related to the emission limitations in the submitted rules. CAA sections 110(a)(2)(A) and 302(k) require emission limitations in the SIP to be enforceable and continuous, respectively. CAA section 172(c)(6) requires SIPs for nonattainment areas ''include enforceable emission limitations, and such other control measures means or techniques . . . as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of such standard in such area by the applicable attainment date . . . .'' Also, 40 CFR part 51, subpart K requires SIPs to contain legally enforceable procedures for monitoring the status of compliance with the requirements in the control strategy. While these rules were submitted to meet BACM requirements under CAA section 189(b)(1)(B), we are not evaluating them for BACM in this action. The EPA will evaluate BACM in an upcoming action on the attainment plan for the West Pinal County PM_{10} nonattainment area.

We are proposing that this submittal meets all applicable CAA requirements and are proposing to fully approve it under CAA section 110(k)(3).

II. Background

R18–2–610.03 and R18–2–611.03 regulate emissions of PM, including PM_{10}, which contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control PM emissions, as necessary to meet the requirements of the Act.

Previously, on January 17, 2025, we proposed a limited approval and limited disapproval of earlier versions of R18–2–610.03 and R18–2–611.03 (''January 2025 AgBMP proposal''), finding that the rules strengthened the SIP but identifying enforceability and rule clarity concerns.[2] Following that proposal, the Arizona AgBMP Committee revised both rules and ADEQ resubmitted them to the EPA. The updated rules are the subject of this proposal.

The January 2025 AgBMP proposal also included proposing to fully approve two related AgBMP definitions rules and the AgBMP statute: AAC R18–2–610, ''Definitions for R18–2–610.01, R18–2–610.02, and R18–2–610.03,'' amended November 26, 2021; AAC R18–2–611, ''Definitions for R18–2–611.01, R18–2–611.02, and R18–2–611.03,'' amended November 26, 2021; and A.R.S. section 49–457. These provisions are not addressed in this proposed rulemaking, and we are not requesting comment on them.

We intend to concurrently finalize action on the January 2025 AgBMP proposal with our final action on this rulemaking.

III. Summary of Arizona's Submittal

On August 13, 2026, ADEQ submitted R18–2–610.03 and R18–2–611.03 to the EPA for approval into the Arizona SIP. Table 1 of this document lists the rules addressed by this proposal with the dates that they were adopted by the Arizona Agricultural Best Management Practices (AgBMP) Committee and submitted to the EPA by the ADEQ.

[1] 90 FR 5790 (Jan. 17, 2025).

[2] 90 FR 5790 (Jan. 17, 2025).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
ADEQ	AAC R18–2–610.03	Agricultural PM General Permit for Crop Operations; Pinal County PM Nonattainment Area.	April 2, 2026	August 13, 2026.
ADEQ	AAC R18–2–611.03	Agricultural PM General Permit for Animal Operations; Pinal County PM Nonattainment Area.	April 2, 2026	August 13, 2026.

Under CAA section 110(k)(1), the EPA must determine whether a SIP submittal meets the minimum completeness criteria established in 40 CFR part 51, appendix V for an official SIP submittal on which the EPA is obligated to take action. We find that the ADEQ's August 13, 2026 SIP submittal for AAC R18–2–610.03 and AAC R18–2–611.03 meets the completeness criteria in 40 CFR part 51 Appendix V. These rules apply within the West Pinal County PM_{10} nonattainment area in Pinal County, Arizona, that is classified as ''Serious'' nonattainment for the PM_{10} NAAQS. R18–2–610.03 regulates PM_{10} emissions from commercial crop operations in the West Pinal County PM_{10} nonattainment area. R18–2–611.03 regulates PM_{10} emissions from commercial dairy operations, beef cattle feedlots, commercial poultry facilities, and commercial swine facilities in the West Pinal County PM_{10} nonattainment area. Both rules require operators to implement BMPs selected from regulatory menus to reduce fugitive PM_{10} emissions from their operations.

We approved an earlier version of R18–2–610.03 into the Arizona SIP on May 1, 2017.[3] The State has specified that the present submission of R18–2–610.03 is intended to replace this previously-approved version of R18–2–610.03 in the SIP. This submission was also intended to supersede the version of the rule that was submitted on March 3, 2023. R18–2–611.03 was initially adopted by the Arizona AgBMP Committee on November 26, 2021 and submitted to the EPA on March 3, 2023. The State has withdrawn that version of the rule and has requested us to include in the SIP the April 2, 2026 version of the rule instead.

IV. The EPA's Evaluation of Arizona's Submittal

A. How is the EPA evaluating the submittal?

Emission limitations in the SIP must be enforceable and continuous, and SIP revisions must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements.[4] Additionally, 40 CFR part 51, subpart K requires SIPs to contain enforceable procedures for monitoring the status of compliance with the requirements in the control strategy. Our evaluation considered relevant guidance and policy documents.[5]

The West Pinal County nonattainment area is classified as Serious for the PM_{10} NAAQS.[6] Generally, SIPs for Serious PM_{10} nonattainment areas must implement BACM, including Best Available Control Technology.[7] This evaluation is generally performed in the context of a broader attainment plan. Accordingly, we will not evaluate these rules for BACM as part of this proposed action and will instead do so in a separate, upcoming planning action for the West Pinal PM_{10} nonattainment area.

B. Does the submittal meet the evaluation criteria?

We evaluated these rules to ensure they meet CAA requirements and are consistent with relevant guidance regarding enforceability and SIP revisions.

With respect to emission limitations being enforceable and continuous, the revised rules specify clear requirements, providing regulatory certainty to the regulated community. The rules' implementation details are also sufficient for State enforcement, and emission limits apply on a continuous basis. The resubmitted rules require annual, non-anonymous reporting of BMP selections and certifications directly to ADEQ (or through the Arizona Department of Agriculture as an optional intermediary for crop operations), with form contents that include identifying BMP selections for the upcoming year, area and crop/operation identification, and certification of prior-year implementation. These requirements enable ADEQ to identify which BMPs each operator has committed to implement, verify implementation during inspections, and document noncompliance on an individual operator basis. These revisions strengthen the clarity and enforceability of the rules, address the concerns identified in our January 2025 AgBMP proposal, and meet the relevant CAA enforceability requirements.

With respect to SIP revisions under CAA section 110(l), approval of the revised rules would not interfere with any applicable CAA requirements, including requirements for reasonable further progress and attainment. R18–2–610.03 is more stringent than the current SIP-approved version of R18–2–610.03, requiring two BMPs per category, adding new BMP categories, and adding a new 20 percent opacity limit for high-traffic unpaved areas. R18–2–611.03 is a new rule with respect to the Arizona SIP and is thus a substantial strengthening. The rules do not interfere with any other relevant CAA requirements. The EPA's technical support document (TSD) has more information about these rules.

Based on our review, the rules meet the relevant CAA requirements.

C. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the CAA, the EPA proposes to approve the submitted rules because they fulfill all relevant requirements. We will accept comments from the public on this proposal until November 18, 2026. If we finalize approval, our final action will incorporate these rules into the federally enforceable SIP.

Specifically, the EPA is proposing to approve AAC R18–2–610.03, ''Agricultural PM General Permit for Crop Operations; Pinal County PM Nonattainment Area,'' and AAC R18–2–

[3] 82 FR 20267 (May 1, 2017).

[4] *See,* respectively, CAA sections 110(a)(2) and 172(c)(6), 302(k), and 110(l).

[5] *See,* ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (Apr. 16, 1992); 57 FR 18070 (Apr. 28, 1992); ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook); ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (Aug. 16, 1994); ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993; and ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,'' EPA 450/2–92–004, September 1992.

[6] 40 CFR 81.303.

[7] *See* CAA section 189(b)(1)(B).

611.03, ''Agricultural PM General Permit for Animal Operations; Pinal County PM Nonattainment Area,'' as revised on April 2, 2026, and submitted by ADEQ on May 15, 2026. If we finalize this proposed approval, the April 2, 2026 version of AAC R18–2–610.03 will replace the previously SIP-approved version of this rule,[8] and AAC R18–2–611.03 will be newly added to the Arizona SIP.

This proposed approval supersedes, with respect to AAC R18–2–610.03 and AAC R18–2–611.03, the proposed limited approval and limited disapproval of earlier versions of these rules from the 2025 AgBMP proposal. This proposal does not change our analysis and proposal with respect to A.R.S. section 49–457, AAC R18–2–610, or AAC R18–2–611 from the January 2025 AgBMP proposal.

V. Incorporation by Reference

In this document, the EPA is proposing to include in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference AAC R18–2–610.03, ''Agricultural PM General Permit for Crop Operations; Pinal County PM Nonattainment Area,'' amended April 2, 2026, which regulates PM_{10} emissions from commercial crop operations in the West Pinal County PM_{10} nonattainment area; and AAC R18–2–611.03, ''Agricultural PM General Permit for Animal Operations; Pinal County PM Nonattainment Area,'' as revised April 2, 2026, which regulates PM_{10} emissions from commercial dairy operations, beef cattle feedlots, poultry facilities, and swine facilities in the West Pinal County PM_{10} nonattainment area. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes approval of State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this proposed action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

[8] 82 FR 20267 (May 1, 2017).

Dated: October 14, 2026.

Michael Martucci,

Acting Regional Administrator, Region IX.

[FR Doc. 2026–21289 Filed 10–16–26; 8:45 am]

BILLING CODE 6569–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2026–5581; FRL–13513–01–R9]

Air Quality Plan; Arizona; Pinal County Air Quality Control District; West Pinal County PM_{10} Nonattainment Area; Fugitive Dust Rules

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to approve revisions to the Pinal County Air Quality Control District (PCAQCD or ''District'') portion of the Arizona State Implementation Plan (SIP). These revisions concern emissions of particulate matter (PM) that is 10 micrometers or smaller in diameter (PM_{10}) from fugitive dust sources, including open areas/vacant lots, unpaved lots, unpaved roads, paved public roadways, and construction sites. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act (CAA or ''Act'').

DATES: Comments must be received on or before November 18, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2026–5581 at *https://www.regulations.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Alina Batool, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; telephone number: (415) 972–3345; email address: *batool.alina@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA. We use multiple abbreviations and terms in this proposed rule. While this list may not be exhaustive, for ease of reading and for reference purposes, the EPA defines the following terms and acronyms here:

ADEQ—Arizona Department of Environmental Quality
BACM—best available control measures
CAA—Clean Air Act
CBI—confidential business information
CFR—Code of Federal Regulations
EPA—Environmental Protection Agency
IBR—incorporation by reference
MSM—most stringent measures
NAAQS—national ambient air quality standards
PCAQCD—Pinal County Air Quality Control District
PM—particulate matter
PM_{10}—particulate matter 10 micrometers or smaller in diameter
RACT—reasonably available control technology
RACM—reasonably available control measures
SIP—State Implementation Plan
TFV—threshold friction velocity
TSD—technical support document

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I. Executive Summary

A. What action is the EPA taking?

The EPA is proposing to approve a February 13, 2023 SIP submittal from Arizona that includes amendments to fugitive dust rules and related test methods for the West Pinal County portion of the Arizona SIP. Table 1 lists the new or amended rules from the submittal that we are proposing to approve from the PCAQCD Code of Regulations.

TABLE 1—PCAQCD RULES SUBMITTED FOR SIP-APPROVAL

Rule section	Rule title	Adopted/amended	Submitted
Chapter 4, Article 1: West Pinal PM_{10} ''Serious'' NAA Fugitive Dust			
4–1–010	General Applicability	1/25/2023	2/13/2023
4–1–015	Exemptions	1/25/2023	2/13/2023
4–1–020	Definitions	1/25/2023	2/13/2023
4–1–030	Standards	1/25/2023	2/13/2023
4–1–040	Recordkeeping	1/25/2023	2/13/2023
4–1–045	Reporting Requirements	1/25/2023	2/13/2023
4–1–050	Records Retention	1/25/2023	2/13/2023
4–1–060	Violations	1/25/2023	2/13/2023
Chapter 4, Article 3: Construction Sites—Fugitive Dust			
4–3–160	General Provisions—West Pinal PM_{10} Nonattainment Area	1/25/2023	2/13/2023
4–3–170	Definitions	1/25/2023	2/13/2023
4–3–180	Dust Generating Operations—Standards, Application, Permit, Record-keeping and Training Requirements.	1/25/2023	2/13/2023
Chapter 4, Article 9: Test Methods			
4–9–310	Test Methods for Stabilization for Unpaved Shoulders and Medians of Paved Roads.	1/25/2023	2/13/2023

These revisions were submitted to support Arizona's attainment plan for the West Pinal County PM_{10} nonattainment area, including to meet requirements for Best Available Control Measures (BACM) and Most Stringent Measures (MSM). The rules from PCAQCD, Code of Regulations, Chapter 4, Article 1, Sections 4–1–010, 4–1–015, 4–1–020, 4–1–030, 4–1–040, 4–1–045, 4–1–050, and 4–1–060, ''West Pinal PM_{10} Serious NAA Fugitive Dust,'' (''Article 1'') regulate PM and PM_{10} emissions from ''non-traditional'' sources of fugitive dust: open areas/vacant lots, vehicle use in open areas/vacant lots, weed abatement, unpaved lots, unpaved roads, and paved public roadways. The rules from PCAQCD, Code of Regulations Chapter 4, Article 3, Sections 4–3–160, 4–3–170, and 4–3–180 ''Construction Sites—Fugitive Dust,'' (''Article 3'') regulate PM and PM_{10} emissions from dust generating activities performed at construction sites. Finally, the rule from PCAQCD, Code of Regulations Chapter 4, Article 9, Section 4–9–310 ''Test Methods,'' (''Article 9'') establishes test methods that are relied upon by Articles 1 and 3 for determining compliance with rule requirements. Additionally, we are proposing to approve the rescission of PCAQCD, Code of Regulations, Chapter 4, Article 3, Section 4–3–190, ''Violations,'' adopted October 28, 2015, (''Section 4–1–190'') from the SIP.

If finalized as proposed, the rules listed in Table 1 of this document will be incorporated into the federally enforceable portion of the Arizona SIP and Section 4–3–190 will be removed from the Arizona SIP.

B. What is the legal authority and what are the requirements?

We are proposing this action under section 110 of the CAA. Pursuant to CAA section 110(a), States are required to submit SIPs to the EPA that provide for the implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS). CAA section 110(k) requires SIPs to meet certain procedural requirements and requires the EPA to approve or disapprove SIP submissions. CAA section 110(l) requires States to provide public notice and an opportunity for public hearing of SIP revisions prior to their submittal and prohibits the EPA from approving any SIP revisions that would interfere with attainment or maintenance of a NAAQS, reasonable further progress, or other applicable requirements of the CAA. If a SIP submittal meets all the applicable CAA requirements, then the EPA must approve the submittal under CAA section 110(k)(3).

For this submittal to be approved, we must consider CAA requirements related to the emissions limitations in the submitted rules. CAA sections 110(a)(2)(A) and 302(k) require emissions limitations in the SIP to be enforceable and continuous, respectively. CAA section 172(c)(6) requires SIPs for nonattainment areas ''include enforceable emissions limitations, and such other control measures means or techniques . . . as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of such standard in such area by the applicable attainment date . . . .'' Also, 40 CFR part 51, subpart K, requires SIPs to contain legally enforceable procedures for monitoring the status of compliance with the requirements in the control strategy. Finally, while these rules were submitted to meet BACM requirements under CAA section 189(b)(1)(B) and MSM requirements under CAA section 188(e), we are not evaluating them for BACM or MSM in this rulemaking action. We will evaluate BACM and MSM in a separate **Federal Register** notice in the context of the broader attainment plan action for the West Pinal County PM_{10} nonattainment area.

We are proposing that this submittal meets all applicable CAA requirements and are proposing to fully approve it under CAA section 110(k)(3).

II. Background

A. PM_{10} NAAQS

The EPA establishes the NAAQS for certain ambient air pollutants at levels required to protect public health and welfare. Emissions of PM_{10} contribute to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Accordingly, the EPA revised the NAAQS for particulate matter on July 1, 1987, replacing the standards for total suspended particulates, which are particles 30 micrometers or smaller in diameter, with new standards applying only to PM_{10}.[1] In revising the NAAQS for particulate matter, we established a 24-hour standard of 150 micrograms per cubic meter ($\mu g/m^3$), as well as an annual standard that was subsequently revoked in 2006.[2]

B. Area Description

On May 31, 2012, the EPA designated a portion of state lands in western Pinal County, Arizona, as nonattainment for the 1987 $p.m._{10}$ NAAQS.[3] The West Pinal County PM_{10} nonattainment area encompasses approximately 1,325 square miles lying within a basin characterized by low desert valleys between the Phoenix and Tucson metropolitan areas. It includes all or portions of the incorporated cities and towns of Apache Junction, Casa Grande, Coolidge, Eloy, Florence, Queen Creek, and Maricopa, with a population of approximately 343,788 based upon July 1, 2017 U.S. Census Bureau data. Average elevation in the nonattainment area is 1,403 feet above sea level, with elevations of up to 6,441 feet directly east of the nonattainment area, which becomes more mountainous.

The West Pinal County PM_{10} nonattainment area was originally classified as ''Moderate'' nonattainment on May 31, 2012, with an attainment date of December 31, 2018. CAA section 188(b)(2) requires the EPA to determine whether a PM_{10} nonattainment area classified as Moderate has attained the 1987 24-hour PM_{10} NAAQS by the area's attainment date. If the EPA determines that a Moderate area has not attained the NAAQS by the relevant attainment date, then the area shall be reclassified as a Serious area by operation of law. On June 24, 2020, we took final action to determine that the West Pinal County PM_{10} nonattainment area did not attain the 1987 24-hour PM_{10} NAAQS, and as a result, it was reclassified to Serious nonattainment by operation of law.[4]

III. Summary of Arizona's Submittal

A. What did Arizona submit?

On February 13, 2023, the Arizona Department of Environmental Quality (ADEQ) submitted amended rules from PCAQCD to the EPA for approval into the West Pinal County portion of the Arizona SIP. The rule amendments were adopted by PCAQCD on January 25, 2023, and submitted to support Arizona's attainment plan for the West Pinal County PM_{10} nonattainment area. Table 1 of this document lists the adopted and/or amended rules that were submitted and that we are proposing to approve into the SIP. The submittal also requests to rescind Section 4–3–190, which was repealed by the Pinal County Board of Supervisors on January 25, 2023.[5] Additionally, the submittal requests that we approve Section 4–3–320, ''Test Methods for Stabilization for Unpaved Roads and Unpaved Parking Lots,'' adopted on June 3, 2009, (''Section 4–3–320'') and 4–3–340, ''Visual Opacity Test Methods,'' adopted on June 3, 2009, (''Section 4–3–340''). On August 13, 2023, this submittal was deemed by operation of law to be complete. We have reviewed the submittal to ensure it meets the completeness criteria in 40 CFR part 51, appendix V.

B. Are there other related submittals or actions?

We approved earlier versions of the rules in Article 1 and Article 3 into the SIP in 2017.[6] If we finalize this rulemaking as proposed, then the January 25, 2023 versions of the rules from Article 1 and Article 3, as listed in Table 1 of this document, will replace the previously approved versions in the SIP.

Regarding test methods from Article 9, Section 4–9–310, ''Test Methods for Stabilization for Unpaved Shoulders and Medians of Paved Roads,'' adopted on January 25, 2023, (''Section 4–9–310'') has not been previously approved into the SIP. However, in 2010, we previously approved the currently submitted versions of Sections 4–9–320 and 4–9–340.[7] That is, Sections 4–9–320 and 4–9–340 are already approved into the SIP, and no further action from the EPA is needed related to the current

[1] 52 FR 24634 (Jul. 1, 1987).

[2] 71 FR 61144 (Oct. 17, 2006).

[3] 77 FR 32024 (May 31, 2012). The boundaries for the West Pinal County nonattainment area are described in 40 CFR 81.303.

[4] 85 FR 37756 (Jun. 24, 2020).

[5] Resolution No. 012523–AQ.

[6] 82 FR 20267 (May 1, 2017). These earlier versions were adopted by PCAQCD on October 28, 2015, and submitted to the EPA on December 21, 2015.

[7] 75 FR 17307 (Apr. 6, 2010).

request to approve them into the SIP. PCAQCD has not amended these rules locally.

Finally, PCAQCD repealed Section 4–3–190 that we previously approved into the SIP in 2017.[8]

IV. The EPA's Evaluation of Arizona's Submittal

A. How is the EPA evaluating the submittal?

Emission limitations in the SIP must be enforceable, continuous, and must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements.[9] Additionally, 40 CFR part 51, subpart K, requires SIPs to have enforceable procedures for monitoring the status of compliance with the requirements in the control strategy.

The PCAQCD regulates a PM_{10} nonattainment area classified as Serious for the 1987 24-hour PM_{10} NAAQS. In Serious nonattainment areas, SIPs must implement BACM, including Best Available Control Technology.[10] In addition, because Arizona is seeking a five-year extension of the attainment date, the SIP must also implement MSM.[11] These evaluations are included in the context of the broader attainment plan rulemaking and are not included in this rulemaking. In this rulemaking, we are evaluating these rules for approval into the SIP under CAA section 110 requirements.

Our evaluation also relies on relevant guidance and policy documents to evaluate enforceability and revisions/relaxation requirements.[12]

B. Do the submittals meet the evaluation criteria?

We evaluated these rules to ensure they meet CAA requirements and are consistent with relevant guidance regarding enforceability and SIP revisions.

1. Article 1 Rules

Article 1 applies to ''non-traditional'' fugitive dusts sources in the West Pinal County PM_{10} nonattainment area: open areas/vacant lots, vehicle use in open areas/vacant lots, unpaved lots, weed abatement and/or trash removal, unpaved roads, and paved public roadways. Affected owners and operators are required to implement control measures that will meet visible emission and surface stabilization standards. Compliance with stabilization and visible emission standards are determined through applicable test methods in Article 9.

Each of the regulated activities has specific standards and control measures that must be met. For visible emission standards, either a 20 percent opacity limit applies or visible emissions, including fugitive dust, are prohibited from going beyond the property line. Owners and operators choose the stabilization standard they will meet from a list of options, such as maintaining a soil crust, meeting a minimum threshold friction velocity (TFV)[13] limit, covering the area with a certain percentage of vegetative cover, or meeting silt loading[14] limits. Owners and operators then choose a control measure to implement for each regulated activity from a menu of options, such as establishing vegetative cover, applying dust suppressants, applying water, restoring the area to an undisturbed native condition, establishing barriers to prevent unauthorized vehicle access, paving parking lots, and applying and maintaining surface gravel. Additionally, disturbed surface areas of 0.10 acres (4,356 square feet) or greater must sign up to receive the Pinal County Dust Control Forecast and ensure control measures are implemented on the day prior and day of a high dust risk forecast.

Article 1 includes a new standard for paving existing unpaved roadways. Beginning January 1, 2024, each city, county, or state agency with primary responsibility for any existing unpaved road within the West Pinal County PM_{10} nonattainment area was required to annually pave an average of 20 percent of unpaved roads within the agency's jurisdiction.[15] Further, if the EPA determines the West Pinal County PM_{10} nonattainment area failed to make reasonable further progress, or to attain the PM_{10} NAAQS by the attainment date, the rules include a contingency measure where any public unpaved road with average daily trips of 26 or more will have a speed limit of 15 miles per hour.

For paved public roads, Article 1 establishes new standards by requiring street sweeping to be done by certified street sweepers and establishing paved road development standards that specify minimum surface stabilization standards for road shoulders.

Each person subject to Article 1 is required to compile and retain records that provide evidence of control measure application (*i.e.,* receipts and/or purchase records). The records must describe the type of treatment or control measure, extent of coverage, and date applied. Records must be available to the District upon request and maintained for at least two years. Agencies subject to the road paving requirement must submit annual progress reports by January 30 of each year related to the annual road paving requirements and the number of paved roads with unpaved shoulders.

Overall, the visible emission limits, stabilization standards, and control measures are tailored to minimizing fugitive dust from each type of regulated activity, result in continuous emissions limitations, and the associated recordkeeping and reporting requirements are sufficient to meet the enforceability requirements of CAA sections 110(a)(2)(A) and 172(c)(6) and 40 CFR part 51, subpart K. The amendments strengthen the existing SIP, consistent with CAA section 110(l), by expanding existing control measures, such as lowering applicability thresholds, adding or revising visible emission standards, establishing clear timelines for when control measures must be implemented, clarifying that control measures are considered to be implemented when the associated visible emission and/or stabilization standards are met, and adding new control measures for paved and unpaved roads. Because they meet all applicable CAA requirements, we propose approving the rules from Article 1 into the Arizona SIP.

2. Article 3 Rules

Article 3 applies to fugitive dusts sources at construction sites within the

[8] 82 FR 20267 (May 1, 2017).

[9] *See,* CAA sections 110(a)(2), 302(k) and 110(l), respectively.

[10] CAA section 189(b)(1)(B).

[11] CAA section 188(e).

[12] *See,* ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (Apr. 16, 1992); 57 FR 18070 (Apr. 28, 1992); ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook); ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (Aug. 16, 1994); ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993; and ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,'' EPA 450/2–92–004, September 1992.

[13] TFV relates to a material's susceptibility to erosion from wind. Materials with a higher TFV are less susceptible to wind erosion and are associated with lower fugitive dust emissions.

[14] ''Silt'' refers to aggregate material (dirt, sand, rock) that has a particle size of 75 micrometers or less. ''Silt loading'' refers to the concentration of silt on unpaved surfaces. Higher silt loading, that is, higher concentrations of smaller particles, is associated with higher fugitive dust emissions.

[15] Up to a maximum of 5 cumulative miles for each agency.

West Pinal County PM_{10} nonattainment area. Affected owners and operators are required to implement control measures and meet visible emission standards and surface stabilization standards for dust generating activities. Additionally, owners or operators are required to obtain a dust permit when dust-generating operations at construction sites disturb a total surface area of 0.10 acres (4,356 square feet) or more. All permit applications must contain a dust control plan that identifies all control measures to be implemented before, after, and while conducting any dust-generating operation.

Sites with a dust control permit must: for each project of 5 or more acres, have a project information sign that identifies how the public can file a dust complaint to the District; meet dust control training requirements once every three years from the District; except in certain high wind conditions, implement all control measures necessary to maintain soil stability; implement control measures specified for each type of activity, such as active areas, demolition, weed abatement, trackout, site grade preparation, trenching, and haul roads; limit dust generated on the property to 20 percent opacity, and ensure no visible emissions, including fugitive dust, go beyond the property line; install no trespassing signs for project sites when activities cease for 30 or more days at a time; and, on a high dust risk day, continue to implement control measures that maintain compliance with the applicable standards or cease dust-generating activities and ensure disturbed surface areas are stablized for the day. Construction sites that do not require a dust control permit are subject to the same general control measures, visible emission standards, and stabilization requirements but are not subject to signage and dust control training requirements. Similar to Article 1, owners and operators subject to Article 3 choose from a menu of options to meet control measure requirements and surface stabilization standards.

Any person who conducts dust-generating operations that require a dust control permit is required to keep written records of self-inspection on each day dust-generating operations are conducted. Self-inspection records include daily inspections for crusted or damp soil, trackout conditions and clean-up measures, daily water usage for dust control measures, and dust suppressant application. Any person who conducts dust-generating operations that do not require a dust control permit must maintain records that provide evidence of control measure application, by indicating the type of treatment or control measure, extent of coverage, and date applied. Records are required to be maintained for two years, except for construction sites at a facility with a title V operating permit, which must maintain records for five years.

Overall, the dust control permit requirements, visible emission limits, stabilization standards, and control measures are tailored to minimizing fugitive dust for each type of regulated activity, result in continuous emission limitations, and associated recordkeeping requirements are sufficient to meet the enforceability requirements of CAA sections 110(a)(2)(A) and 172(c)(6) and 40 CFR part 51, subpart K. The amendments would strengthen the existing SIP in several ways, consistent with CAA section 110(l), including adding a visible emission standard that prohibits visible emissions from going beyond the property line, adding signage requirements and dust control operator training requirements, specifying the threshold for obtaining a dust control permit, specifying the dust generating activities that are required to implement control measures, specifying the types of control measures that apply to each type of dust generating activity, specifying that control measures must be implemented at all times, and requiring daily records of actions to reduce fugitive dust. Because they meet all applicable CAA requirements, we are proposing to approve the rules from Article 3 into the Arizona SIP.

3. Rescission of Section 4–3–190

Previously, if certain conditions were met, Section 4–3–190 provided an exemption from the requirements of Article 3 during high wind conditions and emergency maintenance of flood control channels and water retention basins. The rule amendments adopted by the District to Article 3 on January 25, 2023, incorporate requirements that apply during these circumstances within other provisions of Article 3 such that removal of this section would not relax any existing SIP requirement and is consistent with CAA section 110(l).[16] Therefore, we are proposing to approve this rescission request.

[16] *See,* Section 4–3–180.I.2.b, contains required control measures during high wind events, Section 4–3–170.20, adds a definition for ''high wind conditions,'' and Section 4–3–160.A.5.i is a comparable exemption for emergency maintenance of flood control channels, conditioned on implementation of all permitted control measures.

4. Article 9 Rules

Section 4–9–310 establishes test methods to determine whether unpaved shoulders and medians of paved roads meet applicable surface stabilization standards. It includes an opacity test method, silt loading test method, and gravel depth and silt content test method. These test methods are used to determine compliance with stabilization standards in Article 1 and 3.

Based upon our evaluation, these test methods are enforceable and consistent with comparable test methods established in Federal requirements and SIP-approved fugitive dust rules in other States. We consider their use with Articles 1 and 3 to be an appropriate application of the test methods. The test methods ensure the associated emission limits will meet the enforceability requirements of CAA sections 110(a)(2)(A) and 172(c)(6) and 40 CFR part 51, subpart K, strengthen the SIP, and would not interfere with any other CAA requirements, consistent with CAA section 110(l). Because the rule meets all applicable CAA requirements, we are proposing to approve Section 4–9–310 into the Arizona SIP.

As stated above in section III.B, the EPA is not acting on Sections 4–9–320 and 4–9–340 from the state's submittal in this action. These rules are already approved into the SIP and PCAQCD has not amended them locally, so no further action is needed.

5. Conclusions

Based on our review, the rules proposed for approval, as listed in Table 1 of this document, and the proposed rescission of Section 4–3–190 meet the relevant CAA requirements. The technical support documents (TSDs) for each article (Articles 1, 3, and 9) have more information on our evaluation and are available in the docket for this rulemaking.

C. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve Arizona's February 13, 2023 SIP submittal, including approving the rules listed in Table 1 of this document into the Pinal County portion of the Arizona SIP and the rescission of Section 4–3–190 from the SIP, because they fulfill all relevant requirements. We will accept comments from the public on this proposal until November 18, 2026. If finalized as proposed, our final action will incorporate the rules listed in Table 1 of this document into the federally enforceable SIP and Section 4–3–190 will be removed from the SIP.

V. Incorporation by Reference

In this document, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference PCAQD, Code of Regulations, Chapter 4, Article 1, Sections 4–1–010, ''General Applicability;'' 4–1–015, ''Exemptions;'' 4–1–020, ''Definitions;'' 4–1–030, ''Standards;'' 4–1–040, ''Recordkeeping;'' 4–1–045, ''Reporting Requirements;'' 4–1–050, ''Records Retention;'' and 4–1–060, ''Violations;'' as amended on January 25, 2023, which regulate fugitive dust emissions from open areas/vacant lots, unpaved lots, weed abatement, unpaved roads, and paved public roadways in the West Pinal County Serious PM_{10} Nonattainment Area. The EPA is also proposing to incorporate by reference PCAQD, Code of Regulations, Chapter 4, Article 3, Sections 4–3–160, ''General Provisions—West Pinal PM_{10} Nonattainment Area;'' 4–3–170, ''Definitions;'' and 4–3–180 ''Dust Generating Operations: Standards, Application, Permit, Recordkeeping and Training Requirements'' as amended on January 25, 2023, which regulate fugitive dust emissions from construction sites in the West Pinal County Serious PM_{10} Nonattainment Area. The EPA is also proposing to incorporate by reference PCAQD, Code of Regulations, Chapter 4, Article 9, Section 4–9–310, ''Test Methods for Stabilization for Unpaved Shoulders and Medians of Paved Roads,'' as adopted on January 25, 2023, which establishes test methods used to determine compliance with requirements for dust generating activities contained in PCAQD, Code of Regulations, Chapter 4, Articles 1 and 3. The EPA has made, and will continue to make, these materials available through *https://www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, February 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 14, 2026.

Michael Martucci,

Acting Regional Administrator, Region IX.

[FR Doc. 2026–21287 Filed 10–16–26; 8:45 am]

BILLING CODE 6569–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2026–5119; FRL–13482–01–R9]

Approval and Promulgation of Implementation Plans—Pinal County (Part); West Pinal, AZ PM_{10} Nonattainment Area; Moderate Area, Serious Area, and Section 189(d) Plan for Attainment of the 24-Hour PM_{10} Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Arizona to meet Clean Air Act (CAA or ''Act'') requirements applicable to the Pinal County (Part); West Pinal PM_{10} nonattainment area (''West Pinal County PM_{10} Nonattainment Area''). The EPA is proposing to find that the submitted SIP revision meets all applicable ''Moderate'' area, ''Serious'' area, and CAA section 189(d) requirements for the PM_{10} national ambient air quality standards (NAAQS). Additionally, the EPA is proposing to approve the PM_{10} motor vehicle emissions budgets included with the SIP revision for transportation conformity purposes. The EPA is also starting the adequacy process for these budgets. Our proposed approval of the SIP revision would establish an attainment date of December 31, 2026, for the area.

DATES: Comments must be received on or before November 18, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2026–5119 at *https://www.regulations.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment.

The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Jennifer Williams, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By telephone: (213) 244–1824, or by email at *williams.jennifer@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this proposed rule, the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple abbreviations and terms in this proposed rule. While this list may not be exhaustive, for ease of reading and for reference purposes, the EPA defines the following terms and acronyms here:

ADEQ Arizona Department of Environmental Quality
BACM Best Available Control Measures
BACT Best Available Control Technology
CAA Clean Air Act
CBI Confidential Business Information
EI Emissions Inventory
EPA U.S. Environmental Protection Agency
FHWA Federal Highway Administration
FTA Federal Transit Administration
MAG Maricopa Association of Governments
$\mu g/m^3$ Micrograms per Cubic Meter
MPO Metropolitan Planning Organization
NAAQS National Ambient Air Quality Standards
NEI National Emission Inventory
NH_3 Ammonia
NO_X Oxides of Nitrogen
PCAQCD Pinal County Air Quality Control District
PM Particulate Matter
PM_{10} Particulate Matter with a Diameter of Ten Microns or Less
RACM Reasonably Available Control Measures
RFP Reasonable Further Progress
SIP State Implementation Plan
SO_2 Sulfur Dioxide
TSD Technical Support Document
VOC Volatile Organic Compounds
VMT Vehicle Miles Traveled
West Pinal County Pinal County (Part); West Pinal

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I. Executive Summary

A. What proposed action is the EPA taking?

The EPA is proposing to approve a SIP revision submitted by the State of Arizona to meet all Moderate area, Serious area, and CAA section 189(d) requirements applicable to the West Pinal County PM_{10} Nonattainment Area for the PM_{10} NAAQS. The EPA is also proposing to approve the PM_{10} motor vehicle emissions budgets included with the SIP revision for transportation conformity purposes and is starting the adequacy process for these budgets.

B. What is the legal authority and what are the requirements?

CAA sections 188 and 189 contain specific planning and control requirements relevant to the PM_{10} NAAQS while CAA sections 110 and 172 contain general planning and control requirements for all nonattainment plans.

The EPA is proposing approval of the baseline and attainment year emission inventory requirements of CAA section 172(c)(3), the BACM demonstration requirements of CAA section 189(b)(1)(B), the RACM demonstration requirements of CAA sections 189(a)(1)(C) and 172(c)(1), the attainment demonstration requirements of CAA sections 189(d) and 179(d)(3), the five percent demonstration requirements of CAA section 189(d), the reasonable further progress and quantitative milestone demonstration requirements of CAA sections 172(c)(2) and 189(c), the contingency measures requirements of CAA section 172(c)(9), and the motor vehicle emissions budgets as meeting the criteria for budgets in CAA section 176(c) and 40 CFR 93.118(e). The EPA is also starting the adequacy process for these budgets under 40 CFR 93.188(f).

II. PM_{10} Air Quality Planning in the West Pinal County PM_{10} Nonattainment Area

The NAAQS are standards for certain ambient air pollutants set by the EPA to protect public health and welfare. Particulate matter with a diameter of ten microns or less (PM_{10}) is among the ambient air pollutants for which the EPA has established health-based standards. PM_{10} causes adverse health effects by penetrating deep in the lungs, aggravating the cardiopulmonary system. Children, the elderly, and people with asthma and heart conditions are the most vulnerable.

On July 1, 1987, the EPA revised the health-based NAAQS for particulate matter, establishing two PM_{10} standards, an annual standard and a 24-hour standard.[1] Effective December 18, 2006, the EPA revoked the annual PM_{10} standard but retained the 24-hour PM_{10} standard.[2] The 24-hour PM_{10} standard of 150 micrograms per cubic meter ($\mu g/m^3$) is attained when the expected number of days with a 24-hour average concentration above 150 $\mu g/m^3$ per calendar year averaged over a three-year period, as determined in accordance with appendix K to 40 CFR part 50, is equal to or less than one.[3]

On May 31, 2012, the EPA designated a portion of State lands in Pinal County, Arizona (''West Pinal County'') as nonattainment for the 1987 PM_{10} NAAQS based on 2006–2008 data.[4] West Pinal County is located in central Arizona, southeast of the Phoenix metropolitan area and northwest of the city of Tucson. Pinal County covers 5,365 square miles and has two distinct western and eastern regions with

[1] 52 FR 24672 (July 1, 1987).
[2] 71 FR 61144 (Oct. 17, 2006).
[3] 40 CFR 50.6 and 40 CFR part 50, appendix K.
[4] 77 FR 32024 (May 31, 2012). The boundaries for the West Pinal County PM_{10} Nonattainment Area are described in 40 CFR 81.303.

different characteristics relevant to pollution formation. The West Pinal County PM_{10} Nonattainment Area is located within the western region, characterized by low desert valleys and an arid climate. The eastern region is mountainous, with elevations up to 6,441 feet. The West Pinal County PM_{10} Nonattainment Area encompasses all land geographically located within Pinal County west of the north-south line defined by the boundary between Townships 10E and 11E, but excluding the main reservation of the Tohono O'odham Nation and excluding the Apache Junction portion of the existing Phoenix PM_{10} nonattainment area.

As a result of the nonattainment designation, the West Pinal County PM_{10} Nonattainment Area was classified as a Moderate PM_{10} nonattainment area with an attainment date of as expeditiously as practicable, but no later than December 31, 2018. The Arizona Department of Environmental Quality (ADEQ) submitted a SIP revision intended to meet the Moderate PM_{10} nonattainment requirements on December 21, 2015 (''2015 West Pinal Plan'').

On June 24, 2020, the EPA determined that West Pinal County PM_{10} Nonattainment Area did not attain the 1987 PM_{10} NAAQS by December 31, 2018.[5] Pursuant to CAA section 188(b)(2), the area was reclassified to ''Serious'' nonattainment with an attainment date of as expeditiously as practicable, but no later than December 31, 2022.[6]

On January 8, 2021, the EPA proposed to disapprove the 2015 West Pinal Plan.[7] On May 17, 2021, ADEQ withdrew the 2015 West Pinal Plan, with the exception of several rules and statutes that had been approved into the SIP in 2017.[8] Consequently, the EPA did not finalize the actions proposed on January 8, 2021, with respect to the Moderate area plan requirements. Instead, on July 23, 2021, the EPA found that Arizona had failed to submit a plan to address these requirements.[9]

On May 31, 2022, ADEQ adopted and submitted the ''2022 Serious Area Particulate Plan for PM_{10} for the West Pinal County Nonattainment Area'' (''2022 West Pinal Plan''),[10] as a revision to the Arizona SIP.[11] In addition to addressing the Moderate and Serious area plan requirements, the 2022 West Pinal Plan included a request for an extension of the December 31, 2022 attainment date pursuant to CAA section 188(e). On November 30, 2022, the EPA issued a letter finding the 2022 West Pinal Plan complete under CAA section 110(k).[12] However, the EPA did not approve the Plan or the attainment date extension request. On May 19, 2025, ADEQ withdrew the 2022 West Pinal Plan.[13]

On July 21, 2023, the EPA determined that the West Pinal County PM_{10} Nonattainment Area did not attain the 1987 PM_{10} NAAQS by the December 31, 2022 Serious area attainment date.[14] Pursuant to CAA section 189(d), Arizona was required to submit a revision to the SIP for the West Pinal County PM_{10} Nonattainment Area by December 31, 2023.

On November 29, 2023, the Maricopa Association of Governments (MAG) adopted the ''2023 Five Percent Particulate Plan for PM–10 for the West Pinal County Nonattainment Area'' (''2023 Five Percent Plan'' or ''Plan''). On December 14, 2023, ADEQ submitted the 2023 Five Percent Plan on behalf of MAG.[15] The EPA reviewed the submission for completeness under our completeness criteria in 40 CFR part 51, appendix V and determined that the submittal meets these minimum criteria on June 14, 2024.[16] The EPA is proposing approval of the submission as meeting the requirements of CAA section 189(d) as well as Moderate and Serious area requirements.

III. Overview of Applicable CAA Requirements

As a Serious PM_{10} nonattainment area that failed to attain the NAAQS by its applicable attainment date of December 31, 2022, the West Pinal County PM_{10} Nonattainment Area is subject to the requirements of CAA section 189(d). In addition, because the EPA has not previously approved a Moderate or a Serious area plan for the West Pinal County PM_{10} Nonattainment Area, the area is also required to demonstrate that it has met the requirements associated with these classifications.

CAA section 189(d) provides that the State shall ''submit within 12 months after the applicable attainment date, plan revisions that provide for attainment of the PM_{10} air quality standard and, from the date of such submission until attainment, for an annual reduction of PM_{10} or PM_{10} precursor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for the area.''

The general planning and control requirements for all nonattainment plans are found in CAA sections 110 and 172. More specific planning and control requirements relevant to the PM_{10} NAAQS are found in part D, subpart 4, in CAA sections 188 and 189. The EPA has issued a General Preamble [17] and Addendum to the General Preamble [18] to provide guidance to States for meeting the CAA's requirements for the PM_{10} NAAQS. The General Preamble mainly addresses the requirements for Moderate nonattainment areas and the Addendum addresses the requirements for Serious nonattainment areas. The EPA has also issued other guidance documents

[5] 85 FR 37756 (June 24, 2020).

[6] *Id.*

[7] 86 FR 1347 (Jan. 8, 2021).

[8] Letter dated May 17, 2021, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Deborah Jordan, Acting Regional Administrator, EPA Region IX, Subject: ''RE: Withdrawal from EPA Consideration of the 2015 Arizona State Implementation Plan Revision: West Pinal County PM_{10} Nonattainment Area.''

[9] 86 FR 38928 (July 23, 2021).

[10] West Pinal PM_{10} Plan, Appendix E, Exhibit 2, Resolution to Adopt the 2022 Serious Area Particulate Plan for PM–10 for the West Pinal County Nonattainment Area.

[11] Letter dated May 31, 2022, from Daniel Czecholinski, Director, Air Quality Division, ADEQ, to Martha Guzman, Regional Administrator, EPA Region IX, Subject: ''Arizona State Implementation Plan Revision, Maricopa Association of Governments 2022 Serious Area Particulate Plan for PM–10 for the West Pinal County Nonattainment Area.''

[12] Letter dated November 30, 2022, from Elizabeth J. Adams, Director, Air and Radiation Division, EPA Region IX, to Misael Cabrera, Director, ADEQ, Subject: ''Completeness Finding for State Implementation Plan (SIP) Submission for West Pinal County for the 1987 PM_{10} National Ambient Air Quality Standards (NAAQS) and Termination of Clean Air Act (CAA) Sanctions Clocks.''

[13] Letter dated May 15, 2025, from Daniel Czecholinkski, Director, Air Quality Division, ADEQ to Josh F.W. Cook, Regional Administrator, EPA Region IX, Subject: ''Withdrawal from EPA Consideration of the 2022 Serious Area Particulate Plan for PM_{10} for the West Pinal County Nonattainment Area.''

[14] 88 FR 47026 (July 21, 2023).

[15] Letter dated December 13, 2023, from Hether Krause, Deputy Director, Air Quality Division, ADEQ to Martha Guzman, Regional Administrator, EPA Region IX, Subject: ''Arizona State Implementation Plan Revision, Maricopa Association of Governments 2023 Five Percent Particulate Plan for PM–10 for the West Pinal County Nonattainment Area.''

[16] Letter dated June 14, 2024, from Mathew Lakin, Director, Air and Radiation Division, EPA Region IX to Karen L. Peters, Cabinet Executive Officer, ADEQ, Subject: ''Re: Completeness Finding for the State Implementation Plan (SIP) Submission for the West Pinal Nonattainment Area for the 1987 PM_{10} National Ambient Air Quality Standards (NAAQS).''

[17] ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (Apr. 16, 1992) (''General Preamble'') and 57 FR 18070 (Apr. 28, 1992).

[18] ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (Aug. 16, 1994) (''Addendum'').

related to PM_{10} plans that are discussed and cited below. The specific PM_{10} attainment planning requirements addressed by this SIP submission are summarized below.

A. Emissions Inventories

CAA section 172(c)(3) requires a ''base year inventory'' that is a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the area. The plan should also include a second projected attainment year inventory for the year that the area is projected to attain the PM_{10} standards.

B. PM_{10} Precursors

CAA section 189(e) requires that the control requirements for major stationary sources of direct PM_{10} also apply to major stationary sources of PM_{10} precursors, except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels that exceed the standard in the area. While CAA section 189(e) expressly requires control of precursors from major stationary sources, subpart 4 and other CAA provisions collectively require the control of direct PM_{10} and PM_{10} precursors from all types of sources (*i.e.,* stationary sources, area sources and mobile sources) as may be needed for the purposes of demonstrating attainment as expeditiously as practicable in a given nonattainment area.[19]

C. Best Available Control Measures and Reasonably Available Control Measures Demonstration

CAA section 189(b)(1)(B) requires that Serious area PM_{10} attainment plans provide for the implementation of best available control measures (BACM) within four years of reclassification to Serious. Because the Serious area attainment date of December 31, 2022, has passed, and the EPA found that the area failed to attain by the Serious area attainment date,[20] we are evaluating the submission for compliance with the BACM requirements now, in conjunction with the State's SIP submission intended to meet the Moderate area, Serious area, and CAA section 189(d) plan requirements. Furthermore, because the EPA has not previously taken action to approve the SIP as meeting the subpart 4 reasonably available control measures (RACM) Moderate area planning requirements under CAA section 189 for the West Pinal County PM_{10} Nonattainment Area, the EPA is reviewing the 2023 Five Percent Plan for compliance with those requirements as well.[21]

D. CAA Section 189(d) Attainment Demonstration and Five Percent Requirement

For Serious PM_{10} nonattainment areas that do not attain the PM_{10} NAAQS by the applicable attainment date, CAA section 189(d) requires the State to submit plan revisions that provide for attainment of the NAAQS (*i.e.,* an attainment demonstration) as expeditiously as practicable, but no later than five years from the publication date of the notice of a nonattainment finding. The plan must also provide for an annual five percent reduction in PM_{10} or PM_{10} precursor emissions for each year from the date of submission until attainment. CAA section 189(d) specifies that the State must submit these plan revisions within 12 months of the applicable attainment date that the area failed to meet.

E. Reasonable Further Progress and Quantitative Milestones

CAA section 172(c)(2) requires that implementation plans demonstrate reasonable further progress (RFP) as defined in CAA section 171(1). CAA section 171(1) defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part [part D of title I] or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' The general RFP requirement of CAA section 172(c)(2) applies to SIP submissions necessary to meet CAA section 189(d) for the PM_{10} NAAQS.

In addition, CAA section 189(c)(1), specifically applicable to the PM_{10} NAAQS, requires that an implementation plan contain quantitative milestones that will be achieved every three years and that will demonstrate that RFP is being met.

F. Contingency Measures

CAA section 172(c)(9) requires that implementation plans provide for ''the implementation of specific measures to be undertaken if the area fails to make reasonable further progress, or to attain the NAAQS by the attainment date applicable under this part [part D of title I]. Such measures are to take effect in any such case without further action by the State or the Administrator.'' The contingency measure requirement of CAA section 172(c)(9) applies to the SIP submissions necessary to meet CAA section 189(d) for the PM_{10} NAAQS.

G. Transportation Conformity and Motor Vehicle Emissions Budgets

Transportation conformity is required by CAA section 176(c). The conformity regulations found at 40 CFR part 93, subpart A require that transportation plans, programs, and projects conform to the purpose of the SIP and establish the criteria and procedures for determining whether or not they do so. Conformity to the purpose of the SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. Once a SIP that contains motor vehicle emissions budgets (''budgets'') has been submitted to the EPA, and the Agency has found them adequate, these budgets are used for determining conformity: emissions from planned transportation activities must be less than or equal to the budgets.[22]

H. Adequate Authority

CAA section 110(a)(2)(E)(i) requires that implementation plans provide necessary assurances that the State (or the general purpose local government or regional agency designated by the State for this purpose) will have adequate personnel, funding and authority under State law to carry out the requirements of such plan. Requirements for legal authority are further defined in 40 CFR part 51, subpart L (51.230–51.232) and for resources in 40 CFR 51.280. States and responsible local agencies must also demonstrate that they have the legal authority to adopt and enforce provisions of the SIP and to obtain information necessary to determine compliance.

[19] *See* CAA requirements for States to demonstrate attainment ''as expeditiously as practicable,'' CAA sections 188(c)(1) and 172(a)(1).

[20] *See* note 13.

[21] The EPA does not normally conduct a separate evaluation to determine whether a Serious area plan's measures also meet the RACM requirements. As explained in the Addendum to the General Preamble, we interpret the BACM requirement as generally subsuming the RACM requirement—*i.e.,* if we determine that the measures are indeed the ''best available,'' we have necessarily concluded that they are ''reasonably available.'' (Addendum to the General Preamble, 42010). Therefore, a separate analysis to determine if the measures represent a RACM level of control is not necessary. A proposed approval of a Plan's provisions concerning implementation of BACM is also a proposed finding that the Plan provides for the implementation of RACM.

[22] *See* 40 CFR 93.118(a) to (e).

IV. Evaluation of the 2023 Five Percent Plan's Compliance With CAA Requirements

A. Emissions Inventories

CAA section 172(c)(3) requires all nonattainment area plans to include a base year emissions inventory that is a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the area at issue. Also, the State should submit a projected attainment year emissions inventory for the year in which the State projects that the area will attain the PM_{10} standards. The EPA's emission inventory guidance provides recommendations on how to develop and document emission inventories.[23]

The 2023 Five Percent Plan uses a 2017 base year emissions inventory for Pinal County (''2017 PM_{10} Inventory'') as a starting point in the analysis. The 2017 PM_{10} Inventory was developed by ADEQ, Pinal County Air Quality Control District (PCAQCD), and MAG. The 2017 PM_{10} Inventory included emissions from point sources (permitted sources), nonpoint sources (area sources), nonroad mobile sources, and on-road mobile sources. This emission inventory is sufficiently comprehensive, covering all sources of PM_{10} that have been found to be important sources of relevant emissions in this and other PM_{10} nonattainment areas.

The 2017 PM_{10} Inventory shows that the most significant sources of annual emissions in the West Pinal County PM_{10} Nonattainment Area are unpaved road dust: private roads (31.5 percent), unpaved road dust: agricultural roads (24.7 percent), unpaved road dust: public roads (16.2 percent), windblown dust (9.0 percent), tilling and harvesting (5.0 percent), feedlots (3.3 percent), and construction (2.7 percent). The annual and daily PM_{10} emissions inventories and the emission estimation methodologies used to develop the 2017 PM_{10} Inventory are described in detail in Appendix A, Exhibit 1 of the 2023 Five Percent Plan.

In general, the base year emissions inventory represents the emissions contributing to the air quality problem addressed by the SIP revision. Because the EPA's final rule determining that the West Pinal County PM_{10} Nonattainment Area failed to attain the PM_{10} standard by its attainment date used 2020–2022 monitoring data to make its determination, a year that is included within that time period and the triennial schedule of the National Emission Inventory (NEI) would generally be an appropriate base year. While the 2020 NEI year would have been the most recent such year to consider at the time of this plan's development, due to COVID-related emissions anomalies, the 2023 Five Percent Plan concludes that 2020 was not an appropriate inventory year. The base year, 2017, was chosen as it is a reasonably current NEI year, and the most recent NEI year available that was not 2020 at the time of plan development.

The 2017 PM_{10} Inventory includes only primary PM_{10} emissions and does not include emissions for PM_{10} precursors. As described in section IV.B of this document, MAG determined that precursors do not play a significant role in the PM_{10} exceedances in the West Pinal County PM_{10} Nonattainment Area and the EPA's analysis supports this conclusion.

The 2023 Five Percent Plan includes a 2026 projected attainment year emissions inventory (''attainment year inventory'') that was developed using annual PM_{10} emissions under implementation of Moderate area (existing) controls from the 2017 base year inventory through 2021 and Serious area controls from 2022 through 2026. Emission growth factors were developed for each source category relative to 2017 (growth or decline) and applied based on factors including, but not limited to, forecasted total population growth and vehicle miles traveled (VMT). Control reductions were then applied as appropriate, based on category-specific control effectiveness estimates for each individual measure. The resulting 2026 attainment year inventory was then provided for each source category and in total.[24]

In developing the emissions inventories, MAG followed the EPA's 2017 EI Guidance and recommendations regarding the use of emission factors, activity estimates, and control factors, and the other source-specific inventory development methodologies. The relative accuracy of each estimate underwent the prescribed quality assurance procedures, documented in the State's emissions inventory preparation plan.[25]

The EPA's analysis indicates the inventories are sufficiently accurate for the purposes of the 2023 Five Percent Plan. Because we find that the inventory is current, comprehensive, and accurate, we propose to approve the 2017 PM_{10} base year inventory and 2026 attainment year inventory under CAA section 172(c)(3).

B. PM_{10} Precursors

The provisions of subpart 4 of part D, title I of the CAA do not define the term ''precursor'' for purposes of PM_{10}, nor do they explicitly require the control of any specific particulate matter (PM) precursor. The statutory definition of ''air pollutant'' in CAA section 302(g), however, provides that the term ''includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term 'air pollutant' is used.'' The EPA has identified sulfur dioxide (SO_2), oxides of nitrogen (NO_X), volatile organic compounds (VOC), and ammonia (NH_3) as precursors to the formation of PM.[26] Accordingly, a State must include emissions of direct PM and these four precursors in emissions inventories and must control emissions from sources of all of these pollutants, unless the State demonstrates to the EPA's satisfaction that control of one or more of these pollutants is not needed for expeditious attainment of the NAAQS in the nonattainment area at issue.

On December 11, 2025, the EPA published a final notice approving the portion of the Arizona SIP that addresses the CAA section 189(e) requirement regarding precursor emissions from major stationary sources of PM_{10} for the purpose of nonattainment new source review in the West Pinal County PM_{10} Nonattainment Area.[27]

Regarding the remaining plan requirements, the 2023 Five Percent Plan contains a demonstration that precursors do not significantly contribute to PM_{10} exceedances in the West Pinal County PM_{10} Nonattainment Area.[28] The EPA has evaluated this demonstration and included a detailed analysis in the West Pinal PM_{10} Modeling Technical Support Document (''EPA's Modeling TSD'').[29] The EPA proposes to find that precursors do not significantly contribute to PM_{10} exceedances in the West Pinal County PM_{10} Nonattainment Area, and thus that the area is not required to regulate

[23] *See* ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,'' EPA, May 2017 (''2017 EI Guidance'').

[24] 2023 Five Percent Plan, Appendix B, Exhibit I, pp. III–59–III–62.

[25] 2023 Five Percent Plan, ''Pinal County PM Inventory Preparation Plan,'' Report No. SR2013–01–01, prepared by Sierra Research for the Arizona Department of Environmental Quality, February 2013.

[26] *See* 81 FR 58010, 58018 (Aug. 24, 2016).

[27] 90 FR 57365 (Dec. 11, 2025).

[28] 2023 Five Percent Plan, Appendix A, Exhibit 1, Attachment A.

[29] West Pinal PM_{10} Modeling Technical Support Document, Section 2.9, ''Precursor Demonstration Weight of Evidence.''

precursors for the purposes of RACM, BACM, and attainment planning.

C. Best Available Control Measures and Reasonably Available Control Measures Demonstration

CAA section 189(b)(1)(B) requires that Serious area PM_{10} plans provide for the implementation of BACM within four years of reclassification to Serious.[30] The EPA has established a process for evaluating potential BACM (including best available control technology (BACT)) in Serious areas.[31] The first step in determining BACM is to develop a comprehensive emissions inventory of the sources of PM_{10} that can be used with modeling to determine the effects of these sources on ambient PM_{10} levels. Based on our review of the emission inventories provided in the 2023 Five Percent Plan, the EPA's analysis indicates that the 2023 Five Percent Plan appropriately identifies all sources of PM_{10} that are subject to evaluation for potential control consistent with the requirements of subpart 4 of part D, title I of the Act.

The remaining steps are to identify potential control measures for each source category, determine whether available control measures or technologies are technologically and economically feasible for implementation in the area, and determine the earliest date by which those control measures or technologies found to be feasible can be implemented, in whole or in part. In accordance with these steps, the significant source categories examined for BACM evaluation in the 2023 Five Percent Plan are: Construction Sites, Cleared Areas, Dairies, Cattle Concentrated Animal Feeding Operations, Agriculture (Cropland), Unpaved Roads, Unpaved Lots, and Paved Roads.

We provide a detailed evaluation of the 2023 Five Percent Plan's control measures for sources in the nonattainment area in the EPA's ''Technical Support Document, EPA Evaluation of BACM, West Pinal County 2023 Five Percent Plan for the 1987 PM–10 NAAQS,'' July 2026 (''EPA's BACM TSD'').[32] The EPA notes that its BACM analysis is based on the rules currently approved in the Pinal County SIP, as well as rules that the EPA is proposing to approve elsewhere in today's **Federal Register**—specifically, regulations addressing fugitive dust and agricultural best management practices. As described in further detail in EPA's BACM TSD, we find that the evaluation process followed by MAG in the 2023 Five Percent Plan to identify potential BACM is consistent with the requirements, the evaluation of potential measures is appropriate, and reasoned justifications are provided for the rejection of potential measures based on technological or economic infeasibility.

For the foregoing reasons, we propose to find that the 2023 Five Percent Plan provides for the implementation of BACM for all required sources of PM_{10} in accordance with the requirements of CAA section 189(b)(1)(B).

The EPA does not normally conduct a separate evaluation to determine whether a Serious area plan's measures also meet the RACM requirements. However, because in this instance, we have not previously approved a Moderate area plan as meeting the RACM requirement, we must evaluate the control strategy for RACM as well. As explained in the General Preamble Addendum, we interpret the BACM requirement as generally subsuming the RACM requirement— *i.e.,* if we determine that the measures are indeed the ''best available,'' we have necessarily concluded that they are ''reasonably available.'' [33] Therefore, we have not conducted a separate analysis to determine if the measures represent a RACM level of control, and propose to find that the measures satisfy the RACM requirement, because our analysis indicates that they meet the stricter BACM requirement.

D. CAA Section 189(d) Attainment Demonstration and Five Percent Requirement

CAA section 189(d) requires the submittal of plan revisions that provide for expeditious attainment of the PM_{10} NAAQS. The attainment deadline applicable to an area that fails to attain by the Serious area attainment date is as soon as practicable, but no later than five years from the publication date of the notice of a nonattainment finding unless extended by the EPA as meeting certain specified requirements.[34] Because the EPA published the nonattainment finding for the West Pinal County PM_{10} Nonattainment Area on July 21, 2023, the State must demonstrate attainment no later than July 21, 2028, unless the date is extended.

1. Attainment Deadline

The 2023 Five Percent Plan models attainment of the PM_{10} NAAQS by December 31, 2026. The 2023 Five Percent Plan contains a demonstration supporting the conclusion that December 31, 2026, is as expeditiously as the area can attain the standard. Due to the timeline for feasible development and implementation of control measures, the first full year that all control measures relied upon in the plan would be implemented was 2024. Therefore the 2026 design value, which includes 2024–2026 data, is the first design value year to include three years of fully implemented control measures. MAG also notes that maximum compliance rates will not be achieved until 2026. For these reasons, the EPA agrees that the submission shows that the area could not practicably attain the NAAQS prior to December 31, 2026.

2. Modeled Attainment Demonstration

The 2023 Five Percent Plan shows attainment of the PM_{10} NAAQS through modeled attainment demonstrations for three sites (Hidden Valley, Pinal County Housing, and Stanfield) in the West Pinal County PM_{10} Nonattainment Area.[35] MAG conducted modeling for seven design days across the three monitoring sites, representing the meteorological conditions associated with exceedances in the nonattainment area.[36]

[30] As noted in section III.C, because the EPA has not previously approved an attainment plan for the Moderate area classification, the EPA is also evaluating the submission against the RACM requirement.

[31] Addendum, 42012.

[32] Technical Support Document, EPA Evaluation of BACM, West Pinal County 2023 Five Percent Plan for the 1987 PM–10 NAAQS.

[33] 59 FR 41998, 42010 (Aug. 16, 1994).

[34] CAA section 179(d)(3).

[35] The Plan also contains an unmonitored area analysis for the region surrounding the Hidden Valley monitor.

[36] Exceedances of the PM_{10} NAAQS have been associated with three general meteorological scenarios: low wind/stagnant conditions, elevated wind conditions, and high wind dust events. MAG selected design days that would likely not be considered high wind dust events (*i.e.,* the geographic extent of the exceedances did not suggest the occurrence of an area-wide storm event, resulting in emissions that could not be reasonably controlled).

TABLE 1—DESIGN DAYS SELECTION

Monitor	Date	24-hour PM_{10} ($\mu g/m^3$)	Exceedance type
Hidden Valley (AQS ID: 04–021–3015)	June 15, 2017	251	Low Wind.
	July 6, 2018	261	Elevated Wind (Low Pressure).
	August 28, 2017	222	Elevated Wind (Thunderstorm).
	October 7, 2017	229	Low Wind.
Pinal County Housing (AQS ID: 04–021–3011)	December 1, 2017	185	Low Wind.
Stanfield (AQS ID: 04–021–3008)	June 18, 2016	171	Low Wind.
	July 6, 2018	193	Elevated Wind (Low Pressure).
	July 16, 2016	209	Elevated Wind (Thunderstorm).

The methods used for modeling the design days are consistent with EPA guidance.[37] [38] The results of the modeling demonstrate that the emission reductions in the plan are expected to result in PM_{10} levels that provide for attainment of the NAAQS by December 31, 2026. The EPA notes that preliminary ambient air quality data for the area suggest that the control strategy may not have achieved reductions at the levels predicted in the Plan. The EPA has not identified deficiencies in the modeling, or in the substantive requirements contained in the rules that constitute the control strategy that would cause this discrepancy. However, the EPA has previously noted that an earlier version of the AgBMP rules, which regulate sources that predominate in the area surrounding the design value monitor, may not have contained implementation requirements sufficient to achieve the level of compliance predicted in the Plan.[39] The State has updated the AgBMP rules, substantially strengthening the enforceability of the rules in a manner that the EPA expects will result in reductions in line with those modeled in the Plan.[40] Therefore, the EPA proposes to find that the 2023 Five Percent Plan's attainment demonstration adequately demonstrates attainment of the PM_{10} standard in the West Pinal County PM_{10} Nonattainment Area. The EPA's detailed analysis of the modeling can be found in EPA's Modeling TSD for this action.

3. Five Percent Requirement

Under CAA section 189(d), the SIP revision submitted by the State must provide for an annual reduction in PM_{10} or PM_{10} precursor emissions of not less than five percent from the date of such submission until attainment. The 2023 Five Percent Plan's demonstration of annual five percent reductions is found in Chapter 6. MAG used the 2017 PM_{10} Inventory as the baseline inventory and derived emissions levels for years 2017–2027 based on the 2017 PM_{10} Inventory.[41] The demonstration of annual five percent reductions uses 2024 as the point at which the reductions should start.[42] Since the plan demonstrates attainment by December 31, 2026, annual five percent reductions are shown for three years: 2024, 2025, and 2026. The 2023 Five Percent Plan's demonstration is summarized in Table 2 of this document.

TABLE 2—2023 FIVE PERCENT PLAN EMISSIONS BY YEAR

Year	2024	2025	2026
2017 Baseline Inventory (tons)	41,168	41,168	41,168
Five Percent Annual Requirement (tons)	2,058	2,058	2,058
Five Percent Cumulative Reduction (tons)	2,058	4,117	6,175
2017 Base PM_{10} Emissions Minus Five Percent Annual Reductions (tons)	39,110	37,051	34,993
Projected Annual PM_{10} Emissions with BACM Implementation (tons)	35,901	35,248	34,016
Excess Benefit = Total PM_{10} Emissions Reductions Minus Five Percent Reductions (tons)	3,209	1,803	977

The ''2017 Baseline Inventory (tons)'' values are derived from the 2017 PM_{10} Inventory. The ''Five Percent Annual Requirement (tons)'' values indicate the annual five percent reduction target as calculated by multiplying the total ''2017 Baseline Inventory (tons)'' (41,168 tons) by five percent, resulting in a value of 2,058 tons. The ''Five Percent Cumulative Reduction (tons)'' indicate the cumulative yearly

[37] 40 CFR part 51, Appendix W.

[38] *PM_{10} SIP Development Guideline* (June 1987). EPA–450/2–86–001.

[39] See 86 FR 1347, 1358 (Jan. 8, 2021).

[40] The revisions to the AgBMP rules are described in a separate rulemaking that the EPA is proposing in today's **Federal Register**. The EPA also notes that EPA delays in adding the submitted rules to the SIP have delayed the Federal enforceability of the rules and thus possibly the rate of compliance. The EPA's parallel proposal to add these updated rules to the Arizona SIP is also expected to help bring emission levels into line with those predicted in the modeling.

[41] 2023 Five Percent Plan, Chapter 6, p. 6–1.

[42] *Id.* The EPA notes that ADEQ submitted the 2023 Five Percent Plan on December 14, 2023. Because CAA section 189(d) states that the reductions should be shown ''from the date of such submission until attainment,'' the Plan should show the five percent reductions beginning on that date. However, the EPA finds that showing reductions beginning in 2024 is sufficient. First, the amount of time between submission and the beginning of the reduction period is minimal—less than three weeks. Second, the emission inventories used to calculate the reductions are generally on a calendar year basis. Accordingly, the EPA believes it was reasonable to wait until the turn of the calendar year, given the short amount of time between the dates. Third, the submitted analysis shows excess reductions that more than account for the small amount of reductions that would be required in a small pro-rated portion of 2023 that remained at the time of submission. *See* Table 2 of this document. And fourth, the State could have waited until the turn of the year to submit the Plan to avoid needing to account for these days in late 2023, and the EPA does not agree that it is appropriate to provide an incentive for the State to delay plan submittal. The EPA has articulated, in the context of the CAA section 189(d) requirements for $PM_{2.5}$, that it is sufficient to show reductions from the due date of the CAA section 189(d) plan. The EPA has noted that this prevents States making late submissions from avoiding the requirement to achieve reductions for the timeframe of the delay. *See* 81 FR 58010, 58101; 86 FR 53150, 53166 (Sep. 24, 2021).

reductions, increasing by five percent of the 2017 Baseline Inventory each year.

The ''2017 Base PM_{10} Emissions Minus Five Percent Annual Reductions (tons)'' values are calculated as the ''2017 Baseline Inventory (tons)'' minus the ''Five Percent Annual Requirement (tons),'' representing the maximum total emission in tons that could be emitted each year to meet the five percent requirement. The ''Projected Annual PM_{10} Emissions with BACM Implementation (tons)'' values are the projected actual emissions between 2024 and 2026 reflecting the implementation of control measures. The ''Excess Benefit = Total PM_{10} Emissions Reductions Minus Five Percent Reductions (tons)'' indicates the surplus of cumulative emissions reductions each year beyond the five percent requirement.

The 2023 Five Percent Plan demonstrates compliance with the five percent reduction requirement by comparing the cumulative reductions against the total five percent reduction values each year and shows that the reductions exceed the five percent per year requirement. Most of the required reductions were achieved in the early years of the plan. The EPA encourages this approach as it accelerates the environmental benefits of the reductions.[43] Because the 2023 Five Percent Plan demonstrates that the area will achieve the requisite reductions from 2024 until the modeled attainment date in 2026, the EPA proposes to find that Plan meets the CAA section 189(d) five percent requirement.

E. Reasonable Further Progress and Quantitative Milestones

Pursuant to CAA sections 172(c)(2) and 189(c)(1), the State must demonstrate RFP in the 2023 Five Percent Plan. We have explained in guidance that for areas such as the West Pinal County PM_{10} Nonattainment Area where ''the nonattainment problem is attributed to area type sources (*e.g.,* fugitive dust, etc.), RFP should be met by showing annual incremental emission reductions sufficient generally to maintain linear progress towards attainment. Total PM_{10} emissions should not remain constant or increase from 1 year to the next in such an area.'' [44] Further, we have stated that, ''in reviewing the SIP, EPA will determine whether the annual incremental emission reductions to be achieved are reasonable in light of the statutory objective to ensure timely attainment of the PM_{10} NAAQS.'' [45]

CAA section 189(c) further requires PM_{10} attainment plans to contain quantitative milestones that are to be achieved every three years and that demonstrate RFP for the area. These quantitative milestones should consist of elements that allow RFP to be quantified or measured objectively. Specifically, States should identify and submit quantitative milestones that allow for evaluation of whether the plan is achieving emissions reductions adequate to attain the NAAQS by the applicable attainment date.[46]

The 2023 Five Percent Plan includes an RFP demonstration in Chapter 9.[47] This analysis uses the 2017 inventory totals by year as shown in Table 2 of this document. Specifically, the 2023 Five Percent Plan shows the following levels of PM_{10}, which decline between 2022 and 2027, with BACM control implementation in Table 3 below.

TABLE 3—ANNUAL PM_{10} EMISSIONS

Year	Tons
2022	37,614
2023	37,563
2024	35,901
2025	35,248
2026	34,016
2027	33,629

The analysis required for the five percent demonstration provides annual emission targets between 2024 and the attainment year of 2026. These annual totals show a steady downward trend in emissions that fulfills the milestone requirement of every three years.[48] The trend is more sharply downward in 2024 due to the implementation schedule of control measures. The EPA proposes to find that the 2023 Five Percent Plan has demonstrated RFP and that by setting annual target emission levels, the plan has met the requirement to provide for milestones every three years.

F. Contingency Measures

CAA section 172(c)(9) requires that attainment plans provide for the implementation of specific measures to be undertaken if the area fails to meet RFP requirements or fails to attain the PM_{10} standard as projected in the plan. That section further requires that such measures are to take effect in any such case without further action by the State or the EPA. The CAA does not specify how many contingency measures are necessary nor does it specify the level of emission reductions they must achieve.

The purpose of contingency measures is to continue progress in reducing emissions while a State revises its SIP to meet the missed RFP milestone or to develop a new plan demonstrating attainment of the NAAQS. Contingency measures must consist of measures that the State is not otherwise relying on to meet other attainment plan requirements in the area. Thus, these additional emission reductions that will be achieved by the contingency measures ensure continued progress towards attainment while the State is revising the SIP to correct the failure to meet RFP or to attain.

In interpreting the requirement that the contingency measures must ''take effect without further action by the State or the Administrator,'' the General Preamble provides the following general guidance: ''[s]tates must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as public hearings or legislative review.'' Further, ''[i]n general, EPA will expect all actions needed to affect full implementation of the measures to occur within 60 days after EPA notifies the State of its failure.''

In December 2024, the EPA released the ''Guidance on the Preparation of State Implementation Plan Provisions that Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter (December 3, 2024)'' (''Revised Contingency Measure Guidance'').[49] This guidance primarily relates to the EPA's recommendations concerning the specific amount of emissions reductions that implementation of contingency

[43] This approach is consistent with the approach taken in previous actions involving CAA section 189(d) plans for the San Joaquin Valley, California and Maricopa County, Arizona. *See* 69 FR 5411 (Feb. 4, 2004), 69 FR 30006 (May 26, 2004), 79 FR 7118 (Feb. 6, 2014) and 79 FR 33107 (June 10, 2014).

[44] Addendum, 42015.

[45] *Id.* at 42016.

[46] *Id.*

[47] 2023 Five Percent Plan, Chapter 9, Attainment Demonstration, pp. 9–17–9–27.

[48] 2023 Five Percent Plan, Chapter 9, Attainment Demonstration, pg. 9–27.

[49] The EPA announced the availability of the guidance document at 89 FR 101602 (Dec. 16, 2024). A copy of the guidance document itself is available in the docket for this action. The EPA had previously released a draft of this document, ''Draft: Guidance on the Preparation of State Implementation Plan Provisions that Address the Nonattainment Area Contingency Measure Requirements for Ozone and Particulate Matter (DRAFT—3/17/23—Public Review Version)'' (''Draft Revised Contingency Measure Guidance''). The EPA published a notice of availability for the Draft Revised Contingency Measure Guidance at 88 FR 17571 (Mar. 23, 2023). The Revised Contingency Measure Guidance that the EPA finalized in December 2024 is consistent with the guidance set forth in the Draft Revised Contingency Measure Guidance that the EPA released in March 2023.

measures should achieve and the timing for when the emissions reductions from the contingency measures should occur.

Prior to the release of the Revised Contingency Measure Guidance, the EPA's recommendation for the amount of emissions reductions to achieve from implementation of contingency measures was one year's worth of RFP. For PM_{10}, prior EPA guidance recommended that RFP should represent generally linear progress towards attainment (*i.e.,* the difference between the attainment projected inventory [50] and the base year emissions inventory, divided by the number of years between the base year and the attainment year).[51]

The Revised Contingency Measure Guidance introduces ''one year's worth of progress,'' a metric intended to be more closely tied to the emissions reductions required for attainment of the NAAQS, for determining the amount of emissions reductions that contingency measures should achieve. One year's worth of ''progress'' is calculated by determining the average annual reductions between the base year emissions inventory and the projected attainment year emissions inventory, determining what percentage of the base year emissions inventory this amount represents, and then applying that percentage to the projected attainment year emissions inventory to determine the amount of reductions needed to ensure ongoing progress if contingency measures are triggered.[52]

The 2023 Five Percent Plan identified one adopted contingency measure of a speed limit reduction on public unpaved roads. This contingency measure is PCAQCD Rule 4–1–030.6.C, which the State submitted to the EPA for approval into the SIP on February 13, 2023. The measure would require owners or operators of unpaved public roads of 26 annual average daily traffic or more to establish a speed limit of 15 miles per hour in the event that the area fails to make RFP or fails to attain the PM_{10} NAAQS by the attainment date.[53] The EPA is proposing to approve Rule 4–1–030.6.C in a separate notice in today's **Federal Register**. While that rulemaking action evaluates the approvability of the rule into the SIP, in this action we evaluate whether the contingency provision in that rule satisfies the contingency measure planning requirement for the PM_{10} NAAQS associated with the submitted plan.

If the EPA finalizes the measure's approval into the SIP, our analysis indicates that the measure meets all relevant requirements to satisfy the contingency measure requirement for the PM_{10} NAAQS. The measure has been fully adopted and will be triggered upon an EPA finding that the area has failed to attain the NAAQS by the applicable attainment date or has failed to meet the RFP requirement. The measure goes into effect immediately upon such a finding, with no additional action required by the State. In addition, the method used to estimate emissions reductions from this contingency measure is consistent with the EPA's recommended calculation methods for such measures, and the total reductions exceed the target of one year's worth of progress.[54] Because it meets all applicable requirements, the EPA proposes to approve the contingency measure element described in the 2023 Five Percent Plan.

G. Transportation Conformity and Motor Vehicle Emissions Budgets

Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the EPA's transportation conformity rule, codified at 40 CFR part 93, subpart A. Under this rule, metropolitan planning organizations (MPOs) in nonattainment and maintenance areas coordinate with State and local air quality and transportation agencies, the EPA, the FHWA, and the FTA to determine that an area's regional transportation plans and transportation improvement programs conform to the applicable SIP. This determination typically includes a showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the budgets that the EPA has found adequate or approved in the area's control strategy SIP.[55] Budgets are generally established for specific years and specific pollutants or precursors. Attainment plans for PM_{10} nonattainment areas should identify budgets for on-road mobile source emissions of PM_{10}, *i.e.,* vehicle emissions and fugitive dust emissions, in the area for each RFP milestone year, as appropriate, and the attainment year, if the plan demonstrates attainment.[56]

For budgets to be approvable, they must meet, at a minimum, the EPA's adequacy criteria at 40 CFR 93.118(e)(4). While we have not yet made an adequacy finding, the EPA is starting the adequacy process with this notice and as such, the EPA is also proposing to approve the budgets based on these criteria. To meet these requirements, the budgets must be consistent with the attainment and RFP requirements and reflect all the motor vehicle control measures contained in the attainment and RFP demonstrations.[57]

The EPA's process for determining the adequacy of a budget consists of three basic steps: (1) providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the budget during a public comment period; and (3) making a finding of adequacy or inadequacy.[58] During the comment period for this notice, the public can comment on the adequacy of the budgets in addition to other aspects of this proposed rule.

The 2023 Five Percent Plan specifies the maximum transportation-related PM_{10} emissions for the RFP milestone year of 2023, and for the RFP milestone and attainment year of 2026. The State's submitted 2023 and 2026 budgets for PM_{10} are included in Table 4 of this document. These budgets include emissions from vehicle exhaust, tire wear, brake wear, road construction, re-entrained dust from vehicles traveling on paved roads, and fugitive dust generated from vehicles traveling on public unpaved and private non-agricultural [59] unpaved roads.

[50] The term ''attainment projected inventory'' is described further in Section 3.8.1 (for ozone) and Section 3.8.2 (for particulate matter) of the EPA's ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulations.'' *See https://www.EPA.gov/air-emissions-inventories/air-emissions-inventory-guidance-implementation-ozone-and-particulate.*

[51] 59 FR 41998, 42015 (Aug. 16, 1994).

[52] *See* Chapter 3 of the Revised Contingency Measure Guidance.

[53] 2023 Five Percent Plan, Chapter 9, Attainment Demonstration, pp. 9–28–9–29.

[54] As explained in the 2023 Five Percent Plan, the contingency measure is expected to generate 950.81 tons of reductions. The threshold for one year's worth of progress is 657 tons. Thus, the measure is sufficient to achieve the quantity of reductions indicated in the EPA's Revised Contingency Measure Guidance. The EPA notes that under the previously suggested method for calculating contingency measure reductions (one year's worth of RFP), the value would be 795 tons. The measure thus achieves sufficient reductions under both previous and current EPA guidance.

[55] *See* definition of ''control strategy implementation plan revision'' at 40 CFR 93.101.

[56] 40 CFR 93.102(b)(1).

[57] 40 CFR 93.118(e)(4)(iii), (iv) and (v). For more information on the transportation conformity requirements and applicable policies on budgets, please visit our transportation conformity website at: *https://www.epa.gov/state-and-local-transportation/transportation-conformity.*

[58] 40 CFR 93.118(f)(2).

[59] Unpaved, private, non-agricultural roads have been included as an emission source category in the motor vehicle emissions budgets as they are generally accessible and used by the public. Conversely, unpaved, private, agricultural roads are primarily used to access irrigation canals or farm fields and are not included as a category in the motor vehicle emissions budgets because they are not generally accessed or used by the public.

TABLE 4—MOTOR VEHICLE EMISSIONS BUDGETS FOR THE WEST PINAL COUNTY PM_{10} NONATTAINMENT AREA

[Metric tons/day]

Source	2023	2026
Exhaust, tire wear, and brake wear	0.4	0.3
Paved road dust	2.6	2.5
Road construction	0.5	0.4
Unpaved public roads	15.9	14.1
Unpaved (non-agricultural) private roads	25.7	25.2
Total	45.0	42.5

Source: 2023 Five Percent Plan, Table 9–8.

The methodologies MAG used to develop the budgets are provided in Chapter 9 and Appendix B, Exhibit 1 of the 2023 Five Percent Plan.[60] MAG used MOVES3 in the development of these budgets; this emissions factor model was the latest EPA-approved version at the time the 2023 Five Percent Plan was developed.[61] Annual emission estimates from road construction were developed from calculations provided by PCAQCD, published emission factors for construction, and local data inputs.[62] MAG used the most recently approved EPA-provided AP–42 emissions factor equations to develop paved and unpaved road fugitive dust emissions estimates.[63] Paved road vehicle miles traveled (VMT) estimates for estimating direct and fugitive PM_{10} emissions were provided by MAG for 2026, and estimated for 2023 using an interpolation of the 2017 base year VMT.[64] Unpaved public road VMT estimates for estimating fugitive PM_{10} emissions were interpolated from the 2017 base year VMT.[65] Unpaved private non-agricultural VMT estimates for estimating fugitive PM_{10} were held constant from the 2017 base year VMT estimates.[66]

We are proposing to approve the budgets for 2023 and 2026 as part of our approval of the 2023 Five Percent Plan. The EPA has determined that the 2023 and 2026 motor vehicle emissions budgets are consistent with emission control measures in the SIP and the attainment demonstration, five percent demonstration, and RFP demonstration. The details of the EPA's evaluation of the budgets for compliance with the budget adequacy criteria of 40 CFR 93.118(e) is provided in a separate document included in the docket for this rulemaking.[67] If we find the budgets adequate or finalize approval of the budgets in the 2023 Five Percent Plan as proposed, then these budgets must be used in future transportation conformity analyses for the West Pinal County PM_{10} Nonattainment Area.[68]

H. Adequate Legal Authority

CAA section 110(a)(2)(E)(i) requires that implementation plans provide necessary assurances that the State (or the local government in the case of delegation) will have adequate personnel, funding and authority under State law. Requirements for legal authority are further defined in 40 CFR part 51, subpart L (sections 51.230–51.232) and for resources in 40 CFR 51.280.

States and responsible local agencies must demonstrate that they have the legal authority to adopt and enforce provisions of the SIP and to obtain information necessary to determine compliance. These requirements are addressed in the cover letters and submittal package for the 2023 Five Percent Plan.[69]

MAG derives its authority to develop and adopt air quality plans, including the 2023 Five Percent Plan, from Arizona Revised Statute (ARS) 49–406 and from a June 22, 2016 letter from the Governor of Arizona designating MAG as responsible for those tasks.[70] ADEQ is authorized to adopt and submit the 2023 Five Percent Plan by ARS 49–404 and ARS 49–406. PCAQCD implements air quality programs within Pinal County.

For the reasons discussed above, we propose to find that the requirements of CAA section 110(a)(2)(E) and related regulations have been met with respect to legal authority.

V. Summary of Proposed Actions

The EPA is proposing to approve the CAA section 189(d) plan for the West Pinal County PM_{10} Nonattainment Area as meeting all relevant Moderate, Serious, and CAA section 189(d) requirements. Specifically, we propose to approve the following:

(1) The 2017 baseline emissions inventory and the attainment year emission inventories as meeting the requirements of CAA section 172(c)(3);

[60] Chapter 9, pp. 9–31–9–34, and Appendix B, Exhibit 1, Chapter III, pp. II–10–II–12.

[61] The MOtor Vehicle Emission Simulator model, ''MOVES3'' was used to calculate 2026 annual and daily PM_{10} emissions from exhaust, tire wear, and brake wear; 2023 PM_{10} annual emissions from exhaust, tire wear, and brake wear were interpolated between MOVES3 runs for the 2017 base year and the 2026 attainment year.

[62] *See* Appendix A, Exhibit 1 of the 2023 Five Percent Plan for more details on the calculations and inputs used. Uncontrolled annual road construction emissions were calculated for 2017 and then grown by population to 2023 and 2026.

[63] MAG used the appropriate AP–42 guidance in sections 13.2.1 and 13.2.2 to calculate fugitive dust from paved and unpaved roads. The AP–42 emission factor equation inputs for estimating paved road fugitive dust emissions can be found in Appendix A, Exhibit 1 of the 2023 Five Percent Plan. The AP–42 emission factor equation inputs for estimating unpaved road fugitive dust emissions can be found in Appendix A, Exhibit 1 of the Plan. The most recent EPA revision and approval of these AP–42 emission factor equations occurred in 2011 and are reflected in the Plan's estimates; 76 FR 6328 (Feb. 4, 2011).

[64] 2023 Five Percent Plan, pp. 9–20 and 9–33. The interpolation methodology for 2023 VMT is based on the rate of paved road VMT increases between the 2017 base year and the 2026 attainment year.

[65] *See* p. 9–34 of the 2023 Five Percent Plan. 2023 and 2026 VMT estimates for unpaved public roads were grown from 2017 VMT based upon the rate at which low-arterial paved road vehicle miles traveled increases as estimated by MAG travel demand models, as reliable VMT estimates on unpaved roads were not available.

[66] *See* p. 9–34 of the 2023 Five Percent Plan. VMT usage on private unpaved roads is very low and estimated as under 25 trips per day.

[67] Memorandum dated June 29, 2026, from Lindsay Wickersham, EPA, to Rulemaking Docket EPA–R09–OAR–2026–5119, Subject: Adequacy Documentation for Motor Vehicle Emission Budgets in 2023 Five Percent Plan.

[68] *See* 40 CFR 93.109(c).

[69] Letter dated December 13, 2023, from Hether Krause, Deputy Director, Air Quality Division, ADEQ, to Martha Guzman, Regional Administrator, EPA Region IX, Subject: ''Arizona State Implementation Plan Revision, Maricopa Association of Governments 2023 Five Percent Particulate Plan for PM–10 For the West Pinal County Nonattainment Area.''

[70] Letter from Douglas A. Ducey, Governor, to Alexis Strauss, Acting Regional Administrator, EPA Region IX, Subject: ''Re: Certification of Maricopa Association of Governments and Pima Association of Governments as Lead Planning Organizations under Clean Air Act § 174(a) and A.R.S. § 49–406(A).'' 2023 Five Percent Plan, Appendix D, Exhibit II.

(2) the BACM demonstration as meeting the requirements of CAA section 189(b)(1)(B), and the RACM demonstration as meeting the requirements of CAA sections 189(a)(1)(C) and 172(c)(1);

(3) the attainment demonstration as meeting the requirements of CAA sections 189(d) and 179(d)(3), with an attainment date of December 31, 2026;

(4) the five percent demonstration as meeting the requirements of CAA section 189(d);

(5) the reasonable further progress and quantitative milestone demonstrations as meeting the requirements of CAA sections 172(c)(2) and 189(c);

(6) the contingency measure as meeting the requirements of CAA section 172(c)(9); and

(7) the motor vehicle emissions budgets, as they meet the criteria for budgets in CAA section 176(c) and 40 CFR 93.118(e)(4).

The EPA is also starting the adequacy process for these budgets.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, Oct. 4, 1993);
- Is not an Executive Order 14192 (90 FR 9065, Feb. 6, 2025) regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, Aug. 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, Apr. 23, 1997) because it proposes to approve a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, Nov. 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: October 14, 2026.

Michael Martucci,

Acting Regional Administrator, Region IX.

[FR Doc. 2026–21288 Filed 10–16–26; 8:45 am]

BILLING CODE 6569–60–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 61, and 63

[EPA–R10–OAR–2026–4291, FRL–13409–01–R10]

New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Northwest Clean Air Agency, Washington State

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Northwest Clean Air Agency (NWCAA), located in Washington State, submitted updated regulations for receiving delegation and approval of its program for the implementation and enforcement of newly issued or revised New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP), as provided for under previously approved delegation mechanisms. The updated regulations incorporate by reference certain NSPS and NESHAP promulgated by the Environmental Protection Agency (EPA) as they existed through October 18, 2023. The EPA is providing notice that it is proposing to update the delegation of certain NSPS and approve the delegation of certain NESHAP to NWCAA. The proposed delegation of authority under this action does not apply to sources located in Indian country.

DATES: Comments must be received on or before November 18, 2026.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2026–4291, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553–0256 or *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'' or ''our'' is used, it means ''the EPA.'' We use multiple abbreviations and terms in this proposed rule. While this list may not be exhaustive, for ease of reading and for reference purposes, the EPA defines the following terms and acronyms here:

CAA—Clean Air Act
CBI—Confidential Business Information
CFR—Code of Federal Regulations
EPA—Environmental Protection Agency
FR—Federal Register
NESHAP—National Emission Standards for Hazardous Air Pollutants
NWCAA—Northwest Clean Air Agency

NSPS—New Source Performance Standards
NSR—New Source Review
RCW—Revised Code of Washington
SIP—State Implementation Plan
WAC—Washington Administrative Code
WCAA—Washington Clean Air Act

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I. Background

NWCAA is a local clean air agency authorized under the State of Washington's Clean Air Act (WCAA) to implement and enforce the new source review and operating permit programs for applicable sources within its jurisdiction of Island, Skagit and Whatcom counties.[1] Specifically, the WCAA states, ''The Department of Ecology may accept delegation of programs as provided for in the Federal Clean Air Act. Subject to Federal approval, the department may, in turn, delegate such programs to the local authority with jurisdiction in a given area.'' [2] On December 1, 1998, the EPA approved the Washington Department of Ecology's request for program approval and delegation of authority for three local agencies in Washington, including NWCAA, to implement and enforce locally-adopted hazardous air pollutant regulations which adopt by reference the Federal NESHAP contained within 40 CFR parts 61 and 63, as these regulations apply to all sources (*i.e.,* both 40 CFR part 70 and non-part 70 sources).[3]

Pursuant to the authority of section 112(1) of the CAA, at the time of delegation, the EPA also approved streamlined procedures for requesting and approving the delegation of new or updated NESHAP.[4] Specifically, the streamlined approval process for updating a delegation is as follows: (1) the requesting agency sends a letter to the EPA asking for delegation of new and/or revised NESHAP that have been adopted unchanged into their regulations; (2) the EPA sends a letter of response granting this delegation request (or explaining why it cannot be granted); (3) the agency does not need to send a response back to the EPA; (4) if the EPA does not receive a negative response from the requesting agency within 10 days of the signature date of the EPA's letter, then the updated delegation becomes final 10 days after the date of EPA's letter.[5] The streamlined approval process also requires that the EPA publish a notice of the delegation in the **Federal Register** on a periodic basis to inform the public that the delegation has taken place and to indicate where source notifications and reports should be sent.

II. What does this action do?

NSPS are pollution control standards issued by the EPA that set uniform national emission limits for new, modified, and reconstructed industrial facilities. Similarly, NESHAP are emission standards for toxic air pollutants from stationary sources. The EPA is updating the delegation of implementation and enforcement of certain NSPS to NWCAA. The EPA is also proposing to approve the delegation of implementation and enforcement of certain NESHAP to NWCAA. If finalized, the delegation will provide NWCAA with the primary responsibility to implement and enforce the delegated standards.

III. What is the authority for delegation?

Section 111(c)(1) of the Clean Air Act (CAA) authorizes the EPA to delegate authority to any State which submits adequate regulatory procedures for implementation and enforcement of the NSPS program. Under the EPA-approved Washington SIP, new source review (NSR) permitting is further delegated to local clean air agencies, including NWCAA, for sources under local agency jurisdiction.[6] The NSPS standards are codified at 40 CFR part 60.

Section 112(l) of the CAA, and 40 CFR part 63, subpart E, authorize the EPA to delegate authority to any State which submits adequate regulatory procedures for implementation and enforcement of emission standards for hazardous air pollutants. The EPA's final approval of Washington's Title V operating permits program included delegating the authority to implement certain NESHAP standards to local clean air agencies for sources under local clean air agency jurisdiction.[7] The hazardous air pollutant standards are codified at 40 CFR parts 61 and 63.

IV. What criteria must NWCAA's programs meet to be approved?

In order to receive delegation of an NSPS, a State or local agency must develop and submit to the EPA regulations for implementing and enforcing the NSPS, and the agency's resources must be adequate for the implementation and enforcement of the NSPS. The EPA most recently approved NWCAA's program for the delegation of NSPS in a letter dated January 7, 2025.[8] The EPA reviewed the rules and regulations of NWCAA and determined NWCAA's procedures, regulations and resources are adequate for the implementation and enforcement of the NSPS program. This action notifies the public that EPA is updating NWCAA's delegation to implement and enforce certain additional NSPS.

As to the NESHAP standards in 40 CFR parts 61 and 63, section 112(l)(5) of the CAA requires the EPA to disapprove any program submitted by a State [9] for the delegation of NESHAP standards if the EPA determines that:

(A) the authorities contained in the program are not adequate to assure compliance by the sources within the agency's jurisdiction with respect to each applicable standard, regulation, or requirement established under section 112;

[1] Excluding facilities subject to Energy Facilities Site Evaluation Council jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code; Indian reservations; any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.

[2] RCW 70A.15.6240.

[3] 63 FR 66054 (December 1, 1998).

[4] 63 FR 66054 (December 1, 1998) at page 66057, and subsequent approvals: 64 FR 7793 (February 17, 1999), 65 FR 10391 (February 28, 2000), and 67 FR 11417 (March 14, 2002).

[5] 67 FR 11417 (March 14, 2002).

[6] 173–400–020 Washington Administrative Code, most recently approved by the EPA on October 3, 2014 (79 FR 59653).

[7] Interim approval (59 FR 55813, November 9, 1994) and final approval (66 FR 42439, August 13, 2001).

[8] *102_24–05094–R10—APTB_Response_ltr_NWCAA_NSPS_2023.pdf* included in the docket for this action.

[9] Under the General Provisions of 40 CFR parts 61 and 63 the definition of ''State'' means all non-Federal authorities, including local agencies, interstate associations, and State-wide programs, that have delegated authority to implement: (1) The provisions of this part; and/or (2) the permit program established under part 70 of this chapter. The term State shall have its conventional meaning where clear from the context.

(B) adequate authority does not exist, or adequate resources are not available, to implement the program;

(C) the schedule for implementing the program and assuring compliance by affected sources is not sufficiently expeditious; or

(D) the program is otherwise not in compliance with the guidance issued by the EPA under section 112(l)(2) or is not likely to satisfy, in whole or in part, the objectives of the CAA.

In carrying out its responsibilities under section 112(l), the EPA promulgated regulations at 40 CFR part 63, subpart E, setting forth criteria for the approval of submitted programs. For example, in order to obtain approval of a program to implement and enforce Federal section 112 of the CAA rules as promulgated without changes (straight delegation) for part 70 sources, a State or local agency must demonstrate that it meets the criteria of 40 CFR 63.91(d). The 40 CFR 63.91(d)(3) provides that interim or final Title V program approval will satisfy the criteria of 40 CFR 63.91(d).[10] The NESHAP delegation for NWCAA, as it applies to both 40 CFR part 70 and non-part 70 sources, was most recently approved in a letter dated January 7, 2025.[11]

V. How did NWCAA meet the NSPS and NESHAP program approval criteria?

As to the NSPS standards in 40 CFR part 60, NWCAA adopted the Federal standards via incorporation by reference. The NWCAA regulations are, therefore, at least as stringent as the EPA's rules.[12] As part of our most recent January 7, 2025, letter approving NWCAA's delegation of authority, we determined that NWCAA's resources and procedures for implementing and enforcing the NSPS continue to remain adequate since the EPA's prior delegation of authority on May 10, 2023.[13]

As to the NESHAP standards in 40 CFR parts 61 and 63, NWCAA uses incorporation by reference to adopt unchanged Federal section 112 of the CAA standards into its regulations in NWCAA 104.2. The EPA's final interim approval of Washington's title V operating permits program, including NWCAA as a local clean air agency, delegated the authority to implement certain NESHAPS.[14] The EPA promulgated final full approval of the State's operating permits program, including local clean air agencies, on August 13, 2001. *See* 66 FR 42439. These interim and final title V program approvals satisfy the up-front approval criteria of 40 CFR 63.91(d).

Under 40 CFR 63.91(d)(2), once a State, including local clean air agencies, has satisfied up-front approval criteria, it needs only to reference the previous demonstration and reaffirm that it still meets the criteria for any subsequent submittals for delegation of the CAA section 112 standards. NWCAA has affirmed that it still meets the up-front approval criteria. With respect to non-part 70 sources, the EPA approved delegation of NESHAP authorities to NWCAA in a letter dated January 7, 2025, after finding adequate authorities to implement and enforce the NESHAP for such sources.[15]

VI. What is being delegated?

By letters dated January 16, 2024, the EPA received requests from NWCAA to update its existing NSPS and NESHAP delegations. With certain exceptions noted in section VI of this document, NWCAA's request included NSPS in 40 CFR part 60, and NESHAP in 40 CFR parts 61 and 63. NWCAA's request included newly incorporated NSPS and NESHAP standards promulgated by the EPA and amendments to existing standards currently delegated, in effect as of October 18, 2023, as adopted by NWCAA.

VII. What is not being delegated?

With respect to NSPS delegation, Attachment B, *Standards of Performance for New Stationary Sources Subparts Requested to be Delegated to the Northwest Clean Air Agency,* lists the 40 CFR part 60 subparts requested by NWCAA for delegation.[16] Attachment B delineates those provision shaded in grey that are not delegable by the EPA and also delineates those provisions shaded in yellow where the State of Washington retains delegation of these subparts. All inquiries and requests concerning implementation and enforcement of the excluded standards shaded in grey should be directed to the EPA Region 10 Office. Other exemptions and requirements are listed in our January 7, 2025, letter approving NWCAA's NSPS delegation request.[17]

With respect to NESHAP delegation, Attachment B, *National Emission Standards for Hazardous Air Pollutants Subparts Requested to be Delegated to the Northwest Clean Air Agency—40 CFR part 61 Subparts* and Attachment C, *National Emission Standards for Hazardous Air Pollutants Subparts Requested to be Delegated to the Northwest Clean Air Agency—40 CFR part 63 Subparts,* list the subparts requested by NWCAA for delegation.[18] Subparts shaded in grey are not delegable by the EPA. NWCAA also did not request subparts shaded in yellow, for which the Washington State Department of Ecology retains delegated authority. Subparts shaded in orange are vacated provisions that are not delegable.

In addition, the EPA regulations provide that we cannot delegate to a State or local agency any of the Category II Subpart A authorities set forth in 40 CFR 63.91(g)(2). These include the following provisions: 40 CFR 63.6(g), Approval of Alternative Non-Opacity Standards; 63.6(h)(9), Approval of Alternative Opacity Standards; 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; 63.8(f), Approval of Major Alternatives to Monitoring; and 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting. Also, some 40 CFR parts 61 and 63 standards have certain provisions that cannot be delegated to the States or local agencies. Furthermore, no authorities are delegated that require rulemaking in the **Federal Register** to implement, or where Federal overview is the only way to ensure national consistency in the application of the standards or requirements of CAA section 112. Finally, this action does not propose delegation of any authority under CAA section 112(r), the accidental release program.

If this proposed rule is finalized as proposed, all questions concerning implementation and enforcement of the excluded standards shaded in grey should be directed to the EPA Region 10 Office. NWCAA did not request

[10] Some NESHAP standards do not require a source to obtain a title V permit (*e.g.,* certain area sources that are exempt from the requirement to obtain a title V permit). For these non-title V sources, the EPA believes that the State or local agency must assure the EPA that it can implement and enforce the NESHAP for such sources. *See* 65 FR 55810, 55813 (September 14, 2000).

[11] *203_24-05091-R10—APTB_Response_ltr_NWCAA_NESHAP_2023.pdf* included in the docket for this proposed rulemaking.

[12] 40 CFR 60.10(a).

[13] *103_ltr_NWCAA_NSPS_2021a_2023–05–10 final.pdf* included in the docket for this proposed rulemaking.

[14] 59 FR 55813 (November 9, 1994).

[15] *203_24-05091-R10_APTB_Response_ltr_NWCAA_NESHAP_2023.pdf* included in the docket for this action.

[16] *101_2024 01 16 NWCAA Delegation Request 2024 NSPS Att B.pdf* included in the docket for this proposed rulemaking.

[17] *102_24-05094-R10_APTB_Response_ltr_NWCAA_NSPS_2023.pdf* included in the docket for this proposed rulemaking.

[18] *201_2024 01 16 NWCAA Delegation Request 2024 NESHAP Att B.pdf* and *202_2024 01 16 NWCAA Delegation Request 2024 NESHAP Att C.pdf* included in the docket for this proposed rulemaking.

delegation authority for subparts shaded in yellow, specifically subparts S, LL, MM, RRR, related to aluminum production facilities and pulp and paper facilities. Therefore, all questions concerning implementation and enforcement of these subparts should be directed to the Washington Department of Ecology where it is the regulatory authority under State law and to the EPA, Region 10 in other cases.

The EPA is proposing a determination that the NESHAP program submitted by NWCAA meets the applicable requirements of CAA section 112(l)(5) and 40 CFR part 63, subpart E.

In addition, this delegation to NWCAA to implement and enforce certain NSPS and NESHAP does not extend to sources or activities located in Indian country, as defined in 18 U.S.C. 1151. Under this definition, the EPA treats as reservations, trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. Consistent with previous Federal program approvals or delegations, the EPA will continue to implement the NSPS and NESHAP in Indian country because NWCAA has not submitted information to demonstrate authority over sources and activities located within the exterior boundaries of Indian reservations and other areas in Indian country.

VIII. What authority does the EPA have?

We retain the right, as provided by CAA section 111(c)(2), to enforce any applicable emission standard or requirement under CAA section 111.

We retain the right, as provided by CAA section 112(l)(7) and 40 CFR 63.90(d)(2), to enforce any applicable emission standard or requirement under CAA section 112. In addition, the EPA may enforce any federally approved State or local agency rule, requirement, or program under 40 CFR 63.90(e) and 63.91(c)(1)(i). The EPA also has the authority to make certain decisions under the General Provisions (subpart A) of 40 CFR parts 61 and 63. We are proposing to delegate to NWCAA some of these authorities, and retain others, as explained in sections V and VI of this document. In addition, the EPA may review and disapprove State or local agency determinations and subsequently require corrections. *See* 40 CFR 63.91(g)(1)(ii). The EPA also has the authority to review NWCAA's implementation and enforcement of approved rules or programs and to withdraw approval if we find inadequate implementation or enforcement. *See* 40 CFR 63.96.

Furthermore, we retain the authority in an individual emission standard that may not be delegated according to provisions of the standard. Finally, we retain the authorities stated in the original delegation agreement. *See* 63 FR 66054 (December 1, 1998). Tables of how the updated NSPS and NESHAP delegations would look if this proposal is finalized may be found in the docket for this proposed rulemaking.[19] The tables also show the authorities that cannot be delegated to any State or local agency.

IX. What information must NWCAA provide to the EPA?

NWCAA must provide any additional compliance related information to the EPA, Region 10, Office of Enforcement and Compliance Assurance, within 45 days of a request under 40 CFR 63.96(a). Under 40 CFR. 63.91(g)(1), NWCAA may request delegation any of the authorities listed as Category I, and the EPA will delegate any such authorities at its discretion. NWCAA must maintain a record of all approved alternatives to all monitoring, testing, recordkeeping, and reporting requirements and provide this list of alternatives to its EPA Regional Office at least semi-annually, or on a more frequent basis if requested by the Regional Office.[20]

X. What is the EPA's oversight role?

The EPA must oversee NWCAA's decisions to ensure the delegated authorities are being adequately implemented and enforced. We will integrate oversight of the delegated authorities into the existing mechanisms and resources for oversight currently in place. If, during oversight, we determine that NWCAA has made decisions that decrease the stringency of the delegated standards, then NWCAA shall be required to take corrective actions and the source(s) affected by the decisions will be notified, as required by and under the procedures set forth at 40 CFR 63.96(b). We will initiate withdrawal proceedings of the program or rule under 40 CFR 63.96(b) if the corrective actions taken are insufficient.

XI. Should sources submit notices to the EPA or NWCAA?

NWCAA is the primary point of contact with respect to delegated NSPS and NESHAP. For the delegated NSPS and NESHAP standards and authorities covered by this proposed rulemaking, if finalized, sources would submit all of the information required pursuant to the general provisions and the relevant subpart(s) of the delegated NSPS and NESHAP (40 CFR parts 60, 61 and 63) to NWCAA in a manner specified by the agency. The EPA's Region 10 proposes to waive the requirement that courtesy notifications and reports for delegated standards be submitted to the EPA in addition to NWCAA in accordance with 40 CFR 63.9(a)(4)(ii) and 63.10(a)(4)(ii).[21] For those standards and authorities not delegated as discussed above, sources must continue to submit all appropriate information to the EPA by electronic database portals, except subpart LL, related to aluminum production facilities and those provisions of subparts S and MM that apply to chemical pulp and paper facilities, for which the Washington State Department of Ecology retains delegated authority.

XII. Where can I find information on which NSPS and NESHAP standards have been delegated in Region 10?

Tables of the currently delegated NSPS and NESHAP standards are available on the EPA Region 10 website at *https://www.epa.gov/caa-permitting/delegations-new-source-performance-standards-nsps-and-national-emission-standards-0.* If this delegation is finalized, the EPA is proposing to remove the outdated delegation information in 40 CFR 60.4(b)(49), 61.04(c)(10), and 63.99(a)(48), and amend these sections with a citation to the Region 10 website with the most current status for NSPS and NESHAP delegations.

XIII. Proposed Action

In this proposed rule, the EPA is proposing to update the delegation of certain NSPS to NWCAA, and to approve an update to the NWCAA NESHAP delegation that would provide the NWCAA with the authority to implement and enforce certain newly incorporated NESHAP promulgated by the EPA and amendments to existing standards currently delegated, as they existed through October 18, 2023.

XIV. Statutory and Executive Order Reviews

Under the CAA, the Administrator has the authority to approve section 112(l) submissions that comply with the provisions of the Act and applicable

[19] *See 101_2024 01 16 NWCAA Delegation Request 2024 NSPS Att B.pdf, 201_2024 01 16 NWCAA Delegation Request 2024 NESHAP Att B.pdf,* and *202_2024 01 16 NWCAA Delegation Request 2024 NESHAP Att C.pdf.*

[20] 40 CFR 63.91(g)(1)(ii).

[21] This waiver only extends to the submission of copies of notifications and reports; the EPA does not waive the requirements in delegated standards that require notifications and reports be submitted to an electronic database (*e.g.,* 40 CFR part 63, subpart HHHHHHH).

Federal regulations. In reviewing CAA section 112(l) submissions, the EPA's role is to approve State or local agency choices, provided that they meet the criteria and objectives of the CAA and of the EPA's implementing regulations. Accordingly, this proposed action would merely approve NWCAA's request as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This proposed action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993) and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This proposed action is not an Executive Order 14192 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This proposed action does not impose an information collection burden under the PRA (44 U.S.C. 3501 *et seq.)* because it does not impose an information collection burden.

D. Regulatory Flexibility Act (RFA)

This proposed action is certified to not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.).* This proposed action proposes to approve the delegation of Federal rules as requested by the local agency and will therefore have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This proposed action does not contain an unfunded mandate as described in UMRA, 2 U.S.C 1531–1538, and does not significantly or uniquely affect small governments. This proposed action imposes no enforceable duty on any State, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

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

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

This proposal is to update the delegation of certain NSPS to NWCAA and to approve NWCAA's request to update their NESHAP delegation will not apply in areas of Indian country, and therefore has no tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed action will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. This proposed action will not impose substantial direct compliance costs on federally recognized Tribal governments because no actions will be required of Tribal governments. This proposed action will also not preempt Tribal law, and thus does not have applicable or related Tribal laws.

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

The EPA interprets Executive Order 13045 as applying only to regulatory actions considered significant under section 3(f)(1) of Executive Order 12866 and that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of Executive Order 13045. This proposed action is not subject to Executive Order 13045 because it approves a State program.

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards. This proposed action is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

List of Subjects

40 CFR Part 60

Environmental protection, Air pollution control, Administrative practice and procedure, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 61

Environmental protection, Air pollution control, Hazardous substances, Intergovernmental relations, Radioactive materials, Reporting and recordkeeping requirements, Uranium, and Vinyl chloride.

40 CFR Part 63

Environmental protection, Air pollution control, Administrative practice and procedure, Business and industry, Carbon oxides, Hazardous substances, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, and Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Angeles Herrera,

Director, Air and Radiation Division, Region 10.

[FR Doc. 2026–21383 Filed 10–16–26; 8:45 am]

BILLING CODE 6569–50–P

FEDERAL COMMUNICTIONS COMMISSION

47 CFR Part 1

[WT Docket No. 25–217; FCC 26–64; FR ID: 372724]

Modernizing the Commission's National Environmental Policy Act Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) seeks additional comment on the Commission's National Historic Preservation Act (NHPA) framework, to further expedite, simplify, and reduce the costs of environmental review. This includes refreshing the record on the meaning of ''undertaking'' and the Commission's approach to implementing section 106 of the NHPA. The Commission also seeks comment on whether activities related to the deployment and operation of communications infrastructure are within the scope of ''undertaking,'' as well as on other practices or actions the

Commission could adopt to provide more efficiency and predictability in the section 106 process. Additionally, the Commission seeks comment on whether communications infrastructure deployments are agency actions subject to the Endangered Species Act (ESA).

DATES: Comments are due on or before November 18, 2026; reply comments are due on or before December 3, 2026. Written comments on the Initial Regulatory Flexibility Analysis (IRFA) in this document must have a separate and distinct heading designating them as responses to the IRFA and must be submitted on or before November 18, 2026.

ADDRESSES: You may submit comments, identified by WT Docket No. 25–217, by any of the following methods:

- *Federal Communications Commission's Website: https://www.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Robert Krinsky, Wireless Telecommunications Bureau, Competition & Infrastructure Policy Division, (202) 418–2909, *robert.krinsky@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (*FNPRM*), FCC 25–64, adopted on September 30, 2026, and released on October 1, 2026. The full text of this document is available at *https://docs.fcc.gov/public/attachments/FCC-26-64A1.pdf.* The Commission also concurrently adopted a Report and Order (*Order*), FCC 25–64, adopted on September 30, 2026, streamlining the Commission's rules implementing the National Environmental Policy Act (NEPA).

Ex Parte Rules

The proceeding this *FNPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. *See* 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Regulatory Flexibility Act

The Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning the potential impact of rule and policy change proposals on small entities in the *FNPRM.* The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the *FNPRM* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

Paperwork Reduction Act

This document may also contain proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on any information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Providing Accountability Through Transparency Act

The Providing Accountability Through Transparency Act, Public Law 118–9, requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. The required summary of this *FNPRM* is available at *https://www.fcc.gov/proposed-rulemakings.* To request materials in accessible formats for people with disabilities (*e.g.*, 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.

Synopsis

I. Further Notice of Proposed Rulemaking

1. Through this Further Notice of Proposed Rulemaking (*FNPRM*), the Commission seeks additional comment on the Commission's NHPA framework, including section 106 efficiencies. Additionally, the Commission seeks comment on whether communications infrastructure deployments are agency actions subject to the ESA.

A. Definition of ''Undertaking'' Under the National Historic Preservation Act

2. In light of the decisions in the *Order,* the Commission seeks to refresh the record on the meaning of ''undertaking'' and the Commission's approach to implementing section 106 of the National Historic Preservation Act (NHPA) as set forth in the Modernizing the Commission's National Environmental Policy Act Rules Notice of Proposed Rulemaking (*NEPA NPRM*), 90 Fed Reg 40295, published on August 19, 2025. The Commission has built a record on the subject of whether ''undertaking'' and ''major Federal action'' are coterminous. Therefore, no further comment on this matter is being sought in this *FNPRM.* Additionally, and in light of the Commission's findings above related to the licensing of spectrum, the Commission seeks comment on whether activities that are part of the deployment and operation of communications infrastructure are within the scope of ''undertaking.'' The

Commission also seeks comment on actions and practices that the Commission could adopt to provide more efficiencies in the section 106 process and add greater predictability for all stakeholders.

1. Licensing of Spectrum and ''Undertaking''

3. Section 106 of the NHPA requires federal agencies to take into account the effect of an ''undertaking on any historic property.'' The NHPA further defines ''undertaking'' as ''a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency.'' This includes: ''(1) those carried out by or on behalf of a Federal agency; (2) those carried out with Federal financial assistance; (3) those requiring a Federal permit, license or approval; and (4) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.'' The Advisory Council on Historic Preservation (ACHP) rules afford each individual federal agency the responsibility to ''determine whether [a] proposed Federal act to be taken by it is an undertaking.'' In its comments on the *NEPA NPRM,* ACHP stated that the ''FCC could use the rulemaking process to define a list of activities that do not rise to the level of an 'undertaking' due to a lack of federal involvement under Section 106.''

4. As discussed in the *Order,* the Commission licenses the use of spectrum, not facilities. Importantly, the Commission notes that: Commission rules do not legally require licensees to build communications infrastructure upon receiving a spectrum authorization; while the Commission's spectrum licensing rules manage spectrum to ensure that it is used efficiently and to prevent harmful interference, licensees retain control and responsibility over their facility deployment decisions; there is an insufficient causal connection between the Commission's licensing activity and subsequent infrastructure deployments; buildout requirements do not require the construction of particular facilities in any specific place and may be satisfied without new construction; and revocation or suspension of a spectrum license does not require dismantlement of a tower. Because of this, the Commission seeks comment on whether the construction of communications facilities connected with the issuance of a Commission license for the use of spectrum should be regarded as an ''undertaking,'' where the Commission does not issue a ''permit, license or approval'' for deployment of the facilities themselves, but rather for the use of spectrum. To the extent the Commission clarifies the extent to which its actions constitute undertakings, the Commission seeks comment on whether to apply that clarification prospectively or to existing facilities, including those built prior to 2005.

5. Finally, the Commission seeks comment on the impact of the Commission's determination in the *Order* that Commission spectrum licenses and facilities deployment in connection with spectrum licenses are not subject to NEPA review and the Commission's related rescission of § 1.1312 of the rules on whether spectrum licensing is an undertaking under the NHPA. The Commission previously determined that the issuance of a geographic area license constituted an undertaking because of the Commission's ''limited approval authority,'' in § 1.1312 of the NEPA rules, which required completion of the environmental review process prior to tower construction. The Commission seeks comment on whether the actions in the *Order,* which remove that limited approval authority, merit reconsideration of the determination that Commission spectrum licensing activities are subject to NHPA review.

2. Section 106 Efficiencies

6. The Commission seeks comment on whether there are efficiencies to be gained through modifications to the Commission's NHPA procedures. The Commission invites comment on the measures discussed below and on any additional measures that will enable the Commission to fulfill its section 106 commitments in a manner that minimizes delays to infrastructure deployment for communications services.

7. *Batching.* To reduce repetitive submissions and paperwork for all parties, the Commission seeks comment on whether allowing multiple installation submissions into a single filing via the Commission's Tower Construction Notification System (TCNS) would create efficiencies. What challenges would this pose? The Commission invites commenters to provide data or examples illustrating how batching may affect administrative costs, review timelines, and overall project delivery. In particular, the Commission is interested in whether batching reduces repetitive paperwork, streamlines coordination among stakeholders, or introduces new complexities.

8. Currently, batching is permitted in the context of the Positive Train Control (PTC) Program Comment. This was a streamlined process for certain facilities associated with building out the PTC railroad safety system. The Commission seeks comment on the experience of the PTC batching process. What has worked well? Has batching posed challenges?

9. If the Commission permits batching, what guidelines should be established to realize efficiencies while minimizing drawbacks? In this regard, should there be a limit on the number of facilities to be batched? How should this be determined? Should geographic proximity be a factor? In this regard, would the use of common zip codes be a useful organizing principle for batching? Should the size of the facility be a factor? Should shared characteristics among the facilities be a factor (for example, the deployment of the same antenna structure or collocation antenna in similar terrain)? Should the extent of expected ground disturbance be a factor? Are there other factors relevant to batching eligibility? Should batching be accompanied by different time limits for processing? What changes to the current TCNS process might facilitate batching? The Commission seeks comment on these and any other policy or operational matters regarding batching that commenters may be aware of through their experiences.

10. *Non-compliant Towers.* Non-compliant towers are structures that did not previously undergo section 106 review or lack documentation of such review, but which parties may have an interest in for collocation. Commenters to the *NEPA NPRM* advocated for bringing these towers into compliance. The Commission seeks comment on whether there should be an initiative to facilitate collocation on such non-compliant towers. The Commission notes that the Collocation NPA, which established streamlined section 106 reviews for collocation infrastructure projects, includes review of collocations on non-compliant towers under certain circumstances. Pursuant to the Collocation NPA, however, there would be additional streamlined processing opportunities if the towers came into section 106 compliance. The Commission has recognized the benefits to industry and to historic properties from collocations on existing structures, and encourages collocation of antennas where technically and economically feasible, in order to reduce the need for new tower construction. The Commission seeks comment on approaches to bringing non-compliant towers into compliance to enable future collocation. The Commission also seeks comment on potential efficiencies or

challenges associated with such approaches.

11. *Geographic Areas of Interest.* In the context of tribal historic preservation review, Tribal Nations and Native Hawaiian Organizations (NHOs) identifying areas of cultural, historical, or religious interest for purposes of the section 106 process and TCNS, the Commission seeks comment on any trends that have developed in the indication of Geographic Areas of Interests since the Commission considered this matter in 2017. If the data support a conclusion that such areas are expanding significantly along with historic properties, the Commission seeks comment on what practices might assist in addressing an increased designation of Geographic Areas of Interest. Are there techniques for increasing efficiencies that could be adopted, whether it be features of TCNS, adjustments to Forms 620 and 621, or other techniques to evaluate wider geographic interests without materially compromising the section 106 process?

12. *Emergency and Disaster Situations.* In response to the *NEPA NPRM,* a number of commenters have argued for greater efficiencies in responding to damage to infrastructure due to weather-related incidents to more quickly restore communications for citizens in the impacted area. Specifically, commenters seek the ability to rebuild or fortify structures damaged by a weather incident, natural disaster, or other incident without reprising the section 106 process. The Commission seeks comment on the merits of this proposal. The Commission notes that the Wireless NPA includes existing exclusions from section 106 review for construction of a replacement tower that does not substantially increase the size of the tower, and for construction of a temporary communications tower. The Commission also notes that ACHP rules set forth alternative procedures for undertakings in response to declared disasters or emergencies or in response to other immediate threats to life or property. The Commission seeks comment on the sufficiency of these existing exclusions and procedures and whether additional efficiencies are needed. Should any section 106 efficiency addressing emergency situations be conditioned on a certain level of damage? Should replacement or improved infrastructure constructed pursuant to such an efficiency be held to any historic preservation conditions resulting from the initial section 106 process? What other considerations are relevant to a section 106 exemption when damage to facilities rises to a level of a communications emergency? What are the criteria for a communications emergency? Would accessing the Commission's established waiver process on a case-by-case basis be a preferred approach in such emergency situations? The Commission seeks comment on the trade-offs between applying general rules or a case-by-case approach to emergency situations, and the Commission encourages commenters to provide data and statistics to support the cost and benefit estimates associated with each approach.

13. *Tribal Consultation and Monitoring.* In response to the *NEPA NPRM,* Verizon has expressed an interest in ''more definite timelines'' for section 106 review. Specifically, Verizon maintains that in its ''experience, where Government-to-Government consultation is requested, the Tribe's response timeline stretches from 30–60 days to an average of 110 days.'' For this reason Verizon advocates ''narrowing the scope of the consultation process. . . .'' Tribes also commented on the challenges that they face with expedited timelines. The Commission seeks comment on how often Tribal consultations extend Tribal response timelines beyond 60 days. What specific modifications are recommended that would resolve any timeliness issues without compromising the integrity of the consultation process?

14. *Timeline for Tribal Review Process.* In the Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Second Report and Order (*Wireless Broadband Deployment Second R&O*), 83 FR 19440, published May 03, 2018, the Commission adopted the current procedures for applicants to notify Tribal Nations and NHOs (Tribal Nations/NHOs) of proposed tower builds and collocations, and reciprocally, for Tribal Nations/NHOs to respond by indicating whether such proposals may affect historic properties to which they attach religious and/or cultural significance. Specifically, the Commission adopted a 45-day process for the applicants and Tribal Nations/NHOs to engage after which tower construction or collocation installations could proceed.

15. As part of this 45-day review process, applicants are required to send submission packets to the Tribal Nations/NHO. The Tribal Nations/NHOs have 30 calendar days to respond to the applicant's submission packet, which begins on the date that Tribal Nations/NHOs can be shown to have received or may reasonably be expected to have received the relevant submission packets. If an applicant does not receive a response within 30 calendar days of the date that Tribal Nations/NHOs can be shown to have or may reasonably be expected to have received the submission packet, the applicant can refer the matter to the Commission for follow-up.

16. Within five business days after receiving the applicant's referral, the Commission sends a letter and/or email to the Tribal Nation's or NHO's designated cultural resource representative with a reminder that the 30-day period for review of the submission packet has elapsed and requesting that, within 15 calendar days of the date of the letter and/or email, the Tribal Nation/NHO indicate its interest or lack thereof in participating in a section 106 review. During the 15-day period, Commission staff place phone calls to the designated cultural resource representative. If the Tribal Nation/NHO does not respond within 15 calendar days, the applicant's pre-construction obligations are discharged with respect to that Tribal Nation/NHO. The Commission concluded that pursuant to ACHP rules, these procedures ''satisfy the Commission's obligation to make reasonable and good faith efforts to identify Tribal Nations and NHOs that may attach religious and cultural significance to historic properties that may be affected by an undertaking.''

17. The Commission seeks comment on whether the telephone call component of the 45-day procedure is necessary given that the Commission already sends a letter and/or email for the same purpose. Since the effective date of these procedures on July 2, 2018, through January 8, 2026, Commission staff has placed approximately 20,539 telephone calls during the 15-day period after the 30-day review period accorded Tribal Nations/NHOs to review submission packets. These calls consume a considerable amount of Commission staff time. In 2025 alone, approximately 1,669 calls were placed. These calls are in addition to letters and/or emails reminding the Tribal Nations/NHOs that the 30-day review period has elapsed and informing them of the additional 15 days to indicate interest or lack thereof in participating in the section 106 review before the applicant's pre-construction obligations are considered discharged. To the extent commenters argue that these calls are necessary, the Commission requests that commenters explain why letters or emails are insufficient. For those advocating in favor of retaining the phone call step, the Commission seeks comment on how this might be done more efficiently. For example, if

feasible, would a recorded message be a suitable substitute for in-person contact?

B. Definition of ''Agency Action'' Under the Endangered Species Act

18. In light of the Commission's finding in the *Order* above that spectrum licensing is not an MFA, the Commission seeks comment on whether construction of communications facilities in connection with Commission spectrum authorizations are ''agency actions'' subject to the ESA. As discussed in the *Order* and further outlined in this *FNPRM,* the Commission licenses the use of spectrum, not facilities.

19. In the *NEPA NPRM* the Commission sought comment ''on the impact to the Commission's other legal responsibilities if certain actions were to fall outside NEPA for failure to qualify as MFAs.'' Additionally, commenters were invited to identify other legal requirements that may be affected by any potential changes to the Commission's NEPA rules consistent with the amended statute. In response, CTIA contends that ''the Commission should make a finding that wireless deployments that do not require ASR are not agency 'actions' under the ESA for the same basic reasons they are not MFAs under NEPA.'' Other commenters, however, encourage the Commission to maintain or expand its obligations under the ESA.

20. Under the ESA, an agency action ''means all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies in the United States or upon the high seas. Examples include, but are not limited to (a) actions intended to conserve listed species or their habitat; (b) the promulgation of regulations; (c) the granting of licenses, contracts, leases, easements, rights-of-way, permits, or grants-in-aid; or (d) actions directly or indirectly causing modifications to the land, water, or air.'' Cases interpreting the definition of an ''agency action'' under ESA compare the standard to the standard for ''major federal action'' under NEPA. However, some courts also hold that the definition of ''agency action'' should be broadly construed.

21. The Commission seeks comment on whether the construction of communications facilities connected with the issuance of a Commission license for the use of spectrum is an ''agency action'' where the Commission does not grant a license or permit for deployment of the infrastructure facilities themselves, but rather for the use of spectrum. Commenters should explain the basis for their views or any suggested alternatives, and comment on benefits and costs associated with adopting their position.

II. Initial Regulatory Flexibility Analysis

22. As required by the Regulatory Flexibility Act of 1980, as amended (RFA) the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *FNPRM* assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *FNPRM.* The Commission will send a copy of the *FNPRM,* including this IRFA, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy. In addition, the *FNPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A Need for, and Objectives of, the Proposed Rules

1. Definition of Undertaking Under the National Historic Preservation Act

23. In the *FNPRM,* the Commission seeks comment on its approach to implementing section 106 of the National Historic Preservation Act (NHPA), including section 106 efficiencies. Specifically, the Commission seeks to refresh the record on the meaning of ''undertaking'' and the Commission's approach to implementing section 106 of the NHPA. Additionally, and in light of the Commission's findings related to the licensing of spectrum, the Commission seeks comment on whether activities that are part of the deployment and operation of communications infrastructure are within the scope of ''undertaking.'' The Commission also seeks comment on actions and practices that the Commission could adopt to provide more efficiencies in the section 106 process and add greater predictability for all stakeholders.

24. The NHPA requires federal agencies to take into account the effect of an ''undertaking on any historic property'' and the Advisory Council on Historic Preservation's rules afford each individual federal agency the responsibility to ''determine whether [a] proposed Federal act to be taken by it is an undertaking.'' The Commission licenses the use of spectrum and not facilities. Because of this, the Commission seeks comment on whether the construction of communications facilities connected with the issuance of a Commission license for the use of spectrum should be regarded as an ''undertaking,'' where the Commission does not issue a ''permit, license or approval'' for deployment of the facilities themselves, but rather for the use of spectrum. The Commission seeks comment on the impact of its determination that spectrum licenses and facilities deployment in connection with spectrum licenses are not subject to NEPA review and its related rescission of § 1.1312 of the rules on whether spectrum licensing is an undertaking under the NHPA. The Commission also seeks comment on whether its actions merit reconsideration of the determination that Commission spectrum licensing activities are subject to NHPA review.

25. The Commission seeks comment on whether there are efficiencies to be gained through modifications to the Commission's NHPA procedures. Specifically, the Commission seeks comment on whether it should permit batching of section 106 submissions in order to reduce repetitive submissions and paperwork. The Commission seeks comment on possible approaches to bringing non-compliant towers into compliance with section 106 in order to increase the inventory of structures available for communications facility deployment through collocation, rather than the typically more onerous process of erecting new tower structures. The Commission seeks comment on any trends that have developed in the indication of Geographic Areas of Interest and what practices might assist in addressing an increased designation of Geographic Areas of Interest. In terms of emergency and disaster situations, the Commission seeks comment on whether additional efficiencies are needed in responding to damage infrastructure due to weather-related incidents to more quickly restore communications for citizens in impacted areas. The Commission seeks comment on Tribal consultations timelines and what specific modifications are needed to resolve any timeliness issues without compromising the integrity of the consultation process. Finally, the Commission seeks comment on procedures for applicants to notify Tribal Nations and NHOs (Tribal Nations/NHOs) of proposed tower builds and collocations, and reciprocally, for Tribal Nations/NHOs to respond by indicating whether such proposals may affect historic properties to which they attach religious and/or cultural significance.

2. Definition of ''Agency Action'' Under the Endangered Species Act

26. In the *FNPRM,* the Commission also seeks comment on whether the construction of communications facilities connected with the issuance of a Commission license for the use of spectrum is an ''agency action'' under the Endangered Species Act (ESA) where the Commission does not grant a license or permit for deployment of the facilities themselves, but rather for the use of spectrum. Under the ESA, an agency action ''means all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies in the United States or upon the high seas. Examples include, but are not limited to (a) actions intended to conserve listed species or their habitat; (b) the promulgation of regulations; (c) the granting of licenses, contracts, leases, easements, rights-of-way, permits, or grants-in-aid; or (d) actions directly or indirectly causing modifications to the land, water, or air.''

B. Legal Basis

27. The proposed action is authorized pursuant to sections 1, 2, 4(i)–(j), 201, 214, 301, 302a, 303, 307, 309, 319, and 332 of the Communications Act of 1934, as amended 47 U.S.C. 151, 152, 154(i)–(j), 201, 214, 301, 302a, 303, 307, 309, 319, and 332, section 704(b) of the Telecommunications Act of 1996, Public Law 104–104, section 102 of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4332, section 106 of the National Historic Preservation Act of 1966, as amended, 54 U.S.C. 306108, and the Endangered Species Act of 1973, as amended, 16 U.S.C. 1536.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

28. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act (SBA). A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

29. The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes three broad groups of small entities that could be directly affected by the Commission's actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and not dominant their field. While the Commission does not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, the Commission estimates that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

30. The rules proposed in the *FNPRM* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, the Commission concludes that the proposed rules will impact a substantial number of small entities. Where available, the Commission also provides additional information regarding the number of potentially affected entities in the industries identified below.

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

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	% Small firms
Wireless Telecommunications Carriers (except Satellite)	517112	1,500 employees	1,184	1,081	91.30
Satellite Telecommunications	517410	$44 million	332	195	58.73
All Other Telecommunications	517810	$40 million	1,673	1,007	60.19

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal service monitoring report telecommunications service provider data (data as of December 2023)	SBA size standard (1,500 employees)		
Affected entity	Total number FCC Form 499A filers	Small firms	% Small entities
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13

D. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

31. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

32. The *FNPRM* seeks comment on potential rule changes that may affect reporting, recordkeeping and other compliance requirements. Specifically, the *FNPRM* seeks comment on the following: (1) the identification of ''undertaking'' in the context of the deployment of communications facilities; (2) the batching process for submitting multiple proposed applications for section 106 review; (3) bringing into section 106 compliance existing towers that are non-compliant; (4) trends that have developed in the indication of Geographic Areas of Interest; (5) streamlining the re-establishment of communications infrastructure capacity after damage from natural disasters and other emergencies; and (6) modification of procedures for applicants to notify Tribal Nations of proposed tower builds and collocations, and reciprocally, for Tribal Nations to respond by indicating whether such proposal may affect historic properties to which they attach religious and/or cultural significance. The *FNPRM* also seeks comment on whether the construction of communications facilities connected with the issuance of a Commission license for the use of spectrum is an ''agency action'' under the ESA where the Commission does not grant a license or permit for deployment of the facilities themselves, but rather for the use of spectrum.

33. The Commission anticipates that if the record supports a more accurate and precise identification of the ''undertaking'' under the NHPA for aspects of communications facilities deployment, this will not increase the burden on small entities engaged in the section 106 process and that the expenditure of time and resources on the section 106 process will be reduced for small entities. Batching is a streamlined process whereby section 106 analysis associated with proposed communications infrastructure deployments may be submitted to State Historic Preservation Officers (SHPOs) and through the Tower Construction Notification System (TCNS) in batches instead of individually. The *FNPRM* seeks comment on whether SHPOs and Tribal Historic Preservation Officers (THPOs) should batch submissions and under what circumstances. Presently, batching is only in use for the deployment of communications facilities associated with the building out the Positive Train Control (PTC) railroad safety system through the PTC Program Comment. If batching is expanded to additional deployment situations, this may require modifications to reporting or other compliance requirements for small entities and/or jurisdictions to enable such submissions. The Commission anticipates that batching rather than individual submissions will add no additional burden to small entities and may reduce the cost and delay associated with the deployment of wireless infrastructure. The Commission also anticipates that if the record supports a more accurate and precise identification of ''agency actions'' under the ESA for aspects of communications facilities deployment, this will not increase the burden on small entities engaged in complying with the ESA and that the expenditure of time and resources in complying with the ESA will be reduced for small entities.

34. Additionally, the *FNPRM* seeks comment on whether and through what procedures the Commission should act to bring into section 106 compliance existing towers that are now non-complaint. The Commission anticipates that if the record supports adoption of a process that can facilitate section 106 compliance that this will reduce the burden on small entities by diminishing expenses and delays associated with the deployment of wireless infrastructure because the number of opportunities to collocate will increase for small entities. This change will allow small entities to have more opportunities to avail themselves of the multiple section 106 exclusion scenarios permitted by the Collocation NPA.

35. The Commission also seeks comment on trends in the identification of Geographic Areas of Interest by Tribal Nations and NHOs. These are areas within which Tribal Nations or NHOs have identified historic properties with religious and cultural significance to them. The Commission seeks comment both on whether the record includes data indicating a significant expansion of the geographic area being selected, and, if so, on methods that might assist with processing the enlarged geographic scope. If such methods are meritorious, the Commission anticipates that the time and resource burden expended on the section 106 process would be reduced for small entities.

36. The Commission also seeks comment on whether the repair or replacement of a damaged tower structure that results in a communication capacity emergency should be able to proceed without section 106 review in circumstances in which section 106 review had been completed for the structure at that site prior to it being damaged. The Commission anticipates that if the record supports adoption of this approach, this will reduce the burden on small entities of re-establishing communications capacity in emergency situations. The Commission also seeks comment regarding whether Tribal Nation requests for Government-to-Government consultation concerning the proposed deployment of communications infrastructure have a material effect on the timing of these deployments, and, if so, what modifications could be adopted to ameliorate timing delays without compromising the integrity of these consultations. The Commission anticipates that if the record supports both a determination that these consultations generally have a material impact on the timing of facilities deployment, and the adoption of adjustments that can shorten the timetable while preserving the integrity of the consultation process, that small entities will benefit in terms of saved time and resources expended to accomplish facilities deployments.

37. Finally, the *FNPRM* seeks comment on more definite timelines for section 106 review. The Commission current rules provide procedures for applicants to notify Tribal Nations and NHOs (Tribal Nations/NHOs) of proposed tower builds and collocations, and reciprocally, for Tribal Nations/NHOs to respond by indicating whether such proposals may affect historic properties to which they attach religious and/or cultural significance. Changes to these rules should benefit small entities by making for a more standardized and efficient process and implementation of these changes should save small entities resources. Such modifications should resolve timeliness issues without compromising the integrity of the consultation process.

38. At this time, the Commission cannot quantify the potential cost savings of any rules changes discussed in the *FNPRM,* should they be adopted. The Commission does not believe that small entities would need to hire professionals in order for them to comply with the proposed rules. As part of the Commission's invitation for

comment by interested parties, however, the Commission requests that any small entities participating in the comment process discuss any benefits or drawbacks associated with the proposed approaches, provide information on their current costs of compliance with the Commission's existing rules, as well as provide data and information on any differential impacts faced by small entities. The Commission expects the information the Commission receives in comments to help the Commission identify and evaluate relevant matters for small entities, including compliance costs, and identify other burdens that may result from the matters raised in the *FNPRM.*

E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

39. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

40. In developing its proposals in the *FNPRM* for minimizing significant economic impact on small entities, the Commission considered significant alternatives. The Commission will continue to consider a number of approaches to refining its section 106 processing rules, including by seeking comment on whether to expand the batching approach to section 106 submissions. The Commission will also consider the record in refining its compliance with the ESA. Part of the determination process will include consideration of savings in time and financial resources for small entities.

41. In addition, the *FNPRM* invites comment from small entities on alternative approaches in which the Commission could refine its historic preservation section 106 processing rules and its compliance with ESA in ways that will reduce economic impact and regulatory burdens on project sponsors. The Commission then will decide what actions it should take based on the subsequently developed record. Part of the decisional process will include evaluating the impact of these decisions on small entities and what alternatives the Commission might adopt to lessen significant economic impacts and regulatory burdens on small entities. The Commission will consider alternative proposals and approaches from commenters that would minimize the economic impact on small entities. The Commission's evaluation of the comments filed in this proceeding will shape the final conclusions it reaches, the final alternatives it considers, and the actions it ultimately takes to minimize any significant economic impact that may occur on small entities from the final rules.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

42. None.

III. Ordering Clauses

43. *It is ordered*, pursuant to sections 4(i), 301, 302, 303(r), 308, 309, and 333 of the Communications Act of 1934, 47 U.S.C. 154(i), 301, 302a, 303(r), 308, 309, 333, that this *Further Notice of Proposed Rulemaking, is adopted* as set forth above.

44. *It is further ordered* that the Office of the Secretary *shall send* a copy of this *Further Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–21347 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 4

[PS Docket Nos. 21–346 and 15–80; ET Docket No. 04–35; Report No. 3236; FR ID 372261; FR ID 372959]

Petition for Reconsideration of Action in Rulemaking Proceeding; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** concerning a Petition for Reconsideration (Petition) has been filed in the Commission's proceeding by Thomas Goode on behalf of the Alliance for Telecommunications Industry Solutions. That document contained incorrect dates.

DATES: October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Jeanne Stockman, Attorney Advisor, Public Safety and Homeland Security Bureau at (202) 418–7830 or *Jeanne.Stockman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of October 13, 2026 in FR Doc. 2026–20895 on page 64872, in the third column, correct the **DATES** caption to read:

DATES: Oppositions to the Petition must be filed on or before October 28, 2026. Replies to oppositions to the Petition must be filed on or before November 9, 2026.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–21312 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 26–287; RM–12028; DA 26–1077; FR ID 372215]

Television Broadcasting Services Des Moines, Iowa

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Table of TV Allotments (Table) of the Federal Communications Commission's (Commission) rules in response to a petition for rulemaking filed by Iowa Public Broadcasting Board (Licensee), the licensee of noncommercial educational PBS member television station KDIN–TV (KDIN–TV), Des Moines, Iowa (Des Moines). The Licensee holds a construction permit (CP) to construct a facility on UHF channel *34 at Des Moines, and now requests to substitute VHF channel *11 for UHF channel *34 in the Table, with the technical parameters as set forth in KDIN–TV's current license. The Media Bureau previously granted a petition for rulemaking submitted by the Licensee to substitute UHF channel *34 in place of VHF channel *11 at Des Moines. The Licensee states that it is now unable to complete construction of the channel *34 facility within the time specified on the construction permit, and therefore

requests amendment of the Table to allow it to continue to operate on VHF channel *11 at its currently licensed technical parameters to provide uninterrupted service to viewers. Given that the Licensee proposes to utilize its currently licensed parameters, we believe VHF channel *11 can be substituted for UHF channel *34 at Des Moines as proposed, in compliance with the principal community coverage requirements. In addition, we find that this channel change meets the technical requirements as well as the Commission's interference protection requirements.

DATES: Comments must be filed on or before November 18, 2026 and reply comments on or before December 3, 2026.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 45 L Street NE, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for the Petitioner as follows: Derek Teslik, Gray Miller Persh LLP, 2233 Wisconsin Avenue NW, Suite 226, Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Emily Harrison at *Emily.Harrison@fcc.gov,* (202) 418–1665 or Mark Colombo at *Mark.Colombo@fcc.gov,* (202) 418–7611.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rulemaking,* MB Docket No. 26–287; RM–12028; DA 26–1077, adopted October 6, 2026, and released October 6, 2026. The full text of this document is available online 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. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4). Provisions of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, do not apply to this proceeding.

Members of the public should note that all *ex parte* contacts are prohibited from the time a notice of proposed rulemaking is issued to the time the matter is no longer subject to Commission consideration or court review, *see* 47 CFR 1.1208. There are, however, exceptions to this prohibition, which can be found in § 1.1204(a) of the Commission's rules, 47 CFR 1.1204(a).

See §§ 1.415 and 1.420 of the Commission's rules for information regarding the proper filing procedures for comments, 47 CFR 1.415 and 1.420.

Providing Accountability Through Transparency Act: The Providing Accountability Through Transparency Act, Public Law 118–9, requires each agency, in providing notice of a rulemaking, to post online a brief plain-language summary of the proposed rule. The required summary of this notice of proposed rulemaking is available at *https://www.fcc.gov/proposed-rulemakings.*

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Thomas Horan,

Chief of Staff, Media Bureau.

Proposed Rule

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 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. In § 73.622, in the table in paragraph (j), under Iowa, revise the entry for ''Des Moines'' to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(j) * * *

Community	Channel No.
* * * * *	
Iowa	
* * * * *	
Des Moines	8, *11, 13, 16, 19
* * * * *	

* * * * *

[FR Doc. 2026–21260 Filed 10–16–26; 8:45 am]

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Notices

Federal Register
Vol. 91, No. 200
Monday, October 19, 2026

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–TM–26–1618]

Request for Extension of an Information Collection—Local Food Directories and Survey

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget, for extension of a currently approved collection, Local Food Directories and Survey, from the Office of Management and Budget 0581–0169. Under the Agricultural Marketing Act of 1946, as amended, AMS is responsible for conducting research to enhance market access for small and medium sized farmers. The role of the Local and Regional Foods Division of AMS is to facilitate the fair and efficient marketing of U.S. agricultural products. This information is used to populate the USDA's National Local Food Directories that assists customers looking to buy fresh local foods for their families to wholesale food buyers.

DATES: Comments on this notice must be received by December 18, 2026 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this notice. Comments should be submitted online at *http://www.regulations.gov/* or mailed to Americo Vega-Labiosa, Local and Regional Foods Division, Transportation and Marketing Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 1529 South Building, Ag Stop 0264, Washington, DC 20250–0264. All comments should be identified with the docket number (AMS–TM–26–1618), the date, and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Americo Vega-Labiosa, Local and Regional Foods Division, Transportation and Marketing Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 1529 South Building, Ag Stop 0264, Washington, DC 20250–0264; Tel. 202–384–8936. Comments should reference Docket No. AMS–TM–26–1618.

SUPPLEMENTARY INFORMATION:

Title: Local Food Directories.

OMB Number: 0581–0169.

Expiration Date of Approval: October 31, 2026.

Type of Request: Extension of currently approved information collection.

Abstract: Under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), AMS is responsible for conducting research to enhance market access for small and medium sized farmers. The role of the Local and Regional Foods Division (LFRD) of AMS is to facilitate distribution of U.S. agricultural products. The division identifies marketing opportunities, provides analysis to help take advantage of those opportunities and develops and evaluates strategies including methods to diversify farming operations of direct from farm-to-customer enterprises.

The USDA Local Food Directories are managed and operated by the Agricultural Marketing Service (AMS). These directories serve a wide range of stakeholders. From customers looking to buy fresh local foods for their families to wholesale food buyers, you can quickly identify nearby suppliers of local food. By listing their business information in the directories, farmers, producers and distributors of local foods can take advantage of opportunities in both direct-to-consumer and wholesale markets.

The definitions of farmers markets, on-farm markets, community-supported agriculture (CSA), agritourism, and food hubs, as utilized by AMS for the purposes of the Local Food Directories are listed below.

A farmers market is defined as two or more farm vendors selling agricultural products directly to customers at a common, recurrent physical location.

An agritourism operation is a working farm, ranch, aquaculture and agroforestry. An agritourism directory is a list of working farms, ranches, aquaculture and agroforestry operations that provide education and recreation opportunities, active-involvement experiences (*e.g.,* farming activities, processing), as well as retailing and hospitality (*e.g.,* accommodations, dining) facilities and services for the enjoyment of visitors that generate supplemental income, create and grow farm product markets *i.e.,* for local foods, and build understanding of agriculture. A working farm, ranch, aquaculture or agroforestry operation is defined as an area of land and buildings, or water (ponds, lakes, rivers, oceans), including within and around cities, that is currently being utilized to raise and grow domesticated animals, plants, trees, and freshwater and marine fish and shellfish, for food and beverages, including vegetables, fruits, herbs, meats, dairy products, oils, cereals, fish and shellfish, and products for direct sales to customers, and/or immediate consumption or enjoyment of customers, that are grown or processed there (*e.g.,* Christmas trees, pinyon seeds, ginseng, wool, wine, beer, cheeses, nursery plants).

An on-farm market is a single farm operation that sells agricultural and/or horticultural products directly to customers on its farm property or on property adjacent to its farm. Most products sold at the on-farm market are either grown on the proprietor's farm or are sourced from neighboring farms. An on-farm market may operate seasonally or year-round. On-farm markets are an important component of direct marketing, adding value by offering customers a visit to the farm and the opportunity to purchase products from the people who grew them.

A CSA enterprise is defined as a farm or network/association of multiple farms that offer customers regular (usually weekly) deliveries of locally-grown farm products during one or more harvest season(s) on a subscription or membership basis. Customers have access to a selected share or range of farm products offered by a single farm or group of farmers based on partial or

total advance payment of a subscription or membership fee. The up-front working capital generated by selling shares reduces the financial risk to the farmer(s). Generally, farmers receive better prices for their crops and have reduced marketing costs. Consumers benefit by receiving a periodic (usually weekly) delivery of fresh locally-grown fruits, vegetables, meats, eggs and other produce. They also benefit from the ability to collectively support the sustainability of local farmers.

A food hub is a business or organization that actively manages the aggregation, distribution, and marketing of source-identified food products to multiple buyers from multiple producers, primarily local and regional producers, to strengthen the ability of these producers to satisfy local and regional wholesale, retail, and institutional demand. This marketing channel also allows farm operators to capture a larger share of consumers' food dollar.

This information is provided voluntarily by business owners and managers and will be used to continue building the USDA Local Food Directories describing the characteristics of local food operations and working farms.

Topic areas in the entry form:

—Characteristics of local food business
—Contact information
—Types of products sold
—Location of the business
—Operation schedule
—Activities

Authority:

- In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).
- The Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*).
- 7 U.S.C. 1621 Congressional declaration of purpose; use of existing facilities; cooperation with States.
- 7 U.S.C. 1622(a)–(b) 1622. Duties of Secretary relating to agricultural products.
- 7 U.S.C. 1624 Cooperation with Government and State agencies, private research organizations, etc.; rules and regulations.
- 7 U.S.C. 2279g Marketing services; cooperative agreements.
- Grant Programs.
- 7 U.S.C. 1627c Local Agriculture Market Program (LAMP).
- 7 U.S.C. 1621 Specialty Crop Block Grant Program.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5 minutes per entry.

Respondents: Local food businesses listing their information on USDA National Local Food Directories.

Estimated Number of Potential Respondents: 15,000.

Estimated Total Potential Annual Responses: 500.

Maximum Estimated Total Annual Burden on All Respondents: 1,250 hours.

Comments are invited on: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All written comments should be identified with the docket number AMS–TM–26–1618. It is our intention to have all comments, whether submitted by mail or internet, available for viewing on the *Regulations.gov* (*www.regulations.gov*) website.

AMS is committed to complying with the E-Government Act of 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.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2026–21266 Filed 10–16–26; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2026–0364]

Notice of Availability of a Pest Risk Analysis for the Importation of Fresh Passion Fruit From Viet Nam Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with the importation of fresh passion fruit (*Passiflora edulis*) for consumption from Viet Nam into the United States. Based on the analysis, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh passion fruit from Viet Nam into the United States. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before December 18, 2026.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2026–0364 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2026–0364, Regulatory Analysis and Development, PPD, APHIS, 5601 Sunnyside Ave., #AP760, Beltsville, MD 20705.

Supporting documents and any comments we receive on this docket may be viewed at *www.regulations.gov* or in our reading room, which is located in Room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Gina Stiltner, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 500 New Karner Road, Suite 2, Albany, NY 12055; (518) 760–2468; *Gina.L.Stiltner@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart L—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization of Viet Nam to allow the importation of fresh passion fruit (*Passiflora edulis*) for consumption from Viet Nam into the United States. As part of our evaluation of Viet Nam's request, we have prepared a pest risk assessment to identify the pests of quarantine significance that could follow the pathway of the importation of fresh passion fruit for consumption from Viet Nam into the United States. Based on the pest risk assessment, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to fresh passion fruit to mitigate the pest risk.

Therefore, in accordance with § 319.56–4(c), we are announcing the availability of our pest risk assessment and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh passion fruit for consumption from Viet Nam into the United States, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of the pest risk assessment and RMD by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh passion fruit for consumption from Viet Nam into the United States in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh passion fruit for consumption from Viet Nam into the United States subject to the requirements specified in the RMD.

(Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.)

Done in Washington, DC, this 14th day of October 2026

Kelly Moore,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026–21311 Filed 10–16–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Recreation Fee Sites

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Helena-Lewis and Clark National Forest is proposing to establish several recreation fee sites. Proposed recreation fees collected at the proposed recreation fee sites would be used for operation, maintenance, and improvement of the sites. An analysis of nearby recreation fee sites with similar amenities shows that the proposed recreation fees are reasonable and typical of similar recreation fee sites in the area.

DATES: If approved, the proposed recreation fee sites and proposed recreation fees would be established no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Helena-Lewis and Clark National Forest, 2880 Skyway Drive, Helena, MT 59602.

FOR FURTHER INFORMATION CONTACT: Rory Glueckert, Recreation Program Manager, 406–495–3761, *SM.HLF_Fee_Proposal@usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (16 U.S.C. 6803(b)) requires the Forest Service to publish in the **Federal Register** a six-month advance notice before establishment of proposed recreation fee sites. In accordance with Forest Service Handbook 2309.13, Chapter 30, the Forest Service will publish the proposed recreation fee sites and proposed recreation fees in local newspapers and other local publications for public comment. At least 80 percent of the proposed recreation fees collected at the Helena-Lewis and Clark National Forest would remain available for expenditure at the Forest to enhance the visitor experience at the proposed recreation fee sites.

A proposed expanded amenity recreation fee of $10 per night would be charged for Mill Falls Campground. A proposed expanded amenity recreation fee of $15 per night would be charged for Pine Grove and Falls Creek Campgrounds. In addition, a proposed expanded amenity recreation fee of $55 per night would be charged for rental of the Forest Lake and Highwood Cabins.

Fee revenue would be used to enhance recreation opportunities, improve customer service, and address maintenance needs.

Once public involvement is complete, the proposed recreation fee sites and proposed recreation fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation. Reservations for campgrounds and cabins could be made online at *www.recreation.gov* or by calling 877–444–6777. Reservations would cost $8.00 per reservation. The $8.00 reservation fee is a transaction fee charged by the *recreation.gov* reservation platform and is not a Forest Service recreation fee under the Federal Lands Recreation Enhancement Act. This transaction fee is retained by the service provider to support the cost of the reservation system.

Gordon Blum,

Associate Deputy Chief, Recreation and Heritage.

[FR Doc. 2026–21241 Filed 10–16–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Recreation Fee Sites

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice.

SUMMARY: The National Forests in North Carolina are proposing to establish two recreation fee sites. Proposed recreation fees collected at the proposed recreation fee sites would be used for operation, maintenance, and improvement of the sites. An analysis of nearby recreation fee sites with similar amenities shows that the proposed recreation fees are reasonable and typical of similar recreation fee sites in the area.

DATES: If approved, the proposed recreation fee sites and proposed recreation fees would be established no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: National Forests in North Carolina, Attention: Logan Free, 160 Zillicoa Street, Asheville, NC 28801.

FOR FURTHER INFORMATION CONTACT: Logan Free, Developed Recreation Program Manager, 828–257–4256, *SM.FS.NFsNCfees@usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement

Act (16 U.S.C. 6803(b)) requires the Forest Service to publish in the **Federal Register** a six-month advance notice before the establishment of proposed recreation fee sites. In accordance with Forest Service Handbook 2309.13, chapter 30, the Forest Service will publish the proposed recreation fee sites and proposed recreation fees in local newspapers and other local publications for public comment. At least 80 percent of the proposed recreation fees collected at the National Forests in North Carolina would remain available for expenditure at the Forest to enhance the visitor experience at the proposed recreation fee sites.

A proposed expanded amenity recreation fee of $50 per day would be charged for the Rocky Bluff Picnic Area and Poplar Boat Launch group picnic sites. Fee revenue would be used to enhance recreation opportunities, improve customer service, and address maintenance needs.

Once public involvement is complete, the proposed recreation fee sites and proposed recreation fees will be reviewed by a Resource Advisory Committee prior to a final decision and implementation. Reservations for group picnic sites can be made online at *www.recreation.gov* or by calling (877) 444–6777. A Reservation fee of $8.00 per reservation will be added to the cost of the reservation. The $8.00 reservation fee is a transaction fee charged by the *recreation.gov* reservation platform and is not a Forest Service recreation fee under the Federal Lands Recreation Enhancement Act. This transaction fee is retained by the service provider to support the cost of the reservation system.

Gordon Blum,

Associate Deputy Chief, Recreation and Heritage.

[FR Doc. 2026–21248 Filed 10–16–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Recreation Fee Sites

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice.

SUMMARY: The Apache-Sitgreaves National Forests are proposing to establish several recreation fee sites. Proposed recreation fees collected at the proposed recreation fee sites would be used for operation, maintenance, and improvement of the sites. An analysis of nearby recreation fee sites with similar amenities shows that the proposed recreation fees are reasonable and typical of similar recreation fee sites in the area.

DATES: If approved, the proposed recreation fee sites and proposed recreation fees would be established no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Apache-Sitgreaves National Forests, Attention: Paul Hancock, 30 S Chiricahua Dr., Springerville, AZ 85938.

FOR FURTHER INFORMATION CONTACT: Paul Hancock, Infrastructure and Operations Staff Officer, (928) 333–6340, *SM.FS.ASNF_PAO@usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (16 U.S.C. 6803(b)) requires the Forest Service to publish in the **Federal Register** a six-month advance notice before the establishment of proposed recreation fee sites. In accordance with Forest Service Handbook 2309.13, chapter 30, the Forest Service will publish the proposed recreation fee sites and proposed recreation fees in local newspapers and other local publications for public comment. At least 80 percent of the proposed recreation fees collected at the Apache-Sitgreaves National Forest would remain available for expenditure at the Forest to enhance the visitor experience at the proposed recreation fee sites.

Proposed expanded amenity recreation fees of $15 per night and $5 per extra vehicle would be charged for Black Jack Campground, Blue Crossing Campground, Coal Creek Campground, Granville Campground, Hannagan Campground, KP Cienega Campground, Lower Juan Miller Campground, Scott Reservoir Campground, Upper Blue Campground, and Gabaldon Horse Camp.

A proposed standard amenity recreation fee of $5 per day per vehicle and $40 per year would be charged at Big Lake Boating Site, Big Lake Railroad Cove Boating Site, Big Lake South Cove Boating Site, Bunch Reservoir Boating Site, Crescent Lake West Side Boating Site, Luna Lake Boating Site, Nelson Reservoir North Boating Site, Nelson Reservoir South Boating Site, River Reservoir-Main Boating Site, South Crescent Lake Boating Site, Tunnel Reservoir Boating Site, Black Jack Campground Day Use, Coal Creek Campground Day Use, Granville Campground Day Use, Crescent Lake Point Area Fishing Site, and River Reservoir South Fishing Site. The America the Beautiful–the National Parks and Federal Recreational Lands Pass would be honored at these standard amenity recreation fee sites.

Fee revenue would be used to enhance recreation opportunities, improve customer service, and address maintenance needs.

Once public involvement is complete, the proposed recreation fee sites and proposed recreation fees will be reviewed by a Recreation Resource Advisory Committee prior to a final decision and implementation. Reservations for campgrounds can be made online at *www.recreation.gov* or by calling (877) 444–6777. A Reservation fee of $8.00 per reservation will be added to the cost of the reservation. The $8.00 reservation fee is a transaction fee charged by the *recreation.gov* reservation platform and is not a Forest Service recreation fee under the Federal Lands Recreation Enhancement Act. This transaction fee is retained by the service provider to support the cost of the reservation system.

Gordon Blum,

Associate Deputy Chief, Recreation and Heritage.

[FR Doc. 2026–21242 Filed 10–16–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Recreation Fee Sites

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice.

SUMMARY: The Eldorado National Forest is proposing to establish several recreation fee sites and a special recreation permit. Proposed recreation fees collected at the proposed recreation fee sites and for the proposed special recreation permit would be used for operation, maintenance, and improvement of the sites and the special recreation use covered by the proposed special recreation permit. An analysis of nearby recreation fee sites and special recreation uses with similar amenities shows that the proposed recreation fees are reasonable and typical of similar recreation fee sites and special recreation uses in the area.

DATES: If approved, the proposed recreation fee sites and proposed recreation fees would be established no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Eldorado National Forest, Attention: Recreation Fees, 100 Forni Road, Placerville, CA 95667.

FOR FURTHER INFORMATION CONTACT: Don Morrill, Forest Recreation Officer, (530) 957–0740, *don.morrill@usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (16 U.S.C. 6803(b)) requires the Forest Service to publish in the **Federal Register** a six-month advance notice before the establishment of a new recreation fee area. In accordance with Forest Service Handbook 2309.13, chapter 30, the Forest Service will publish the proposed recreation fee sites, proposed recreation fees, and proposed special recreation permit in local newspapers and other local publications for public comment. At least 80 percent of the proposed recreation fees collected at the Eldorado National Forest would remain available for expenditure at the Forest to enhance the visitor experience at the proposed recreation fee sites and in connection with the special recreation use covered by the proposed special recreation permit.

A proposed expanded amenity recreation fee of $26 per night would be charged for Airport Flat Campground, Azalea Cove Campground, Camino Cove Campground, Cole Creek Camping Area, and Lone Rock Campground. A proposed expanded amenity recreation fee of $46 per night would be charged for double sites at Camino Cove Campground. In addition, a proposed expanded amenity recreation fee of $100 per night would be charged for rental of Bunker Hill Lookout Cabin.

A proposed standard amenity recreation fee of $10 per day per vehicle would be charged at Echo Summit Nordic Ski Area, Fleming Meadow, Caples Creek, Lake Margaret, Shealor Lake, and Thunder Mountain trailheads and developed recreation sites. The America the Beautiful—the National Parks and Federal Recreational Lands Pass would be honored at these standard amenity recreation fee sites. A special recreation permit and a fee of $10 per person, per night, are proposed for overnight camping in the Mokelumne Carson Pass Management Area during the first year of implementation. During years 2 through 4, the fee would remain at $10 per person, per night, with an increase to $15 per person, per night beginning in year 5.

Fee revenue would be used to enhance recreation opportunities, improve customer service, and address maintenance needs.

Once public involvement is complete, the proposed recreation fee sites, proposed special recreation permits, and proposed recreation fees will be reviewed by a Resource Advisory Committee prior to a final decision and implementation. Reservations for campgrounds and cabins can be made online at *www.recreation.gov* or by calling (877) 444–6777. A Reservation fee of $8.00 per reservation will be added to the cost of the reservation. The $8.00 reservation fee is a transaction fee charged by the *recreation.gov* reservation platform and is not a Forest Service recreation fee under the Federal Lands Recreation Enhancement Act. This transaction fee is retained by the service provider to support the cost of the reservation system.

Gordon Blum,

Associate Deputy Chief, Recreation and Heritage.

[FR Doc. 2026–21251 Filed 10–16–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Recreation Fee Sites

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: The Lake Tahoe Basin Management Unit proposes to establish several recreation fee sites. Proposed recreation fees collected at the proposed recreation fee sites would be used for operation, maintenance, and improvement of the sites. An analysis of nearby recreation fee sites with similar amenities shows that the proposed recreation fees are reasonable and typical of similar recreation fee sites in the area.

DATES: If approved, the proposed recreation fee sites and proposed recreation fees would be established no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Lake Tahoe Basin Management Unit, Attention: Recreation Fees, 35 College Drive, South Lake Tahoe, CA 96150.

FOR FURTHER INFORMATION CONTACT: Lisa Herron, Public Affairs Specialist, (530) 721–3898, *SM.FS.R5.LTBMU.FeeProposal@usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (16 U.S.C. 6803(b)) requires the Forest Service to publish in the **Federal Register** a six-month advance notice before establishment of proposed recreation fee sites. In accordance with Forest Service Handbook 2309.13, Chapter 30, the Forest Service will publish the proposed recreation fee sites, and proposed recreation fees in local newspapers and other local publications for public comment. At least 80 percent of the proposed recreation fees collected at the Lake Tahoe Basin Management Unit would remain available for expenditure at the Lake Tahoe Basin Management Unit to enhance the visitor experience at the proposed recreation fee sites

A proposed expanded amenity recreation fee of $20 per night would be charged for Luther Pass Overflow Campground and Watson Lake Campground.

A proposed standard amenity recreation fee of $10 per day per vehicle would be charged at 64 Acres Riverside Picnic Site, Echo Trailhead, and Kiva Picnic Area (Tallac Historic Area) developed recreation sites. Additionally, a proposed standard amenity recreation fee of $10 per day per vehicle for the first year of implementation, and $15 per day per vehicle, after five years of implementation, would be charged for Big Meadow Trailhead, Kiva Beach, and Taylor Creek Visitor Center. The America the Beautiful—the National Parks and Federal Recreational Lands Pass would be honored at these standard amenity recreation fee sites.

Fee revenue would be used to enhance recreation opportunities, improve customer service, and address maintenance needs.

Once public involvement is complete, the proposed recreation fee sites will be reviewed by a Resource Advisory Committee prior to a final decision and implementation. Reservations for campgrounds and cabins could be made online at *www.recreation.gov* or by calling (877) 444–6777. Reservations would cost $8.00 per reservation. A Reservation fee of $8.00 per reservation will be added to the cost of the reservation. The $8.00 reservation fee is a transaction fee charged by the *recreation.gov* reservation platform and is not a Forest Service recreation fee under the Federal Lands Recreation Enhancement Act. This transaction fee is retained by the service provider to support the cost of the reservation system.

Gordon Blum,

Associate Deputy Chief, Recreation and Heritage.

[FR Doc. 2026–21243 Filed 10–16–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Proposed Recreation Fee Site

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice.

SUMMARY: The Tahoe National Forest proposes to establish a new recreation fee site. Proposed recreation fees collected at the proposed recreation fee site would be used for operation, maintenance, and improvement of the site. An analysis of nearby recreation fee sites with similar amenities shows that the proposed recreation fee is reasonable and typical of similar recreation fee sites in the area.

DATES: If approved, the proposed recreation fee sites and proposed recreation fees would be established no earlier than six months following the publication of this notice in the **Federal Register**.

ADDRESSES: Tahoe National Forest, Attention: Recreation Fees, 631 Coyote Street, Nevada City, CA 95959.

FOR FURTHER INFORMATION CONTACT: Mary Sullivan, Recreation Program Manager, (530) 478–6298, *tahoe_nf_comments@usda.gov.*

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (16 U.S.C. 6803(b)) requires the Forest Service to publish in the **Federal Register** a six-month advance notice before the establishment of proposed recreation fee site. In accordance with Forest Service Handbook 2309.13, chapter 30, the Forest Service will publish the proposed recreation fee site and proposed recreation fees in local newspapers and other local publications for public comments. At least 80 percent of the proposed recreation fees collected at the Tahoe National Forest would remain available for expenditure at the Forest to enhance the visitor experience at the proposed recreation fee site.

A proposed expanded amenity recreation fee of $20 per night would be charged for Grouse Ridge Campground.

Fee revenue would be used to enhance recreation opportunities, improve customer service, and address maintenance needs.

Once public involvement is complete, the proposed recreation fee site and proposed recreation fees will be reviewed by a Resource Advisory Committee prior to a final decision and implementation. Reservations for campgrounds and cabins can be made online at *www.recreation.gov* or by calling (877) 444–6777. A reservation fee of $8.00 per reservation will be added to the cost of the reservation. The $8.00 reservation fee is a transaction fee charged by the *recreation.gov* reservation platform and is not a Forest Service recreation fee under the Federal Lands Recreation Enhancement Act. This transaction fee is retained by the service provider to support the cost of the reservation system.

Gordon Blum,

Associate Deputy Chief, Recreation and Heritage.

[FR Doc. 2026–21249 Filed 10–16–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Services Surveys: BE–125, Quarterly Survey of Transactions in Selected Services and Intellectual Property With Foreign Persons

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of Information Collection, request for comment.

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

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before December 18, 2026.

ADDRESSES: Interested persons are invited to submit written comments to Christopher Stein, Chief, Services Surveys Branch, Bureau of Economic Analysis, by email to *christopher.stein@bea.gov* or *PRAcomments@doc.gov*. Please reference OMB Control Number 0608–0067 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Christopher Stein, Chief, Services Surveys Branch, Bureau of Economic Analysis; 301–278–9189; or via email at *christopher.stein@bea.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Quarterly Survey of Transactions in Selected Services and Intellectual Property with Foreign Persons (Form BE–125) is an ongoing survey that collects data from U.S. persons who engage in covered transactions in selected services or intellectual property with foreign persons. A U.S. person means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), resident in the United States or subject to the jurisdiction of the United States. A U.S. person must report if they had combined sales of covered services or intellectual property to foreign persons that exceeded $6 million for the previous fiscal year, or are expected to exceed that amount during the current fiscal year, or if they had combined purchases of covered services or intellectual property from foreign persons that exceeded $4 million for the previous fiscal year, or are expected to exceed that amount during the current fiscal year.

The data are needed to monitor U.S. trade in services, to analyze the impact of these cross-border services on the U.S. and foreign economies, to compile and improve the U.S. economic accounts, to support U.S. commercial policy on trade in services, to conduct trade promotion, and to improve the ability of U.S. businesses to identify and evaluate market opportunities. The data are used in estimating the trade in services component of the U.S. international transactions accounts (ITAs) and national income and product accounts (NIPAs).

The Bureau of Economic Analysis (BEA) is proposing to expand transaction category detail to further align BEA's statistics with international guidelines and to collect additional information that can be used to improve the current estimation methodologies for published services transactions, increasing the quality and usefulness of BEA's statistics on trade in services. BEA is also proposing to modify the survey reporting thresholds, decreasing survey respondent burden and streamlining data collection.

BEA proposes three changes to the survey's data and database transaction categories:

(1) Separately collect the following three new intellectual property (IP) rights transaction types related to data and database transactions:

(a) ''rights to use data and databases'' (new transaction code 8.1),

(b) ''rights to reproduce and/or distribute data and databases'' (new transaction code 8.2), and

(c) ''outright sales of data and databases'' (new transaction code 8.3).

(2) Collect a new information services transaction type, ''compilation services for data and databases'' (new transaction category 14.2).

(3) Redefine ''other information services'' (new transaction code 14.3, currently transaction code 14.2) so that it does not cover transactions currently reported in 14.2. Collecting separate categories for data and database related IP rights will further improve BEA's measurement for these growing economic activities and further align BEA's statistics with international guidelines.

BEA also proposes collecting a new category of personal, cultural, and recreational services. The category, ''other personal services'' (new transaction code 42) has presumably been included by reporters in ''other selected services'' (current transaction code 42). The transaction category ''other selected services'' will now be reported as transaction code 43 (new transaction code after ''other personal services'' have been moved to their new location in the redefined transaction code 42).

BEA estimates there will be no change in the average number of burden hours per response associated with the changes in transaction categories. The affected reporters should not experience a noticeable impact to burden because the data are already collected by BEA within other transaction categories and BEA believes this additional level of detail is readily available in their accounting records.

BEA also proposes to increase the threshold for filing the BE–125. The new reporting thresholds would require reporting from U.S. persons who had combined sales of covered services or intellectual property to foreign persons that exceeded $20 million (currently $6 million) for the previous fiscal year, or are expected to exceed that amount during the current fiscal year, or if they had combined purchases of covered services or intellectual property from foreign persons that exceeded $12 million (currently $4 million) for the previous fiscal year, or are expected to exceed that amount during the current fiscal year. BEA has determined that this increased threshold on the BE–125 would be sufficient to collect the information necessary to provide data users with insightful statistics measuring the economic impact of trade in services. This proposed change would reduce respondent burden and the BEA resources needed to collect and process these transactions.

The language in the instructions and definitions will be reviewed and adjusted as necessary to clarify survey requirements.

II. Method of Collection

BEA contacts potential respondents by mail at the end of each quarter. Respondents would be required to file the completed BE–125 forms within 30 days after the end of each fiscal quarter that is not the final fiscal quarter of the year and within 45 days after the close of the final fiscal quarter of the year. Reports would be required from each U.S. person that had combined sales of covered services or intellectual property to foreign persons that exceeded $20 million for the previous fiscal year, or are expected to exceed that amount during the current fiscal year, or that had combined purchases of covered services or intellectual property from foreign persons that exceeded $12 million for the previous fiscal year, or that are expected to exceed that amount during the current fiscal year. Entities required to report will be contacted individually by BEA. Entities not contacted by BEA have no reporting responsibilities.

BEA offers its electronic filing option, the eFile system, for use in reporting on Form BE–125. For more information about eFile, go to *www.bea.gov/efile*. In addition, BEA posts all its survey forms and reporting instructions on its website, *www.bea.gov/ssb*. These may be downloaded, completed, printed, and submitted via fax or mail.

III. Data

OMB Control Number: 0608–0067.

Form Number(s): BE–125.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10,000 annually (2,500 filed each quarter; 1,900 reporting mandatory data by country and affiliation, and 600 that would file exemption claims or voluntary responses).

Estimated Time per Response: 21 hours is the average for the 1,900 respondents filing data by country and affiliation and 1 hour for those filing an exemption claim or voluntary response. Hours may vary considerably among respondents because of differences in company size and complexity.

Estimated Total Annual Burden Hours: 162,000.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: International Investment and Trade in Services Survey Act (P.L. 94–472, 22 U.S.C. 3101–3108, as amended).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

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

[FR Doc. 2026–21357 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–220]

Large Diameter Graphite Electrodes From the People's Republic of China: Postponement of Final Determination of Sales at Less-Than-Fair-Value Investigation and Extension of Provisional Measures

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

SUMMARY: The U.S. Department of Commerce (Commerce) is postponing the deadline for issuing the final

determination in the less-than-fair-value (LTFV) investigation of large diameter graphite electrodes (LDGE) from the People's Republic of China (China) until February 12, 2027, and is extending the provisional measures from a four-month period to a period of not more than six months.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Deborah Cohen, 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) 482–4521.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 2026, Commerce initiated an LTFV investigation of LDGE from China.[1] The period of investigation (POI) is July 1, 2025, through December 31, 2025. On September 30, 2026, Commerce published its *Preliminary Determination* in this LTFV investigation.[2]

Postponement of Final Determination

Section 735(a)(2) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(2) provide 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 the exporters or producers 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 petitioners. Further, 19 CFR 351.210(e)(2) requires that such postponement requests by exporters be accompanied by a request for extension of provisional measures from a four-month period to a period of not more than six months, in accordance with section 733(d) of the Act.

On October 6, 2026, pursuant to 19 CFR 351.210(e) the sole participating mandatory respondent in this investigation, Jiangsu Jianglong New Energy Technology Co., Ltd. (Jiangsu Jianglong), requested that Commerce postpone the deadline for the final determination until no later than 135 days from the publication of the *Preliminary Determination,* and extend the application of the provisional measures from a four-month period to a period of not more than six months.[3] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the *Preliminary Determination* was affirmative; (2) the request was made by the exporters and producers who 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 until no later than 135 days after the date of the publication of the *Preliminary Determination,* and extending the provisional measures from a four-month period to a period of not more than six months. Accordingly, Commerce will make its final determination no later than February 12, 2027.

Notification To Interested Parties

This notice is issued and published pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(g).

Dated: October 9, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–21294 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Large Diameter Graphite Electrodes from the People's Republic of China and India: Initiation of Less-Than-Fair Value Investigations,* 91 FR 13581 (March 20, 2026) (*Initiation Notice*).

[2] *See Large Diameter Graphite Electrodes from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances,* 91 FR 61828 (September 30, 2026) (*Preliminary Determination*).

[3] *See* Jiangsu Jianglong's Letter, ''Jiangsu Jianglong's Request to Postpone Final Determination,'' dated October 6, 2026.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–875]

Fine Denier Polyester Staple Fiber From India: Preliminary Results and Rescission, in Part of Antidumping Duty Administrative Review; 2024–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that The Bombay Dyeing And Manufacturing Company Limited (Bombay Dyeing) sold subject merchandise at less than normal value (NV) during the period of review (POR), July 1, 2024, through June 30, 2025. In addition, we are rescinding the review with respect to Reliance Industries Limited (RIL). Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Howard Smith, 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) 482–5193.

SUPPLEMENTARY INFORMATION:

Background

On August 22, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), Commerce initiated an administrative review of the antidumping duty order on fine denier polyester staple fiber (fine denier PSF) from India with respect to RIL and Bombay Dyeing.[1] On November 20, 2025, RIL timely withdrew its request for an administrative review of its exports of subject merchandise during the POR.[2] On March 6, 2026, Bombay Dyeing notified Commerce that it will not participate in this administrative review.[3]

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[4] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.[5] On June 4, 2026, Commerce extended the deadline for issuing the preliminary results of this review to September 30, 2026.[6] On September 29, 2026, Commerce extended the deadline for issuing the preliminary results of this review by seven days, until October 7, 2026.[7]

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 90 FR 41043 (August 22, 2025); *see also Fine Denier Polyester Staple Fiber from the People's Republic of China, India, the Republic of Korea, and Taiwan: Antidumping Duty Orders,* 83 FR 34545 (July 20, 2018) (*Order*).

[2] *See* RIL's Letter, ''Withdrawal of request for conducting an administrative review,'' dated November 20, 2025.

[3] *See* Bombay Dyeing's Letter, ''Withdrawal from participation,'' dated March 6, 2026.

[4] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[5] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[6] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated June 4, 2026.

[7] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated September 29, 2026.

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[8] A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS, which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Order

The merchandise subject to the *Order* is fine denier PSF from India. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if all parties who requested the review withdraw their requests within 90 days of the date of publication of the notice of initiation of the requested review in the **Federal Register**. As noted above, Commerce received a timely-filed withdrawal request from RIL and no other parties requested an administrative review of RIL. Therefore, Commerce is rescinding this administrative review with respect to RIL, pursuant to 19 CFR 351.213(d)(1).

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available with adverse inferences (AFA) to determine a dumping margin for Bombay Dyeing. For a full description of the methodology underlying the preliminary results of review, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping margin exists for the period July 1, 2024, through June 30, 2025:

Producer/exporter	Weighted-average dumping margin (percent)
The Bombay Dyeing and Manufacturing Company Limited	21.43 *

* This rate is based on facts available with adverse inferences.

Disclosure

Normally, Commerce discloses to parties to the proceeding the calculations performed in the preliminary results of review within five days of any public announcement of the preliminary results or, if there is no public announcement, within five days of the date of publication of the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied total AFA to the individually examined company, in accordance with section 776 of the Act, there are no calculations to disclose.

Verification

On February 4, 2026, Auriga Polymers, Inc. and Nan Ya Plastics Corporation, America, domestic interested parties, requested that Commerce conduct a verification of the information submitted by Bombay Dyeing in this review. However, because Bombay Dyeing did not provide any of the information requested by Commerce and Commerce preliminarily determines that Bombay Dyeing has been uncooperative, it will not conduct a verification in this review.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.[9] 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 who submit case briefs or rebuttal briefs in this review 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 public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[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, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.[14]

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Commerce intends to issue rescission instructions to CBP in which it instructs CBP to assess antidumping duties on all entries of subject merchandise during the POR from RIL at rates equal to the cash deposit rate for estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19

[8] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Fine Denier Polyester Staple Fiber from India; 2024–2025,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[9] *See* 19 CFR 351.309.

[10] *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*).

[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 Procedures.*

[14] *See* 19 CFR 351.310(d).

CFR 351.212(c)(1)(i). Commerce intends to issue these rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding Bombay Dyeing in which it instructs CBP to assess antidumping duties on all entries of subject merchandise during the POR from Bombay Dyeing at rates equal to the weighted-average dumping margin determined for Bombay Dyeing in the final results of this review.

If a timely summons is filed at the U.S. Court of International Trade, Commerce will direct CBP in its assessment instructions not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Bombay Dyeing will be the cash deposit rate established for Bombay Dyeing in the final results of this review (if that rate continues to be based on total AFA, the rate will be offset by the lowest export subsidy rate determined for any company in the companion countervailing duty proceeding, as part of the application of AFA to Bombay Dyeing); [15] (2) for companies previously investigated or reviewed in this proceeding that are not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate determined for the company in the most recently completed segment of this proceeding that covered the company; (3) if the exporter is not a firm covered in this review, or in a prior segment of this proceeding, but the manufacturer is, then the cash deposit rate will be the rate established for the manufacturer in the most recently completed segment of this proceeding that covered the manufacturer; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 14.67 percent, the all-others rate established in the less than fair value investigation adjusted for export subsidies.[16] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of the countervailing duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: October 7, 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. Partial Rescission of Administrative Review
V. Application of Facts Available and Use of Adverse Inferences
VI. Recommendation

[FR Doc. 2026–21271 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–DS–P

[15] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of and Final Rescission of Review, in Part, of Antidumping Duty Administrative Review; 2023–2024,* 91 FR 8429 (February 23, 2026), and accompanying Issues and Decision Memorandum at Comment 7 (''Accordingly, we have adjusted Thong Thuan/TTCR's {(a company assigned a total AFA dumping margin)} cash deposit rate by the lowest export subsidy rate determined for any party in the *CVD Final.* As discussed above, this is appropriate because the U.S. price for the dumping margin alleged in the petition, *i.e.,* 25.76 percent, is based on import average unit values where the company associated with those values is not known''). Similarly, here, as AFA, we based Bombay Dyeing's dumping margin on the dumping margin alleged in the petition, which is based on the average unit values of U.S. imports of subject merchandise.) *See* Auriga Polymers, Inc. and Nan Ya Plastics Corporation, America's Letter, ''Petitioners' Submission of Factual Information and Comments in Advance of the Preliminary Results,'' dated August 20, 2026, at Attachment 2 on page 7 of the Initiation checklist.

[16] *See Order.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–846]

Boltless Steel Shelving Units Prepackaged for Sale From Thailand: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2023–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Fuding Industries Company Limited (Fuding) did not make sales of subject merchandise at less than normal value during the period of review (POR), November 29, 2023, through May 31, 2025. In addition, we are rescinding the review with respect to five companies. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Alexander Wolfe, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–5826.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 2025, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty (AD) order on boltless steel shelving units prepackaged for sale (boltless steel shelving) from Thailand.[1] On August 13, 2025, Commerce identified Fuding as the mandatory respondent in this administrative review.[2]

Due to the lapse in appropriations and federal government shutdown, on November 14, 2025, Commerce tolled the deadline of the preliminary results by 47 days.[3] Additionally, due to a backlog of documents that were electronically filed via Enforcement and

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 90 FR 35268 (July 25, 2025) (*Initiation Notice*); *see also See Boltless Steel Shelving Units Prepackaged for Sale from Malaysia, Taiwan, Thailand, and the Socialist Republic of Vietnam: Amended Final Affirmative Antidumping Duty Determination for Taiwan and Antidumping Duty Orders,* 89 FR 48555 (June 7, 2024) (*Order*).

[2] *See* Memorandum, ''Respondent Identification,'' dated August 13, 2025.

[3] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 17, 2025.

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.[4] Between May 5, and August 28, 2026, Commerce extended the deadline for the preliminary results of this review by 120 days.[5]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[6] A list of topics included in the Preliminary Decision

Memorandum is attached as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS. ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Order

The merchandise subject to the *Order* is boltless steel shelving from Thailand. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an AD order where it concludes that there were no suspended entries of subject merchandise during the POR.[7] Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.[8] Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the AD assessment rate calculated for the POR.[9] Commerce notified all interested parties of its intent to rescind the instant review regarding the five companies listed in Appendix II because there were no reviewable, suspended entries of subject merchandise from these companies during the POR and invited interested parties to comment.[10] No party commented on this memorandum. In the absence of any suspended entries of subject merchandise from these companies during the POR, we are rescinding this administrative review for the companies listed in Appendix II, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this review in accordance with sections 751(a) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following estimated weighted- average dumping margin exists for the period of November 29, 2023, through May 31, 2025:

Producer/exporter	Weighted-average dumping margin (percent)
Fuding Industries Company Limited	0.00

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement, or if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we will notify parties of the briefing schedule at a later date. 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.[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 public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[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

[4] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[5] *See* Memoranda, ''Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review,'' dated May 5, 2026; ''Second Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated July 2, 2026; ''Third Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated August 28, 2026.

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Boltless Steel Shelving Units Prepackaged for Sale from Thailand; 2023–2025,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] *See, e.g., Certain Carbon and Alloy Steel Cut-to Length Plate from the Federal Republic of Germany: Recission of Antidumping Administrative Review; 2020–2021,* 88 FR 4154 (January 24, 2023).

[8] *See* 19 CFR 351.212(b)(1).

[9] *See, e.g., Shanghai Sunbeauty Trading Co.* v. *United States,* 380 F.Supp.3d 1328, 1337 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that ''{w}hile the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended;'' *see also Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019,* 86 FR 36102 (July 8, 2021), and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review,* 77 FR 65532 (October 29, 2012) (noting that ''for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate'').

[10] *See* Memorandum, ''Notice of Intent to Rescind Review, In Part,'' dated December 19, 2025.

[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 Procedures.*

and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.[14]

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212.(b)(1), Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

If Fuding's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.[15] To determine whether an importer-specific, per-unit assessment rate is *de minimis,* in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If Fuding's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[16]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Fuding for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate calculated in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.[17]

For the companies listed in Appendix II for which the review is being rescinded, Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate for estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding Fuding no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of 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 provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Fuding will be the rate established for Fuding in the final results of this review, except, if this rate is less than 0.50 percent, and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 2.75 percent, the all-others rate established in the LTFV investigation.[18] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: October 13, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

Appendix II

Companies for Which the Administrative Review Is Rescinded

1. ABC Tools Mfg. Corp.
2. Bangkok Sheet Metal Public Co., Ltd.
3. Great Star Industries
4. Pengdong Electromechanical (Thailand) Co., Ltd.
5. Thai First Precision Industry Company Limited

[FR Doc. 2026–21279 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–301–803]

Citric Acid and Certain Citrate Salts From Colombia: Preliminary Results of Antidumping Duty Administrative Review; 2024–2025

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

[14] *See* 19 CFR 351.310(d).

[15] *See* 19 CFR 351.212(b)(1).

[16] *See* 19 CFR 351.106(c)(2); *see also Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[17] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[18] *See Order.*

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Sucroal S.A. (Sucroal) made sales of subject merchandise at less than normal value (NV) during the period of review (POR), July 1, 2024, through June 30, 2025. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Charles Doss, 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) 482–4474.

SUPPLEMENTARY INFORMATION:

Background

On August 22, 2026, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on citric acid and certain citrate salts (citric acid) from Colombia.[1] Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[2] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.[3] Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the deadline for the preliminary results by an additional 120 days.[4] The deadline for the preliminary results is now October 7, 2026.[5]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[6] A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via ACCESS, which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed at *https://access.trade.gov/frnotices.*

Scope of the Order

The merchandise subject to the *Order* is citric acid from Colombia. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. In addition, Commerce has preliminarily relied on partial adverse facts available under sections 776(a) and (b) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping margin exists for the period July 1, 2024, through June 30, 2025:

Producer/exporter	Weighted-average dumping margin (percent)
Sucroal S.A	3.25

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Verification

On February 6, 2026, Archer Daniels Midland Company, Cargill, Incorporated, and Primary Products Ingredients Americas LLC, domestic producers of the subject merchandise, requested that Commerce conduct verification of Sucroal's responses. Accordingly, in July 2026, as provided in section 782(i)(3) of the Act, we verified Sucroal's information relied upon for the preliminary results of this review.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.[7] 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] 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.[10] Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[11]

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

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 90 FR 41043 (August 22, 2025); *see also Citric Acid and Certain Citrate Salts from Colombia: Antidumping Duty Order,* 83 FR 35214 (July 25, 2018) (*Order*).

[2] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[3] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[4] *See* Commerce's Letter, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated May 12, 2026.

[5] *See* Memorandum, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated May 12, 2026; *see also* Memorandum, ''Second Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated September 24, 2026.

[6] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Citric Acid and Certain Citrate Salts from Colombia; 2024–2025,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[7] *See* 19 CFR 351.309.

[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.*

and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.[12]

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. If Sucroal's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.[13] To determine whether an importer-specific, per-unit assessment rate is *de minimis,* in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If Sucroal's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[14]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Sucroal for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate calculated in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.[15]

If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 28.48 percent.[16] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: October 7, 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. Application of Facts Available and Use of Adverse Inference
V. Discussion of the Methodology
VI. Currency Conversion
VII. Recommendation

[FR Doc. 2026–21291 Filed 10–16–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–955]

Perfluoroalkoxy Alkane From India: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Hannah Lee at (202) 482–1216 or Patrick Barton at (202) 482–0012, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 2026, the U.S. Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation of imports of perfluoroalkoxy alkane (PFA) from India.[1] Currently, the preliminary determination is due no later than October 29, 2026.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires

[12] *See* 19 CFR 351.310(d).

[13] *See* 19 CFR 351.212(b)(1).

[14] *See* 19 CFR 351.106(c)(2); *see also Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[15] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[16] *See Order.*

[1] *See Perfluoroalkoxy Alkane from India: Initiation of Countervailing Duty Investigation,* 91 FR 56110 (September 1, 2026) (*Initiation Notice*).

Commerce to issue the preliminary determination in a countervailing duty investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 130 days after the date on which Commerce initiated the investigation if: (A) the petitioner [2] makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On October 2, 2026, the petitioner submitted a timely request that Commerce postpone the preliminary CVD determination.[3] The petitioner stated that it requests postponement because the questionnaire response deadlines for the respondent and the Government of India fall within two weeks of the current preliminary determination deadline, precluding Commerce from incorporating rebuttal factual information or arguments into its determination.[4] Furthermore, additional time will be necessary for Commerce to analyze the questionnaire responses and issue supplemental questionnaires prior to the preliminary determination.[5]

In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determination, and Commerce finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determination to no later than 130 days after the date on which this investigation was initiated, *i.e.,* January 4, 2027.[6] Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination.

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: October 13, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–21276 Filed 10–16–26; 8:45 am]

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[2] The petitioner is The Chemours Company.

[3] *See* Petitioner's Letter, ''Petitioner's Request to Extend the Preliminary Determination,'' dated October 2, 2026.

[4] *Id.*

[5] *Id.*

[6] Postponing the preliminary determination to 130 days after initiation would place the deadline on Saturday, January 2, 2027. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–224]

Truck Bed Covers From the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and exporters of truck bed covers from the People's Republic of China (China) during the period of investigation (POI), January 1, 2025, through December 31, 2025.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Suresh Maniam and Mei Bradford, 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) 482–0176 and (202) 482–0197, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 2026, Commerce published in the **Federal Register** the *Preliminary Determination* of the countervailing duty investigation of truck bed covers from China and invited comments from interested parties.[1]

For a complete description of the events that followed the *Preliminary Determination* and a full discussion of the issues raised by parties for this final determination, *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). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Investigation

The product covered by this investigation is truck bed covers from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

During the course of this investigation, Commerce received a scope comment from an interested party. Commerce issued a Preliminary Scope Determination to address the comment and set aside a period of time for interested parties to address scope issues in scope-specific case and rebuttal briefs.[3] Comments regarding the Preliminary Scope Determination are due after the deadline for this final determination.[4] As such, Commerce has not modified the scope language as it appeared in the *Initiation Notice* for the final determination.

Verification

Consistent with section 782(i) of the Tariff Act of 1930, as amended (the Act), Commerce conducted on-site verifications of the subsidy information reported by Changzhou Sunwood International Trading Co., Ltd. (Sunwood) and Hangzhou Golden Sun Auto Parts Co., Ltd. (Golden Sun) in September 2026. We used standard verification procedures, including an examination of relevant sales, accounting records and original source documents provided by the respondents.[5]

[1] *See Truck Bed Covers from China: Preliminary Affirmative Countervailing Duty Determination,* 91 FR48367 (July 31, 2026) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Determination in the Countervailing Duty Investigation of Truck Bed Covers from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See* Memorandum, ''Less-Than-Fair-Value and Countervailing Duty Investigations of Truck Bed Covers from the People's Republic of China: Preliminary Scope Determination Memorandum,'' dated September 23, 2026 (Preliminary Scope Determination).

[4] *Id.*

[5] *See* Memorandum, ''Verification of Hangzhou Golden Sun Auto Parts Co., Ltd.'s Questionnaire Responses,'' dated September 17, 2026; *see also* Memorandum, ''Verification of Changzhou

Continued

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation, and the issues raised in the case and rebuttal briefs submitted by interested parties in this investigation are discussed in the Issues and Decision Memorandum. For a complete list of the issues raised by parties, and to which we responded in the Issues and Decision Memorandum, *see* Appendix II.

Changes Since the Preliminary Determination

We made certain changes to the countervailable subsidy rate determinations for Golden Sun and Sunwood, for all other producers and/or exporters, and for the adverse facts available rate (AFA) rate for companies that did not respond to our quantity and value questionnaire. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Act. For each of the subsidy programs found to be countervailable, Commerce determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that gives rise to a benefit to the recipient, and that the subsidy is specific.[6] For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce relied, in part, on facts available, including with an adverse inference, pursuant to sections 776(a) and (b) of the Act. For a full discussion of our application of AFA, *see* the section ''Use of Facts Otherwise Available and Application of Adverse Inferences'' in the accompanying Issues and Decision Memorandum.

All-Others Rate

Pursuant to section 705(c)(5)(A)(i) of the Act, Commerce will determine an all-others rate equal to the weighted average countervailable subsidy rates established for those exporters and/or producers individually examined, excluding any rates that are zero, *de minimis,* or based entirely under section 776 of the Act. If the rates established for all exporters and producers individually investigated are zero, *de minimis,* or determined entirely under facts available, Commerce may use any reasonable method to establish an all-others rate.[7]

In this investigation, Commerce calculated an individual estimated countervailable subsidy rates for Golden Sun and Sunwood that are not zero, *de minimis,* or based entirely on the facts otherwise available. Therefore, Commerce calculated the all-others rate using the weighted average of the individual estimated subsidy rates calculated for the examined respondents, *i.e.,* Golden Sun and Sunwood.[8]

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent *ad valorem*)
Changzhou Sunwood International Trading Co., Ltd ..	77.17
Hangzhou Golden Sun Auto Parts Co., Ltd	11.60
Century Distribution Systems (Shenzhen) Ltd	* 142.11
Foshan Baitai Auto Accessories Co	* 142.11
Shenzhen Haishang Wanyun Supply Chain Management Co., Ltd	* 142.11
Shenzhen Longhua Supply Chain Co., Ltd	* 142.11
Shenzhen Maichuang International	* 142.11
Shenzhen Qianhai Yahee E-Commerce Co., Ltd	* 142.11
All Others	43.43

* Rate is based on facts available with adverse inferences.

Disclosure

Commerce intends to disclose its calculations performed to interested parties in this final determination within five days of its public announcement, 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).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination,* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, we instructed U.S. Customs and Border Protection (CBP) to collect cash deposits and suspend liquidation of entries of subject merchandise, as described in the scope of the investigation section, that were entered, or withdrawn from warehouse, for consumption on or after July 31, 2026, the date of publication of the *Preliminary Determination* in the **Federal Register**, for entries produced and/or exported by Golden Sun, Sunwood, and all other producers and exporters.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. Pursuant to section 705(c)(2) of the Act, if the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated, and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its final affirmative determination that countervailable subsidies are being provided to producers and exporters of truck bed covers from China. As Commerce's final determination is affirmative, in accordance with section 705(b) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of truck bed covers from China. In addition, we are making available to the ITC all non-privileged and non-proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a countervailing duty order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the ''Continuation of Suspension of Liquidation'' section.

Sunwood International Trading Co., Ltd.'s Questionnaire Responses,'' dated September 21, 2026.

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; *see also* section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] *See* sections 705(c)(5)(A)(i) and (ii) of the Act.

[8] *See* Memorandum, ''Calculation of Final Subsidy Rate for All Others,'' dated concurrently with this notice.

Administrative Protective Order

This notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/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 which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: October 13, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Scope of the Investigation

The scope of the investigation covers truck bed covers, which are protective shields made of aluminum, steel, fiberglass, carbon fiber, plastic, and/or water-resistant fabric that are sized to span the open-top area of a pickup truck. When fully assembled and installed, truck bed covers have a width between 45 and 75 inches (actual) and a length between 55 and 100 inches (actual), and can be used to secure the cargo area of a pickup truck and/or repel water.

Truck bed covers typically encompass four general configurations—*i.e.,* folding, roll-up, one-piece, and retractable. Folding truck bed covers consist of two or more interconnected, hinged panels which may be made from a rigid material or a soft material with a rigid frame. Roll-up truck bed covers can be made of soft material with rigid crossbars, or rigid material such as slats, which allow the cover to roll forward for access to the truck bed, and which can be secured with straps, buckles, or other fasteners. One-piece truck bed covers are rigid covers that open from the tailgate end of the truck bed using a hinge or pivot, typically with the assistance of struts for opening and closing. Retractable truck bed covers are made of interconnected rigid slats or one-piece aluminum-reinforced polycarbonate that retract into a recessed canister to allow access to the truck bed. Retractable truck bed covers may be manually operated or electrically powered with a motor, and electric models may include additional features such as fob keys, Bluetooth connectivity, or LED lights.

The scope of the investigation includes not only the cover material (*i.e.,* the protective shield made of aluminum, steel, fiberglass, carbon fiber, plastic, and/or water-resistant fabric), but also any accompanying hardware for the mounting or storage of the truck bed cover (*e.g.,* rails, canisters, latches, straps, clasps, clamps, nuts, bolts, washers, screws, hitch pins, weather strips/seals/gaskets) or other parts (*e.g.,* locks, struts, drain tubes, motors), provided that such hardware or other parts are entered with and invoiced with the cover material. Truck bed covers are included within the scope whether or not they are accompanied with such hardware or other parts. Moreover, any hardware for the mounting or storage of the truck bed cover (*e.g.,* rails, canisters, latches, straps, clasps, clamps, nuts, bolts, washers, screws, hitch pins, weather strips/seals/gaskets) or other parts (*e.g.,* locks, struts, drain tubes, motors) are covered within the scope if such items are separately entered as a truck bed cover mounting or installation kit.

Excluded from the scope are truck caps (also known as camper shells, toppers, or canopies), which are enclosures that can be mounted on truck bed rails to extend the height of a truck bed by at least 12 inches (actual), thus creating a fully-enclosed, lockable storage area for cargo.

Also excluded from the scope of the investigation are any products already covered by the scope of any extant antidumping and/or countervailing duty orders, including *Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011), and *Aluminum Extrusions from the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011).

The products subject to the investigation are currently classifiable under subheading 8708.29.5160 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
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V. Subsidies Valuation Information
VI. Interest Rates and Benchmarks
VII. Analysis of Programs
VIII. Discussion of the Issues
Comment 1: Appropriate Harmonized System (HS) Code to Construct Benchmarks for Golden Sun's Purchases of Aluminum Extrusions
Comment 2: Appropriate HS Code to Construct Benchmarks for Golden Sun's Purchases of Polypropylene
Comment 3: Appropriate HS Code to Construct Benchmarks for Golden Sun's Purchases of Sheet Molding Compound
Comment 4: Appropriate HS Code to Construct Benchmarks for Sunwood's Purchases of Aluminum Extrusions
Comment 5: Whether to Apply AFA to the Provision of Land for LTAR Program
Comment 6: Whether to Apply AFA to the Small and Low Profit Enterprise Tax Program
Comment 7: Whether Value-Added Tax Should be Removed from Golden Sun's Purchases of Electricity
Comment 8: Calculation of Golden Sun's Loan Benefits
IX. Recommendation

[FR Doc. 2026–21295 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–857]

Certain Softwood Lumber Products From Canada: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review, and Final Determination of No Shipments; 2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that producers and/or exporters subject to this administrative review sold subject merchandise at less than normal value during the period of review (POR), January 1, 2024, through December 31, 2024.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Joshua Jacobson, Thomas Martin, or 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) 482–0266, (202) 482–3936, or (202) 482–1197, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of the 2024 administrative review of the antidumping duty (AD) order on certain softwood lumber from Canada on April 14, 2026, and invited parties to comment.[1] This administrative review covers three mandatory respondents: Canfor,[2]

[1] *See Certain Softwood Lumber From Canada: Preliminary Results and Intent To Rescind, in Part, of Antidumping Duty Administrative Review; 2024,* 91 FR 19099 (April 14, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] As described in the *Preliminary Results* PDM at 7, we have treated Canfor Corporation, Canadian Forest Products Ltd., Canfor Wood Products Marketing Ltd., Canfor Fox Creek Ltd. and Canfor Whitecourt Ltd. (collectively, Canfor) as a single entity.

Resolute,[3] and West Fraser; [4] as well as 220 non-selected producers/exporters.[5] The final weighted-average dumping margins are listed below in the ''Final Results of Review'' section of this notice. Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). For a detailed description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[6]

Scope of the Order [7]

The merchandise covered by this review is certain softwood lumber products from Canada. For a full description of the scope, *see* the Issues and Decision Memorandum.

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation. Requests were timely withdrawn within 90 days of the publication of the initiation notice for this review for 93 companies.[8] As a result, Commerce is rescinding this review with respect to these companies, in accordance with 19 CFR 351.213(d)(1).[9]

Additionally, pursuant to 19 CFR 351.213(d)(3), Commerce will rescind an administrative review when there are no entries of subject merchandise during the POR for which liquidation is suspended. Normally, upon completion of an administrative review, the suspended entries are liquidated at the AD assessment rate calculated for the review period.[10] Therefore, for an administrative review of a company to be conducted, there must be a suspended entry that Commerce can instruct and U.S. Customs and Border Protection (CBP) to liquidate at the AD assessment rate calculated for the POR.[11] In the absence of any suspended entries of subject merchandise from 12 companies that were initiated upon, we are rescinding the administrative review for these companies, in accordance with 19 CFR 351.213(d)(3).[12] For a list of the companies for which we are rescinding this review, *see* Appendix III.

Analysis of Comments Received

All issues raised in the case briefs filed in this administrative review are addressed in the Issues and Decision Memorandum. A list of the topics discussed in the Issues and Decision Memorandum is included in Appendix I of this notice. The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS), which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum is also accessible at *https://access.trade.gov/frnotices.*

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties, we have rescinded this review with regard to 105 companies, as we stated in the Intent to Rescind Memorandum.[13] In addition, we revised the names of certain respondents as identified in the *Preliminary Results* and made certain changes to the dumping margin calculations for the mandatory respondents. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Rate for Non-Selected Companies

The Act does not address the establishment of a rate to apply 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 735(c)(5) of the Act.

Under section 735(c)(5)(A) of the Act and 19 CFR 351.109(f), the all-others rate is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any rates that are zero, *de minimis* (*i.e.,* less than 0.5 percent), or determined entirely on the basis of facts available. Where the weighted-average dumping margin for each of the individually examined companies is zero, *de minimis,* or based entirely on facts available, section 735(c)(5)(B) of the Act and 19 CFR 351.109(f)(2)(iii) provide that Commerce may use ''any reasonable method'' to establish the estimated all-others rate for exporters and producers not individually investigated, including averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated.

In this review, we calculated above-*de minimis* weighted-average dumping margins for Canfor, Resolute, and West Fraser that were not determined entirely on the basis of facts available. Therefore, consistent with section 735(c)(5)(A) of the Act, we are assigning the weighted average of the three mandatory

[3] As described in the *Preliminary Results* PDM at 8, we have treated Resolute Growth Canada Inc., Forest Products Mauricie LP, Société en commandite Scierie Opitciwan, Resolute-LP Engineered Wood Larouche Inc., Resolute-LP Engineered Wood St-Prime Limited Partnership, and Resolute FP Canada Inc. (collectively, Resolute) as a single entity.

[4] As described in the *Preliminary Results* PDM at 8, we have treated West Fraser Mills Ltd., Blue Ridge Lumber Inc., Manning Forest Products Ltd., and Sundre Forest Products Inc. (collectively, West Fraser) as a single entity.

[5] The *Preliminary Results* identified 328 respondents. In these final results, we are rescinding this administrative review with respect to 105 companies.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2024 Administrative Review of the Antidumping Duty Order on Certain Softwood Lumber Products from Canada,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See Certain Softwood Lumber Products from Canada: Antidumping Duty Order and Partial Amended Final Determination,* 83 FR 350 (January 3, 2018*)* (*Order*).

[8] *See* Petitioner's Letter, ''Partial Withdrawal of Request for Administrative Review,'' dated May 12, 2025.

[9] Appendix III identifies all companies for which we have rescinded this review.

[10] *See* 19 CFR 351.212(b)(1).

[11] *See, e.g., Shanghai Sunbeauty Trading Co.* v. *United States,* 380 F. Supp. 3d 1328, 1335–36 (CIT 2019), at 12 (referring to section 751(a) of the Act, the U.S. Court of International Trade held that: ''While the statute does not explicitly require that an entry be suspended as a prerequisite for establishing entitlement to a review, it does explicitly state the determined rate will be used as the liquidation rate for the reviewed entries. This result can only obtain if the liquidation of entries has been suspended . . .''; *see also Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018–2019,* 86 FR 36102, and accompanying Issues and Decision Memorandum at Comment 4; and *Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation: Notice of Rescission of Antidumping Duty Administrative Review,* 77 FR 65532 (October 29, 2012) (noting that ''for an administrative review to be conducted, there must be a reviewable, suspended entry to be liquidated at the newly calculated assessment rate'').

[12] In the *Preliminary Results,* we listed 21 companies that made no entries of subject merchandise during the POR. *See Preliminary Results,* 91 FR at 19103 and Appendix II. We note that for 9 of these companies, all requests for review were timely withdrawn. Therefore, in these final results, we are rescinding review of these 9 companies under 19 CFR 351.213(d)(1).

[13] *See* Memorandum, ''Correction to List of Companies Under Review, Notice of Intent to Rescind Review, In Part, and Release of Draft Customs Instructions,'' dated September 29, 2026 (Intent to Rescind Memorandum).

respondents' weighted-average dumping margins to the companies not selected for individual examination in this review. For a list of all non-selected companies, *see* Appendix II to this notice.

Final Results of Review

As a result of this administrative review, we are assigning the following weighted-average dumping margins to the manufacturers/exporters listed below for the POR, January 1, 2024, through December 31, 2024:

Exporter/producer	Weighted-average dumping margin (percent)
Canfor Corporation/Canadian Forest Products Ltd./Canfor Wood Products Marketing Ltd./Canfor Fox Creek Ltd./Canfor Whitecourt Ltd.	17.00
West Fraser Mills Ltd./Blue Ridge Lumber Inc./Manning Forest Products Ltd./Sundre Forest Products Inc.	4.71
Resolute Growth Canada Inc./Forest Products Mauricie LP/Société en commandite Scierie Opitciwan/Resolute-LP Engineered Wood Larouche Inc./Resolute-LP Engineered Wood St-Prime Limited Partnership/Resolute FP Canada Inc.	13.13
Non-Selected Companies[14]	10.64

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.

We calculated importer- (or customer-) specific assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for each importer's (or customer's) examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1). Where an importer- (or customer-) specific rate is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce's ''reseller policy'' will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.,* a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.[15]

For all non-selected companies listed in Appendix II, we will instruct CBP to liquidate all entries of subject merchandise that entered the United States during the POR at the average of the rates calculated for Canfor and West Fraser as listed above.

For the companies/entities listed in Appendix III, for which we are rescinding this administrative review, Commerce will instruct CBP to assess antidumping duties on all appropriate entries at a rate equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2024, through December 31, 2024, in accordance with 19 CFR 351.212(c)(1)(ii).

The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future cash deposits of estimated duties, where applicable. Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the companies under review will be equal to the weighted-average dumping margin listed above in the ''Final Results of Review'' section; (2) for merchandise exported by producers or exporters not covered in this review but covered in a previously completed segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published in the final results for the most recent period in which that producer or exporter participated; (3) if the exporter is not a firm covered in this review or in any previous segment of this proceeding, but the producer is, then the cash deposit rate will be that established for the producer of the merchandise in these final results of review or in the final results for the most recent period in which that producer participated; and (4) if neither the exporter nor the producer is a firm covered in this review or in any previously completed segment of this proceeding, then the cash deposit rate will continue to be 6.04 percent *ad valorem,* the all-others rate established in the original less-than-fair-value investigation.[16] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of doubled antidumping duties, and/or an increase in the amount of antidumping duties by the amount of countervailing duties.

Administrative Protective Order (APO)

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

[14] *See* Appendix II of this notice for a list of the non-selected respondent companies.

[15] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[16] *See Order,* 83 FR at 351.

Notification to Interested Parties

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

Dated: October 13, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

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Comment 2: Whether to Correct an Error in the Calculation of the ''Total Adjustments'' to Canfor's Reported Cost Information
Comment 3: Whether to Exclude Expenses Incurred by Canfor Sweden in Canfor's General and Administrative (G&A) Expense Ratio
Comment 4: Whether Commerce's Treatment of Permanent Closure Costs Is Inconsistent, Unsupported by Substantial Evidence, and Contrary to Law
Comment 5: Whether to Revise the Determination Regarding the Alleged Purchase of Electricity from Canfor Pulp Products Inc. (CPPI) at the Northwood Facility
Comment 6: Whether to Revise the Calculation of the Market Prices Used to Evaluate Canfor's Affiliated Electricity Transactions
Comment 7: Whether to Adjust Resolute's Reported Costs to Account for Affiliated Log Purchases
Comment 8: Whether to Revise Resolute's Net Interest Expense Ratio Calculation
Comment 9: Whether to Revise Resolute's G&A Expense Ratio
Comment 10: Whether to Further Revise Resolute's Cost of Production
Comment 11: Whether Non-Reportable Scope Products Should Be Removed from the Margin Calculation
Comment 12: Whether Constructed Export Price (CEP) Inventory Carrying Cost Should Include Inventory Carrying Cost in Canada
Comment 13: Whether the Preliminary Results for Resolute Should Be Corrected to Confirm that the Cohen's *d* Test Was Not Used
Comment 14: Whether to Adjust the Calculation of West Fraser's By-product Offset
Comment 15: Whether to Adjust the Price Used to Establish Export Price (EP) and CEP
Comment 16: Whether Commerce Should Identify, and Apply Certain Adjustments to the Final Dumping Margins For, the Non-Selected Exporters and Producers Subject to this Review
Comment 17: Whether to Reconsider the Price Difference Test for the Final Results
Comment 18: Whether to Revise the Mandatory Respondents' U.S. Customs and Border Protection (CBP) Liquidation Instructions
VII. Recommendation

Appendix II

Non-Selected Exporters/Producers

1. 0752615 B.C. Ltd., Fraserview Remanufacturing Inc., Fraserview Cedar Products.
2. 10104704 Manitoba Ltd, Woodstock Forest Products
3. 5214875 Manitoba Ltd.
4. Absolute Lumber Products Ltd.
5. Adwood Manufacturing Ltd.
6. AJ Forest Products Ltd.
7. Aler Forest Products Ltd.
8. Alpa Lumber Mills Inc.
9. Andersen Pacific Forest Products Ltd.
10. Antrim Cedar Corporation
11. Aquila Cedar Products Ltd.
12. Arbec Lumber Inc., Arbec Bois Doeuvre Inc.
13. Aspen Planers Ltd.
14. Babine Forest Products Limited
15. B.B. Pallets Inc., Les Palettes B.B.Inc.
16. Bakerview Forest Products Inc.
17. Barrette-Chapais Ltee
18. BarretteWood Inc.
19. Benoît & Dionne Forest Products Ltd., Benoît & Dionne Produits Forestiers Ltee
20. Blanchet Multi Concept Inc.
21. Bois Aise de Montreal Inc.
22. Bois Bonsaï Inc.
23. Bois Daaquam Inc., Daaquam Lumber Inc.
24. Bois Weedon Inc.
25. Boisaco Inc.
26. Boscus Canada Inc.
27. Boucher Bros. Lumber Ltd.
28. BPWood Ltd.
29. Bramwood Forest Inc.
30. Brink Forest Products Ltd.
31. Busque & Laflamme Inc.
32. Canadian Bavarian Millwork & Lumber Ltd.
33. Canasia Forest Industries Ltd.
34. Canyon Lumber Company Ltd.
35. Carrier & Begin Inc.
36. Carrier Forest Products Ltd.
37. Carrier Lumber Ltd.
38. Carter Forest Products Inc.
39. Cedarland Forest Products Ltd.
40. Cedarline Industries Ltd.
41. Cedrico Lumber Inc., Bois D'oeuvre Cedrico Inc.
42. Central Cedar Ltd.
43. Centurion Lumber Ltd.
44. Chaleur Forest Products Inc.
45. Chaleur Forest Products LP
46. Channel-ex Trading Corporation
47. CHAP Alliance, Inc.
48. Chinook Wood Products Ltd.
49. Clermond Hamel Ltee
50. CLG Enterprises Inc.
51. Columbia River Shake & Shingle Ltd., Teal Cedar Products Ltd., The Teal Jones Group
52. Commonwealth Plywood Co. Ltd.
53. Conifex Fibre Marketing Inc.
54. Cowichan Lumber Ltd.
55. CS Manufacturing Inc., Cedarshed
56. CWP—Industriel Inc.
57. CWP—Montreal Inc.
58. D & D Pallets Ltd.
59. Dakeryn Industries Ltd.
60. Decker Lake Forest Products Ltd.
61. Deep Cove Forest Products, Inc.
62. Delco Forest Products Ltd.
63. Delta Cedar Specialties Ltd.
64. Devon Lumber Co. Ltd.
65. DH Manufacturing Inc.
66. DMM Forest Products Inc.
67. Doubletree Forest Products Ltd.
68. Downie Timber Ltd.
69. Dunkley Lumber Ltd.
70. EACOM Timber Corporation
71. East Fraser Fiber Co. Ltd.
72. East Mountain Forest Products Ltd.
73. Edgewood Forest Products Inc.
74. ER Probyn Export Ltd.
75. Falcon Lumber Ltd.
76. Fontaine Inc.
77. Foothills Forest Products Inc.
78. Fort St. James Forest Products Limited Partnership
79. Fraser Specialty Products Ltd.
80. FraserWood Industries Ltd.
81. Furtado Forest Products Ltd.
82. Goldwood Industries Ltd.
83. Goodfellow Inc.
84. Gorman Bros. Lumber Ltd.
85. GreenFirst Forest Products (QC) Inc.
86. Greendale Industries Inc.
87. Griff Building Supplies Ltd.
88. Groupe Crete Chertsey Inc.
89. Groupe Crete Division St-Faustin Inc.
90. Groupe Lebel Inc.
91. H.J. Crabbe & Sons Ltd.
92. Haida Forest Products Ltd.
93. Halo Sawmill, a division of Delta Cedar Specialties Ltd., Halo Sawmill Manufacturing Limited Partnership
94. Hampton Lumber Sales Canada, Hampton Tree Farms, LLC
95. Horizon Coatings Inc.
96. Hornepayne Lumber LP
97. Independent Building Materials Distribution Inc.
98. Interfor Sales & Marketing Ltd., Interfor Corporation
99. Ivor Forest Products Ltd.
100. J&G Log Works Ltd.
101. J.D. Irving, Limited
102. J.H. Huscroft Ltd.
103. Jan Woodlands (2001) Inc.
104. Jasco Forest Products Ltd.
105. Jhajj Lumber Corporation
106. Kalesnikoff Lumber Co. Ltd.
107. Kan Wood Ltd.
108. Kebois Ltee, Kebois Ltd.
109. Kelfor Industries Ltd.
110. Kermode Forest Products Ltd.
111. Kings Wood Products Inc.
112. Lecours Lumber Co. Limited
113. Les Bois d'oeuvre Beaudoin Gauthier Inc.
114. Les Chantiers de Chibougamau Ltd., Les Chantiers de Chibougamau Ltee
115. Les Industries P.F. Inc.
116. Les Produits Forestiers D&G Ltee, D&G Forest Products Ltd.
117. Leslie Forest Products Ltd.
118. Lignum Forest Products LLP
119. Linwood Homes Ltd.
120. Lonestar Lumber Inc.
121. Lulumco Inc.

122. Madera Forest Products INC
123. Magnum Forest Products Ltd.
124. Maibec Inc.
125. Manitou Forest Products Ltd.
126. Marcel Lauzon Inc.
127. Marwood Ltd.
128. Materiaux Blanchet Inc.
129. Metrie Canada Ltd.
130. Mid Valley Lumber Specialties Ltd.
131. Midway Lumber Mills Ltd.
132. Mill & Timber Products Ltd.
133. Mirax Lumber Products Ltd.
134. Mobilier Rustique (Beauce) Inc.
135. Monterra Lumber Mills Limited
136. Morwood Forest Products Inc
137. Multicedre Ltee
138. Nakina Lumber Inc.
139. National Forest Products Ltd.
140. Nicholson and Cates Ltd.
141. Norsask Forest Products Inc.
142. Norsask Forest Products Limited Partnership
143. North American Forest Products Ltd. (located in Abbotsford, British Columbia)
144. North American Forest Products Ltd. (located in Saint-Quentin, New Brunswick)
145. North Enderby Timber Ltd.
146. Ntityix Resources LP
147. Oakwood Manufacturing A Division of Weston Forest Products Inc.
148. Olympic Industries Inc.
149. Olympic Industries ULC
150. Otter Point Timber LTD
151. Pacific NorthWest Lumber Ltd.
152. Pacific Western Wood Works Ltd. (PWWW)
153. Parallel Wood Products Ltd.
154. Partap Forest Products Ltd.
155. Peak Industries (Cranbrook) Ltd.
156. Phoenix Forest Products Inc.
157. Pine Ideas Ltd.
158. Pioneer Pallet & Lumber Ltd.
159. Plaster Rock Lumber Corporation
160. Porcupine Wood Products Ltd.
161. Power Wood Corp.
162. Precision Cedar Products Corp.
163. Probyn Log
164. Produits Forestiers Petit Paris Inc.
165. Produits Matra Inc.
166. Promobois G.D.S. Inc.
167. Quadra Cedar, 1074712 BC Ltd.
168. R.A. Green Lumber Ltd.
169. Rembos Inc.
170. Rene Bernard Inc.
171. Rielly Industrial Lumber Inc.
172. River City Remanufacturing Inc.
173. Riverside Forest Products Inc.
174. S&R Sawmills Ltd.
175. San Group
176. San Industries Ltd.
177. Sawarne Lumber Co. Ltd.
178. Scierie Alexandre Lemay & Fils Inc.
179. Scierie West Brome Inc.
180. Sechoirs de Beauce Inc.
181. Shakertown Corp.
182. Sigurdson Forest Products Ltd.
183. Sinclar Group Forest Products Ltd.
184. Sitka Forest Products Inc., Les Produits Forestiers Sitka Inc.
185. Skana Forest Products Ltd.
186. South Beach Trading Inc.
187. South Coast Reman Ltd., Southcoast Millwork Ltd.
188. SPEC Wood & Marketing Solution, Bois et Solutions Marketing SPEC, Inc., SPEC Wood and Marketing Solutions Inc.
189. Specialiste du Bardeau de Cedre Inc., Specialiste du Bardeau de Cedre Inc. (SBC)
190. Straight Edge Milling Ltd.
191. Sundher Timber Products Inc.
192. Surrey Cedar Ltd.
193. Taan Forest Limited Partnership, Taan Forest Products
194. Taiga Building Products Ltd.
195. Tall Tree Lumber Company
196. Terminal Forest Products Ltd.
197. Terminal Forest Products Ltd., Mainland Sawmill, a division of Terminal Forest Products Ltd.
198. The Wood Source Inc.
199. Tolko Marketing and Sales Ltd., Tolko Industries Ltd., Gilbert Smith Forest Products Ltd.
200. Top Quality Lumber Ltd.
201. TRAPA Forest Products Ltd.
202. Triad Forest Products Ltd.
203. Tyee Timber Products Ltd.
204. Universal Lumber Sales Ltd.
205. Usine Sartigan Inc.
206. Vancouver Specialty Cedar Products Ltd.
207. Vancouver Urban Timberworks Ltd.; Van Urban
208. Vanderhoof Specialty Wood Products Ltd.
209. Visscher Lumber Inc.
210. W.I. Woodtone Industries Inc.
211. Welco Lumber Corp.
212. West Bay Forest Products Ltd.
213. Western Forest Products Inc.
214. Western Lumber Sales Limited
215. Westminster Industries Ltd.
216. Weston Forest Products Inc.
217. Weyerhaeuser Co.
218. White River Forest Products L.P.
219. Woodline Forest Products Ltd.
220. Woodtone Specialties Inc.

Appendix III

List of Companies Rescinded From the Review

1. 54 Reman
2. 9224–5737 Quebec inc., A.G. Bois
3. AA Trading Ltd.
4. All American Forest Products Inc.
5. Anglo-American Cedar Products Ltd., Anglo American Cedar Products Ltd.
6. Ashlaur Trading
7. Aspen Pacific Industries Inc.
8. B&L Forest Products Ltd.
9. Bardobec Inc.
10. Best Quality Cedar Products Ltd.
11. Blanchette & Blanchette Inc.
12. Brunswick Valley Lumber Inc.
13. Burrows Lumber (CD) Ltd., Theo A. Burrows Lumber Company Limited
14. Campbell River Shake & Shingle Co. Ltd.
15. Canada Pallet Corp.
16. Canadian Overseas Log and Lumber
17. Careau Bois inc.
18. Carl Wood Lumber Ltd.
19. Cedar Island Forest Products Ltd.
20. Cedar Valley Holdings Ltd.
21. Cedarcoast Lumber Products
22. Central Alberta Pallet Supply
23. Central Forest Products Inc.
24. Clair Industrial Development Corp. Ltd.
25. CNH Products Inc.
26. Coast Clear Wood Ltd.
27. Coast Mountain Cedar Products Ltd.
28. Coastland Wood Industries
29. Comox Valley Shakes Ltd. (2019), Comox Valley Shakes (2019) Ltd.
30. Coulson Manufacturing Ltd.
31. CWP-Montreal Inc.
32. Direct Cedar Supplies Ltd.
33. Distribution Rioux Inc.
34. Elrod Cartage Ltd.
35. Galloway Lumber Company Ltd.
36. Glandell Enterprises Inc.
37. Goldband Shake & Shingle Ltd.
38. Greenwell Resources Inc.
39. Groupe Lignarex Inc.
40. Harmac Pacific
41. Hillcore Lakeside Pacific Forest Products Ltd
42. Hudson Mitchell & Sons Lumber Inc.
43. Hy Mark Wood Products Inc.
44. Imperial Cedar Products Ltd.
45. Intertran Holdings Ltd., Richmond Terminal
46. Island Cedar Products Ltd.
47. Keystone Timber Ltd.
48. Kirkland Lake Forest Products Inc.
49. La Crete Sawmills Ltd.
50. Lafontaine Lumber Inc.
51. Langevin Forest Products Inc.
52. Leisure Lumber Ltd.
53. Les Bardeaux Lajoie Inc.
54. Les Bois Martek Lumber
55. Les Bois Traites M.G. Inc.
56. Les Produits Forestiers Portbec Ltee, Portbec Forest Products Ltd.
57. Millar Western Forest Products Ltd.
58. Modern Terminal Ltd.
59. Murray Brothers Lumber Company Ltd.
60. Nagaard Sawmill Ltd.
61. Nickel Lake Lumber
62. Northland Forest Products Ltd.
63. NSC Lumber Ltd.
64. Otter Point Timber LTD
65. Pacific Coast Cedar Products Ltd.
66. Pacific Lumber Remanufacturing Inc.
67. Pacific Pallet Ltd.
68. PalletSource Inc.
69. Partap Industries
70. Pat Power Forest Products Corporation
71. Produits Forestiers Temrex S.E.C., Temrex Forest Products LP
72. RBC Timber Products
73. Rick Dubois
74. S&W Forest Products Ltd.
75. Sapphire Lumber Company
76. Scierie St-Michel Inc.
77. Scott Lumber Sales, Scott Lumber Sales Ltd.
78. Silvaris Corporation
79. Skeena Sawmills Ltd.
80. Smart Wood Forest Products Ltd.
81. Sonora Logging Ltd.
82. Source Forest Products
83. South Fraser Container Terminals
84. Spruceland Millworks Inc.
85. Star Lumber Canada Ltd.
86. Storey Creek Trading
87. Suncoast Industries Inc.
88. Suncoh Custom Lumber Ltd.
89. Surplus G Rioux
90. Swiftwood Forest Products Ltd.
91. T&P Trucking Ltd.
92. Tenryu Canada Corporation
93. TG Wood Products Ltd.
94. Twin Rivers Paper Co. Inc.
95. Vaagen Fibre Canada ULC
96. Valley Cedar 2 Inc.
97. Vanderwell Contractors (1971) Ltd.

98. Waldun Forest Product Sales Ltd.
99. Watkins Sawmills Ltd.
100. West Coast Panel Cutters
101. Western Canadian Timber Products LTD
102. Western Timber Products, Inc.
103. Westrend Exteriors Inc.
104. Winton Homes Ltd.
105. WWW Timber Products Ltd.

[FR Doc. 2026–21296 Filed 10–16–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–858]

Certain Softwood Lumber Products From Canada: 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 producers and exporters of certain softwood lumber products (softwood lumber) from Canada received countervailable subsidies during the period of review (POR), January 1, 2024, through December 31, 2024.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Samuel Brummitt, Kristen Johnson, T.J. Worthington, and Elizabeth Talbot Russ, 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) 482–7851, (202) 482–4793, (202) 482–4567, and (202) 482–5516, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 14, 2026, Commerce published the *Preliminary Results* of this administrative review and invited interested parties to comment.[1] On August 6, 2026, we extended the deadline for the final results by 53 days until October 5, 2026.[2] On September 24, 2026, we extended the deadline for the final results by an additional seven days until October 13, 2026.[3]

For a detailed description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[4] A list of topics discussed in the Issues and Decision Memorandum is included as Appendix I to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), 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 Order[5]

The product covered by this *Order* is softwood lumber from Canada. For a complete 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 issues raised by parties, to which Commerce responded in the Issues and Decision Memorandum, is provided in Appendix I 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 gives rise to a benefit to the recipient, and that the subsidy is specific.[6] For a complete description of the methodology underlying all of Commerce's conclusions, *see* the Issues and Decision Memorandum.

Changes Since the Preliminary Results

The subsidy programs under review, and the issues raised in case and rebuttal briefs submitted by the interested parties, are discussed in the Issues and Decision Memorandum. Based on our analysis of the comments received from the interested parties, we made certain changes to Resolute's and West Fraser's calculations for these final results. For a discussion of these changes, *see* the Issues and Decision Memorandum.

Rate for Non-Selected Companies Under Review

Because the rates calculated for the companies selected for individual review are above *de minimis* and not based entirely on facts available, we applied a subsidy rate based on a weighted average of the subsidy rates calculated for the reviewed companies using sales data submitted by those companies to calculate a rate for the companies not selected for review. This is consistent with the methodology that we would use in an investigation to establish the all-others rate, pursuant to section 705(c)(5)(A) of the Act.

For further information on the calculation of the non-selected rate, *see* the section titled ''Final *Ad Valorem* Rate for Non-Selected Companies under Review'' in the Issues and Decision Memorandum. For a list of the non-selected companies, *see* Appendix II to this notice.

Final Results of Administrative Review

In accordance with section 751(a)(1)(A) and of the Act and 19 CFR 351.221(b)(5), we determine that the following total net countervailable subsidy rates exist for the period January 1, 2024, through December 31, 2024:

Company	Subsidy rate (percent *ad valorem*)
Resolute FP Canada Inc. and its cross-owned affiliates[7]	12.42
West Fraser Mills Ltd. and its cross-owned affiliates[8]	15.31
Non-Selected Companies[9]	14.11

Disclosure

Commerce intends to disclose the calculations and analysis performed for

[1] *See Certain Softwood Lumber Products from Canada: Preliminary Results and Partial Rescission of Countervailing Duty Administrative Review; 2024,* 91 FR 19099 (April 14, 2026) (*Preliminary Results*).

[2] *See* Commerce's Letter, ''Extension of Deadline for Final Results of Countervailing Duty Administrative Review; 2024,'' dated August 6, 2026.

[3] *See* Commerce's Letter, ''Additional Extension of Deadline for Final Results of Countervailing Duty Administrative Review; 2024,'' dated September 24, 2026.

[4] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Countervailing Duty Order on Certain Softwood Lumber Products from Canada; 2024,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[5] *See Certain Softwood Lumber Products from Canada: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 83 FR 347 (January 3, 2018) (*Order*).

[6] *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.

[7] Commerce finds the following companies to be cross-owned with Resolute FP Canada Inc: Forest Products Mauricie L.P., Fibrek General Partnership, Resolute Engineered Wood St. Prime Limited Partnership, Resolute Engineered Wood Larouche Inc., Profor Renaissance LP, 15477468 Canada Inc., 9340939 Canada Inc., Resolute Forest Products Inc., Bowater Canadian Holdings Incorporated, AbitibiBowater Canada Inc., and Bowater Canadian Limited.

[8] Commerce finds the following companies to be cross-owned with West Fraser Mills Ltd.: Blue Ridge Lumber Inc., Manning Forest Products, Ltd.,

these final results of review within five days after the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to 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 of subject merchandise covered by this review for the above-listed companies at the applicable *ad valorem* assessment rates listed. Commerce intends to issue assessment instructions to CBP no earlier than 41 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a).

Cash Deposit Requirements

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.107(e), 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 review, as follows: (1) the cash deposit rate for the companies listed above and in Appendix II 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 be continue to be 14.19 percent, the all-others subsidy rate established in the investigation.[10] These cash deposit instructions, when imposed, shall remain in effect until further notice.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(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 the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These 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: October 13, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Subsidies Valuation
V. Analysis of Programs
VI. Final *Ad Valorem* Rate for Non-Selected Companies Under Review
VII. Discussion of the Issues

A. General Issues

Comment 1: Whether To Accept JDIL As a Voluntary Respondent
Comment 2: Whether Commerce's Specificity Analysis for Certain Programs Is Consistent With the Law
Comment 3: Whether Grant Programs Must Account for Reciprocal Value
Comment 4: Whether Commerce Properly Treated Federal and Provincial Asset Depreciation Provisions as One Program

B. General Stumpage Issues

Comment 5: Whether Commerce's Amendments to its Regulations Regarding Government-Run Auctions Was Lawful

C. Alberta Stumpage Issues

Comment 6: Whether the Alberta Stumpage Market Is Distorted
Comment 7: Whether TDA Survey Prices Are an Appropriate Benchmark for Alberta Crown-Origin Stumpage
Comment 8: Whether To Adjust the Nova Scotia Benchmark to Account for Fire-Damaged Timber Harvested in Alberta

D. British Columbia Stumpage Issues

Comment 9: Whether To Change Commerce's Calculations Relating to Third Party Tenures
Comment 10: Whether To Continue to Use WDOR Valuations or Make Adjustments for Respondents' Costs
Comment 11: Whether To Revise the Application of the WDOR Stumpage Value Table Adjustments and Use the Second Half 2025 Tables
Comment 12: Whether To Apply a Separate Beetle-Killed Benchmark In Conjunction with the WDOR Valuations
Comment 13: Whether Commerce's Selection of a Log Volume Conversion Factor Was Appropriate
Comment 14: Whether To Account for BC's ''Stand-as-a-Whole'' Stumpage Pricing

E. Ontario Stumpage Issues

Comment 15: Whether Ontario's Private Stumpage Market Is Distorted and Whether Ontario's Private Prices Are an Appropriate Benchmark

F. Québec Stumpage Issues

Comment 16: Whether Québec's Stumpage Market Is Distorted
Comment 17: Whether To Adjust the Nova Scotia Benchmark to Account for Spruce Budworm-Infested Timber

G. Nova Scotia Stumpage Benchmark Issues

Comment 18: Whether Alberta, Ontario, and Québec are the ''Country in Question'' and Commerce Must Use an In-Province Stumpage Benchmark
Comment 19: Whether Private Standing Timber Prices in Nova Scotia Are Available in the Provinces at Issue
Comment 20: Whether Nova Scotia's Forest Is Comparable to the Forests of Alberta, Ontario, and Québec
Comment 21: Whether SPF Species in Nova Scotia Are Comparable to SPF Species in Alberta, Ontario, and Québec
Comment 22: Whether the Tree Size in Nova Scotia, as Measured by Diameter, Is Comparable to Tree Size in Alberta, Ontario, and Québec
Comment 23: Whether To Make Adjustments to Stumpage Rates Paid by the Respondents to Account for ''Total Remuneration'' in Alberta, Ontario, and Québec
Comment 24: Whether Nova Scotia Is Comparable to Québec, Ontario, and Alberta in Terms of Haulage Costs and Whether To Otherwise Adjust the Nova Scotia Benchmark to Account for Such Differences
Comment 25: Whether the Nova Scotia Benchmark Is Comparable or Should Be Adjusted to Account for Log Grade or Log Product Characteristics
Comment 26: Whether To Revise the Conversion Factor Used in the Calculation of the Nova Scotia Benchmark
Comment 27: Whether To Revise the Indexing Method Employed in the Derivation of the Nova Scotia Benchmark
Comment 28: Reliability of Nova Scotia Private-Origin Standing Timber Benchmark
Comment 29: Whether To Publicly Disclose the Anonymized Data that Comprise the 2021–2022 Private Market Survey and the 2023 Private Market Survey

Spray Lake Sawmills (1980) Ltd., Sundre Forest Products Inc., West Fraser Alberta Holdings, Ltd., and West Fraser Timber Co., Ltd.

[9] The 215 non-selected companies receiving the review-specific rate are listed in Appendix II.

[10] *See Certain Softwood Lumber Products from Canada: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 83 FR 347 (January 3, 2018).

H. Log Export Restraint Issues

Comment 30: Whether the LER Is Countervailable

I. Purchase of Goods for MTAR Program Issues

British Columbia

Comment 31: Whether Benefits Under the BC Hydro EPA Program Are Tied to Overall Production
Comment 32: Whether Commerce Properly Calculated the Benefit Conferred Under the BC Hydro EPAs

Québec

Comment 33: Whether Commerce Properly Calculated the Benefits Under the Power Purchase Agreement: CTS
Comment 34: Whether the Electricity Purchase Agreements Are Tied to Non-Subject Merchandise
Comment 35: Whether Commerce Properly Countervailed PAE 2011–01
Comment 36: Whether To Adjust the L Rate Benchmark for PAE 2011–01

J. Grant Program Issues

Alberta

Comment 37: Whether the AESO Load Shedding Program Is Countervailable

British Columbia

Comment 38: Whether the FUFP Program Is Countervailable

Ontario

Comment 39: Whether the FSIIP Is *De Jure* Specific
Comment 40: Whether the OFRFP Is Countervailable
Comment 41: Whether the Ministry of Transportation of Ontario Roads Maintenance Program Is Countervailable
Comment 42: Whether the GOO's Silviculture Reimbursements Are Countervailable

Québec

Comment 43: Whether Agreements with Consumers to Reduce Energy Consumption and GHG Are Grants
Comment 44: Whether the ÉcoPerformance Program Is Countervailable
Comment 45: Whether Hydro-Québec's ESP Is Countervailable
Comment 46: Whether Énergir L.P. Is an Authority
Comment 47: Whether the Énergir L.P. Feasibility Study and Implementation Program Is Tied to Non-Subject Merchandise
Comment 48: Whether the Investment Program in Public Forests Affected by Natural or Anthropogenic Disturbances Is Countervailable
Comment 49: Whether the MASTE Program Is Countervailable
Comment 50: Whether the MCRP and MCCRP Are Countervailable
Comment 51: Whether FDRCMO and MFOR Are Non-Recurring Subsidies
Comment 52: Whether the FDRCMO Is Countervailable
Comment 53: Whether the MFOR Is Countervailable
Comment 54: Whether the PCIP and PIAF Are Countervailable
Comment 55: Whether PDB Is Countervailable
Comment 56: Whether the PEEOL Program Is Countervailable
Comment 57: Whether the PIB Is Countervailable
Comment 58: Whether Commerce Properly Countervailed Hydro-Québec's EDL Program
Comment 59: Whether the Plant Closure under the Power Purchase Agreement: Centrale Thermique PF Résolu de Senneterre Program Is Countervailable
Comment 60: Whether the Rail Service Interruption Program Is Countervailable
Comment 61: Whether the IEO Program Is Countervailable
Comment 62: Whether the DRO Program Is Countervailable

K. Tax and Other Revenue Forgone Program Issues

Federal

Comment 63: Whether the ACCA Class 53 Assets Program Is Specific
Comment 64: Whether To Recalculate the ACCA Class 53 Benefit
Comment 65: Whether the CCA for Class 43.2 Assets Program Is *De Facto* Specific
Comment 66: Whether the CCA for Class 1 Assets Program Is Countervailable
Comment 67: Whether the Federal and Provincial SR&ED Credits Are Specific

Alberta

Comment 68: Whether the TEFU Is Specific

British Columbia

Comment 69: Whether the CIF, CIIP, and BC OBPS Programs Are Countervailable
Comment 70: Whether the BC Coloured Fuel Program Is Countervailable
Comment 71: Whether To Countervail the GBC's Non-Collection of Penalties for Unauthorized Timber Harvesting Violations

Ontario

Comment 72: Whether the Ontario Coloured Fuel Tax Exemption Is De Jure Specific
Comment 73: Whether the IESO IEI Is Specific
Comment 74: Whether To Reconsider If the GOO Forgave Debt Owed by Resolute

Québec

Comment 75: Whether the Québec Lower Tax Rates on Coloured Fuel Is Specific
Comment 76: Whether the Refund of Fuel Tax Paid on Fuel Used for Stationary Purposes Is Specific

L. Company-Specific Issues

Resolute

Comment 77: Whether To Recalculate Resolute's Denominator for Certain Transferred Subsidies
Comment 78: Whether Commerce Applied the Correct Denominator In Resolute's Stumpage Calculations
VIII. Recommendation

Appendix II

Non-Selected Companies

1. 0752615 B.C Ltd; Fraserview Remanufacturing Inc, dba Fraserview Cedar Products
2. 10104704 Manitoba Ltd O/A Woodstock Forest Products
3. 1074712 BC Ltd. (Quadra Cedar)
4. 5214875 Manitoba Ltd.; AM Lumber Brokerage
5. Absolute Lumber Products Ltd.
6. Adwood Manufacturing Ltd.
7. AJ Forest Products Ltd.
8. Aler Forest Products, Ltd.
9. Alpa Lumber Mills Inc.
10. Andersen Pacific Forest Products Ltd.
11. Antrim Cedar Corporation
12. Aquila Cedar Products Ltd.
13. Arbec Lumber Inc. (aka Arbec Bois Doeuvre Inc.)
14. Aspen Planers Ltd.
15. B.B. Pallets Inc. (aka Les Palettes B.B. Inc.)
16. Babine Forest Products Limited
17. Bakerview Forest Products Inc.
18. Barrette-Chapais Ltee
19. BarretteWood Inc. (Barrette Bois Inc.)
20. Benoit & Dionne Produits Forestiers Ltee (aka Benoit & Dionne Forest Products Ltd.)
21. Blanchet Multi Concept Inc.
22. Bois Aise de Montreal Inc.
23. Bois Bonsai Inc.
24. Bois D'oeuvre Cedrico Inc. (aka Cedrico Lumber Inc.)
25. Bois Daaquam inc. (aka Daaquam Lumber Inc.)
26. Bois et Solutions Marketing SPEC, Inc. (aka SPEC Wood & Marketing Solution or SPEC Wood and Marketing Solutions Inc.)
27. Bois Weedon Inc.
28. Boisaco Inc.
29. Boscus Canada Inc.
30. Boucher Bros. Lumber Ltd.
31. BPWood Ltd.
32. Bramwood Forest Inc.
33. Brink Forest Products Ltd.
34. Busque & Laflamme Inc.
35. Canadian Bavarian Millwork & Lumber Ltd.
36. Canadian Forest Products, Ltd.; Canfor Corporation; Canfor Wood Products Marketing, Ltd.
37. Canasia Forest Industries Ltd.
38. Canyon Lumber Company, Ltd.
39. Carrier & Begin Inc.
40. Carrier Forest Products Ltd
41. Carrier Lumber Ltd.
42. Carter Forest Products Inc.
43. Cedarland Forest Products Ltd.
44. Cedarline Industries Ltd.
45. Central Cedar Ltd.
46. Centurion Lumber Ltd.
47. Channel-ex Trading Corporation
48. CHAP Alliance Inc.
49. Chinook Wood Products Ltd.
50. Clair Industrial Development Corp. Ltd
51. Clermond Hamel Ltee
52. CLG Enterprises Inc.
53. Columbia River Shake & Shingle Ltd.; Teal Cedar Products Ltd., dba The Teal Jones Group
54. Commonwealth Plywood Co. Ltd.
55. Conifex Fibre Marketing Inc.

56. Cowichan Lumber Ltd.
57. CS Manufacturing Inc., dba Cedarshed
58. CWP Industriel Inc. (aka CWP—Industriel Inc.)
59. D & D Pallets Ltd.
60. Dakeryn Industries Ltd.
61. Decker Lake Forest Products Ltd.
62. Deep Cove Forest Products, Inc.
63. Delco Forest Products Ltd.
64. Delta Cedar Specialties Ltd.
65. Devon Lumber Co. Ltd.
66. DH Manufacturing Inc.
67. DMM Forest Products Inc.
68. Doubletree Forest Products Ltd.
69. Downie Timber Ltd.
70. Dunkley Lumber Ltd.
71. East Fraser Fiber Co. Ltd.
72. East Mountain Forest Products Ltd
73. Edgewood Forest Products Inc.
74. ER Probyn Export Ltd.
75. Eric Goguen & Sons Ltd.
76. Falcon Lumber Ltd
77. Foothills Forest Products Inc
78. Fort St. James Forest Products Limited Partnership
79. Fraser Specialty Products Ltd.
80. FraserWood Inc.
81. FraserWood Industries Ltd.
82. Furtado Forest Products Ltd.
83. Gilbert Smith Forest Products Ltd.
84. Goldwood Industries Ltd.
85. Goodfellow Inc.
86. Gorman Bros. Lumber Ltd.
87. Greendale Industries Inc.
88. GreenFirst Forest Products (QC) Inc.
89. Griff Building Supplies Ltd.
90. Groupe Crete Chertsey Inc.
91. Groupe Crete Division St-Faustin Inc.
92. Groupe Lebel inc.
93. H.J. Crabbe & Sons Ltd.
94. Haida Forest Products Ltd.
95. Halo Sawmill, a division of Delta Cedar Specialties Ltd.; Halo Sawmill Manufacturing Limited Partnership
96. Hampton Tree Farms, LLC, dba Hampton Lumber Sales Canada
97. Horizon Coatings Inc.
98. Hornepayne Lumber LP
99. Independent Building Materials Distribution Inc.
100. Interfor Corporation; EACOM Timber Corporation; Chaleur Forest Products Inc.; Chaleur Forest Products LP; Interfor Sales & Marketing Ltd.
101. Ivor Forest Products Ltd.
102. J&G Log Works Ltd.
103. J.D. Irving, Limited; Irving Paper Limited; Miramichi Timber Holdings Limited; Rothesay Paper Holdings Ltd.; St. George Pulp & Paper Limited; The New Brunswick Railway Company
104. J.H. Huscroft Ltd.
105. Jan Woodlands (2001) Inc.
106. Jasco Forest Products Ltd.
107. Jhajj Lumber Corporation
108. Kalesnikoff Lumber Co. Ltd.
109. Kan Wood Ltd.
110. Kebois Ltee/Ltd.
111. Kelfor Industries Ltd.
112. Kermode Forest Products Ltd.
113. Kings Wood Products Inc.
114. Lecours Lumber Co. Limited
115. Les Bois d'oeuvre Beaudoin Gauthier Inc.
116. Les Chantiers de Chibougamau Ltd./Ltee
117. Les Industries P.F. Inc.
118. Les Produits Forestiers Sitka Inc. (aka Sitka Forest Products Inc.)
119. Leslie Forest Products Ltd.
120. Lignum Forest Products LLP
121. Linwood Homes Ltd.
122. Lonestar Lumber Inc
123. Ludwig Lumber
124. Lulumco inc.
125. Madera Forest Products Inc
126. Magnum Forest Products, Ltd.
127. Maibec inc.
128. Manitou Forest Products Ltd
129. Marwood Ltd.
130. Materiaux Blanchet Inc.
131. Metrie Canada Ltd.
132. Mid Valley Lumber Specialties Ltd.
133. Midway Lumber Mills Ltd.
134. Mill & Timber Products Ltd.
135. Mirax Lumber Products Ltd.
136. Mobilier Rustique (Beauce) Inc.; J.F.S.R. Inc.; Gestion C.A. Rancourt Inc.; Gestion J.F.Rancourt Inc.; Gestion Suzie Rancourt Inc.; Gestion P.H.Q. Inc.; 9331–3419 Quebec Inc.; 9331–3468 Quebec Inc.; SPQ Inc.
137. Monterra Lumber Mills Limited
138. Morwood Forest Products Inc.
139. Multicedre ltee
140. Nakina Lumber Inc.
141. National Forest Products Ltd.
142. Nicholson and Cates Ltd.
143. NorSask Forest Products Limited Partnership; NorSask Forest Products Inc.
144. North American Forest Products Ltd. (located in Abbotsford, British Columbia)
145. North Enderby Timber Ltd.
146. Ntityix Resources LP
147. Oakwood Manufacturing, a division of Weston Forest Products Inc.
148. Olympic Industries, Inc.; Olympic Industries ULC
149. Oregon Canadian Forest Products Inc., dba Oregon Canadian Forest Products
150. Pacific Lumber Remanufacturing Inc.
151. Pacific NorthWest Lumber Ltd.
152. Pacific Western Wood Works Ltd.
153. Parallel Wood Products Ltd.
154. Partap Forest Products Ltd.
155. Peak Industries (Cranbrook) Ltd.
156. Phoenix Forest Products Inc.
157. Pine Ideas Ltd.
158. Pioneer Pallet & Lumber Ltd.
159. Plaster Rock Lumber Corporation
160. Porcupine Wood Products Ltd.
161. Power Wood Corp.
162. Precision Cedar Products Corp.
163. Produits Forestiers Petit Paris Inc.
164. Produits Matra Inc.; Sechoirs de Beauce Inc.; Bois Ouvre de Beauceville (1992), Inc.
165. Promobois G.D.S. Inc.
166. R.A. Green Lumber Ltd.
167. Rembos Inc.
168. Rene Bernard inc.
169. Richard Lutes Cedar Inc.
170. Rielly Industrial Lumber Inc.
171. River City Remanufacturing Inc.
172. Riverside Forest Products Inc.
173. S&R Sawmills Ltd.
174. San Group
175. San Industries Ltd.
176. Sawarne Lumber Co. Ltd.
177. Scierie West Brome Inc.
178. Shakertown Corp.
179. Sigurdson Forest Products Ltd.
180. Sinclar Group Forest Products Ltd.
181. Skana Forest Products Ltd.
182. South Beach Trading Inc.
183. South Coast Reman Ltd.
184. Specialiste du Bardeau de Cedre Inc. (aka SBC)
185. Straight Edge Milling Ltd.
186. Sundher Timber Products Inc.
187. Surrey Cedar Ltd.
188. Taan Forest Limited Partnership (aka Taan Forest Products)
189. Taiga Building Products Ltd.
190. Tall Tree Lumber Company
191. Terminal Forest Products Ltd.
192. The Wood Source Inc.
193. Tolko Industries Ltd.; Tolko Marketing and Sales Ltd.; Meadow Lake OSB Limited Partnership
194. Top Quality Lumber Ltd.
195. Trans-Pacific Trading Ltd.; TRAPA Forest Products Ltd.
196. Triad Forest Products Ltd.
197. Tyee Timber Products Ltd
198. Universal Lumber Sales Ltd.
199. Usine Sartigan Inc.
200. Vancouver Specialty Cedar Products Ltd.
201. Vancouver Urban Timberworks Ltd. (aka Van Urban)
202. Vanderhoof Specialty Wood Products Ltd.
203. Visscher Lumber Inc.
204. W.I. Woodtone Industries Inc.
205. Welco Lumber Corp.
206. West Bay Forest Products Ltd.
207. Western Forest Products Inc.
208. Western Lumber Sales Limited
209. Westminster Industries Ltd.
210. Weston Forest Products Inc.
211. Westrend Exteriors Inc.
212. Weyerhaeuser Co.
213. White River Forest Products L.P.
214. Woodline Forest Products Ltd.
215. Woodtone Specialties Inc.

[FR Doc. 2026–21286 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–824]

Polyethylene Terephthalate Film, Sheet, and Strip From India: Preliminary Results of Antidumping Duty Administrative Review, and Rescission of Review, in Part; 2024–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR) July 1, 2024, through June 30, 2025. We are also rescinding the review with respect to certain companies. Interested

parties are invited to comment on these preliminary results.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Jacob Saude, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0981.

SUPPLEMENTARY INFORMATION:

Background

On June 30, 2025, Commerce published the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from India.[1] On August 22, 2025, in accordance with 19 CFR 351.221(c)(1)(i), Commerce initiated an administrative review of Cosmo First Ltd. India (Cosmo), Chiripal Poly Films Limited (Chiripal), Ester Industries Ltd. (Ester), Garware Hight-Tech Films. (Garware),[2] JPFL Films Private Limited (JPFL); Polyplex Corporation Ltd. (Polyplex Corp), SRF Limited (SRF),[3] and Vacmet India Limited (Vacmet).[4] Commerce selected Polyplex Corp and SRF for individual examination as mandatory respondents.[5] On November 20, 2025, the petitioner withdrew its request for Ester, Garware, Polyplex Corp, JPFL, and Vacmet.[6] As a result, only SRF is subject to this administrative review.

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[7] 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.[8]

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the deadline for the preliminary results until September 30, 2026.[9] Further, on September 29, 2026, in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), Commerce extended the deadline to issue the preliminary results by seven days, until October 7, 2026.[10]

For a detailed description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[11] A list of topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is available via ACCESS, which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Order

The merchandise subject to the *Order* is PET film from India. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of the notice of initiation. All requests for an administrative review of Cosmo, Chiripal, Ester, Garware, Vacmet, and Polyplex Corp were timely withdrawn.[12] As a result, in accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review with respect to these companies. Accordingly, the company that remains subject to the instant review is SRF.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Act. We calculated export price in accordance with section 772(a) of the Act. We calculated normal value in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum.

Preliminary Results of the Review

We preliminarily determine the following estimated weighted-average dumping margins exist for the period July 1, 2024, through June 30, 2025:

Exporter/producer	Weighted-average dumping margin (percent)
SRF Limited	0.61

Disclosure

Commerce intends to disclose its calculations performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.[13] 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.[14] Interested

[1] *See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip from India,* 67 FR 44175 (July 1, 2002) (*Order*).

[2] On May 21, 2024, Commerce published its final results of the changed circumstances review (CCR) for Garware Polyester, in which we found that Garware Hi-Tech Films Limited (Garware Hi-Tech) is the successor-in-interest to Garware Polyester. *See Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Changed Circumstances Review,* 89 FR 44638 (May 21, 2024). Because the effective date of the CCR was after the POR of this administrative review, Commerce has continued to refer to the company as Garware Polyester in this review.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 90 FR 41043 (August 22, 2025) (*Initiation Notice*).

[4] *See Initiation Notice.*

[5] *See* Memorandum, ''Respondent Selection,'' dated September 30, 2025.

[6] *See* Petitioners' Letter, ''Withdrawal of Request for Antidumping Duty Administrative Review,'' dated November 20, 2025.

[7] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[8] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[9] *See* Memoranda, ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2022–2023,'' dated March 19, 2024; and ''Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated July 9, 2024.

[10] *See* Memorandum, ''Second Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2024–2025,'' dated September 29, 2026.

[11] *See* Memorandum, ''D Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from India; 2024–2025,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[12] *See* Chiripal's Letter, ''Withdrawal of Request for Anti-Dumping Duty Admin Review of Chiripal Poly Films Limited (Chiripal),'' dated November 20, 2025; DuPont Teijin Films, Mitsubishi Chemical America, Inc.—Polyester Film Division's and Microworks America, Inc.'s Letter, ''Withdrawal of Request for Antidumping Duty Administrative Review,'' dated November 20, 2025; Polyplex USA LLC's Letter, ''Withdrawal of Request for Review for Polyplex USA LLC,'' dated November 20, 2025.

[13] *See* 19 CFR 351.309(c)(1)(ii); *see also* 19 CFR 351.303 for general filing requirements.

[14] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,*

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.[15] 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.[16] Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[17]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants, and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.[18]

Final Results of Review

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2), Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised by the parties in any written briefs, no later than 120 days after the date of publication of these preliminary results.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), upon issuing the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

If SRF's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.[19] To determine whether an importer-specific, per-unit assessment rate is *de minimis,* in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If SRF's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[20]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by SRF for which the respondent did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate in the original less-than-fair-value (LTFV) investigation (*i.e.,* 5.71 percent) if there is no rate for the intermediate company(ies) involved in the transaction.[21] The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future cash deposits of estimated antidumping duties, where applicable.

For the companies for which we are rescinding this administrative review, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period of review, in accordance with 19 CFR 351.212(c)(1)(i). For these companies, Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these preliminary results in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding SRF no earlier than 35 days after the date of publication of the final results of this administrative review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of 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 provided for by section 751(a)(2)(C) of the Act: (1) the company-specific cash deposit rate for SRF will be equal to the weighted-average dumping margin for each company established in the final results of this review (except, if that rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1), then the cash deposit rate will be zero); (2) for producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review or a prior segment of the proceeding but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 5.71 percent, the all-others rate established in the LTFV investigation.[22] These cash deposit requirements, when

88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

[15] *See* 19 CFR 351.309(c)(2) and (d)(2).

[16] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[17] *See APO and Service Procedures.*

[18] *See* 19 CFR 351.310(d).

[19] *See* 19 CFR 351.212(b)(1).

[20] *See* 19 CFR 351.106(c)(2); *see also Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[21] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[22] *See Order.*

imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of countervailing duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h)(2) and 351.221(b)(4).

Dated: October 7, 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. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2026–21293 Filed 10–16–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–840]

Forged Steel Fluid End Blocks From Italy: Final Results of Antidumping Duty Administrative Review; 2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain producers/exporters subject to this administrative review made sales of forged steel fluid end blocks (fluid end blocks) from Italy at less than normal value during the period of review (POR) of January 1, 2024, through December 31, 2024.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0193.

SUPPLEMENTARY INFORMATION:

Background

On April 14, 2026, Commerce published in the **Federal Register** the *Preliminary Results* of the 2024 administrative review of the antidumping duty (AD) order on fluid end blocks from Italy.[1] In the *Preliminary Results,* Commerce preliminarily assigned Lucchini Mamé Forge S.p.A.; Lucchini Industries S.r.l.; and Lucchini RS S.p.A. (collectively, Lucchini) a weighted-average dumping margin based on partial adverse facts available (AFA).[2] We invited interested parties to comment on the *Preliminary Results.*[3]

On May 12, 2026, the petitioners[4] and Lucchini submitted their case briefs.[5] On May 22, 2026, the petitioners and Lucchini submitted rebuttal briefs.[6]

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[7] 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.[8] On July 21, 2026, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the deadline for these final results by 53 days.[9] On October 1, 2026, Commerce further extended the deadline for the final results of this review to October 13, 2026.[10] For a complete description of the events that followed the *Preliminary Results, see* the Issues and Decision Memorandum.[11]

Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Act.

Scope of the Order[12]

The scope of the *Order* covers fluid end blocks from Italy. For a full description of the scope of the *Order, see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by parties are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is provided as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via ACCESS, which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Changes Since the Preliminary Results

Based on our analysis of the comments received, and for the reasons explained in the Issues and Decision Memorandum, we made changes from the *Preliminary Results.*

Use of Adverse Facts Available

As discussed in the Issues and Decision Memorandum, we have assigned Lucchini an estimated weighted-average dumping margin based on total AFA, pursuant to sections 776(a) and (b) of the Act. For further description, *see* Issue and Decision Memorandum at Comment 2.

[1] *See Forged Steel Fluid End Blocks from Italy: Preliminary Results and Rescission, in Part, of the Administrative Review of the Antidumping Duty Order; 2024,* at (April 14, 2026) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* PDM at 8–12.

[3] *See Preliminary Results,* 91 FR at 19108.

[4] The petitioners are Ellwood City Forge Company, Ellwood Quality Steels Company, Ellwood National Steel Company, and A. Finkl & Sons (collectively, the petitioners).

[5] *See* Petitioner's Letter, ''Petitioners' Case Brief,'' dated May 13, 2026 (Petitioner Case Brief); *see also* Lucchini's Letter, ''Case Brief,'' dated May 12, 2026 (Lucchini's Case Brief).

[6] *See* Petitioners' Letter, ''Petitioners' Rebuttal Brief,'' dated May 22, 2026 (Petitioner Rebuttal Brief); *see also* Lucchini's Letter, ''Rebuttal Brief,'' dated May 22, 2026 (Lucchini's Rebuttal Brief).

[7] See Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[8] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[9] *See* Memorandum, ''Extension of Deadline for the Final Results of Antidumping Duty Administrative Review; 2024,'' dated July 21, 2026.

[10] *See* Memorandum, ''Extension of Deadline for Final Results of Antidumping Duty Administrative Review,'' dated October 1, 2026.

[11] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Antidumping 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).

[12] *See Forged Steel Fluid End Blocks from the Federal Republic of Germany and Italy: Amended Final Antidumping Duty Determination for the Federal Republic of Germany and Antidumping Duty Orders,* 86 FR 7528 (January 29, 2021) (*Order*).

Final Results of Administrative Review

For these final results, we determine that the following estimated weighted-average dumping margins exist for the period January 1, 2024, through December 31, 2024:

Producer/exporter	Weighted-average dumping margin (percent)
Lucchini Mamé Forge S.p.A.; Lucchini Industries S.r.l.; Lucchini RS S.p.A	58.48*

*This rate is based on AFA

Disclosure

Normally, Commerce discloses to parties to the proceeding the calculations that it performed in connection with the final results of an AD administrative review within five days after the date of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce applied a dumping margin to Lucchini based entirely on AFA in accordance with section 776 of the Act, there are no calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise under review and for future cash deposits of estimated duties, where applicable.

For entries of subject merchandise during the POR produced by Lucchini for which it did not know that the merchandise was destined to the United States, we will instruct CBP to liquidate those entries at the all-others rate (*i.e.,* 7.33 percent) [13] if there is no rate for the intermediate company(ies) involved in the transaction.[14]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for companies subject to this review will be equal to the weighted-average dumping margin listed in the ''Final Results of Administrative Review'' section above, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not covered in this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, a prior review, or the investigation of sales at less-than-fair-value (LTFV), but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 7.33 percent, the all-others rate established in the LTFV investigation.[15] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to an APO of their responsibility concerning the destruction or return of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the destruction or return 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 sanctionable violation.

Notification to Interested Parties

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

Dated: October 13, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Changes Since the *Preliminary Results*
V. Application of Facts Available and Use of Adverse Inference
VI. Discussion of the Issues
Comment 1: Whether to Accept Lucchini's U.S. Sales Database
Comment 2: Whether to Apply Partial or Total Adverse Facts Available When Relying on the Facts Otherwise Available
VII. Recommendation

[FR Doc. 2026–21292 Filed 10–16–26; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Covered Merchandise Referral and Initiation of Covered Merchandise Inquiry

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

SUMMARY: The U.S. Department of Commerce (Commerce) received a covered merchandise referral from U.S. Customs and Border Protection (CBP) in connection with a CBP investigation concerning alleged evasion of the

[13] *See Order,* 86 FR at 7530.

[14] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[15] *See Order,* 86 at 7530.

antidumping duty (AD) order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (China). Commerce is initiating a covered merchandise inquiry to determine whether the merchandise described in the referral is subject to the AD order on diamond sawblades from China. Interested parties are invited to comment and submit factual information addressing this initiation.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Erin Howard at (202) 482–3453, AD/CVD Operations Office I, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

Section 517(b)(4)(A)(i) of the Tariff Act of 1930, as amended (the Act), provides a procedure whereby if, during the course of an Enforce and Protect Act (EAPA) investigation, CBP is unable to determine whether the merchandise at issue is covered merchandise within the meaning of section 517(a)(3) of the Act, it shall refer the matter to Commerce to make such a determination. Section 517(a)(3) of the Act defines covered merchandise as merchandise that is subject to an antidumping duty order issued under section 736 of the Act or a countervailing duty order issued under section 706 of the Act. Section 517(b)(4)(B) of the Act states that Commerce, after receiving a covered merchandise referral from CBP, shall determine whether the merchandise is covered merchandise and promptly transmit its determination to CBP. Commerce's regulations at 19 CFR 351.227 establish procedures for covered merchandise referrals that Commerce receives from CBP in connection with an EAPA investigation.[1]

On September 22, 2026, Commerce received a sufficient covered merchandise referral from CBP regarding CBP EAPA Investigation No. 8225 [2] which concerns the AD order on diamond sawblades from China.[3] Specifically, CBP explained that an allegation was filed by the Diamond Sawblades Manufacturers' Coalition alleging Dymatec USA, LLC is entering covered merchandise into the United States by transshipping Chinese-origin subject merchandise through its parent company, Dymatec, Ltd. (DUK), while claiming the country-of-origin as the United Kingdom. CBP informed Commerce that CBP is unable to determine whether certain merchandise is covered merchandise subject to the AD order on diamond sawblades from China. Thus, CBP has requested that Commerce issue a determination as to whether diamond sawblades assembled from diamond sawblade cores and segments are subject to the AD order on diamond sawblades from China in the following three scenarios:

- *Scenario 1:* Core and segments both sourced from China; joined in the United Kingdom.
- *Scenario 2:* Core sourced from China and segments not sourced from China; joined in the United Kingdom.
- *Scenario 3:* Segments sourced from China and core not sourced from China; joined in the United Kingdom.

Initiation of Covered Merchandise Inquiry

In accordance with 19 CFR 351.227(b)(1), Commerce is hereby notifying interested parties that it is initiating a covered merchandise inquiry, to determine whether the merchandise subject to the referral is covered merchandise within the meaning of section 517(a)(3) of the Act. Additionally, Commerce intends to provide interested parties with the opportunity to participate in this segment of the proceeding, including through the submission of comments and factual information, and, if appropriate, verification.

In accordance with 19 CFR 351.227(d)(1), within 30 days of the date of publication of this notice, interested parties are permitted one opportunity to submit comment and factual information addressing the initiation. Within 14 days of the filing of such comments, any interested party is permitted one opportunity to submit comment and factual information to rebut, clarify, or correct factual information submitted by the other interested parties.

In accordance with 19 CFR 351.227(d)(2), following initiation of a covered merchandise inquiry, Commerce may also issue questionnaires and verify submissions received, where appropriate. Commerce may limit issuance of questionnaires to a reasonable number of respondents. Questionnaire responses are due on the date specified by Commerce. Within 14 days after a questionnaire response has been filed with Commerce, an interested party other than the original submitter is permitted one opportunity to submit comment and factual information to rebut, clarify, or correct factual information contained in the questionnaire response. Within seven days of the filing of such rebuttal, clarification, or correction, the original submitter is permitted one opportunity to submit comment and factual information to rebut, clarify, or correct factual information submitted in the interested party's rebuttal, clarification, or correction.

In certain circumstances, Commerce may issue a preliminary determination as to whether there is a reasonable basis to believe or suspect that the product that is subject to the covered merchandise inquiry is covered by the scope of the order. Pursuant to 19 CFR 351.227(c), Commerce intends to issue a final determination within 120 days of the publication of this notice (this deadline may be extended if Commerce determines that good cause exists to warrant an extension). Promptly after publication of Commerce's final determination, Commerce will convey a copy of the final determination in the manner prescribed by section 516A(a)(2)(A)(ii) of the Act to all parties to the proceeding and Commerce will transmit its final determination to CBP in accordance with section 517(b)(4)(B) of the Act.[4]

Pursuant to 19 CFR 351.227(d)(5), during the pendency of this proceeding, Commerce may rescind, in whole or in part, a covered merchandise inquiry. Situations in which Commerce may rescind a covered merchandise inquiry include if CBP withdraws its covered merchandise referral or if Commerce determines that it can address CBP's covered merchandise referral in another segment of the proceeding. In accordance with 19 CFR 351.227(c)(3), Commerce may align the deadlines of this covered merchandise inquiry with the deadlines of another segment of the proceeding if it determines it is appropriate to do so.

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[1] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52354–62 (September 20, 2021) (final rule promulgating the regulation establishing procedures for covered merchandise referrals); *see also Regulations Improving and Strengthening the Enforcement of Trade Remedies Through the Administration of the Antidumping and Countervailing Duty Laws,* 89 FR 20766 (March 25, 2024).

[2] *See* CBP's Letter, ''Covered Merchandise Referral Request for EAPA Investigation 8225'' dated September 22, 2026. The covered merchandise referral and any supporting documents will be made available on Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).

[3] *See Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea: Antidumping Duty Orders,* 74 FR 57145 (November 4, 2009) (*Order*).

[4] *See also* 19 CFR 351.227(e)(2).

Parties are hereby notified that this may be the only notice that Commerce publishes in the **Federal Register** concerning this covered merchandise referral. Except as indicated below, interested parties that wish to participate in this segment of the proceeding and receive notice of the final determination, must submit their letters of appearance as discussed below. Further, any representative of an interested party desiring access to business proprietary information in this segment of the proceeding must file an application for access to business proprietary information under administrative protective order (APO), as discussed below.

Scope of the AD Order

The products covered by the *Order* are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of the *Order* are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process). Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of the Order. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of the Order. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of the *Order.* Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the *Order.* Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of the *Order.* Merchandise subject to the *Order* is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, Commerce included the 6804.21.00.00 HTSUS classification number to the customs case reference file, pursuant to a request by U.S. Customs and Border Protection (CBP).[5] Pursuant to requests by CBP, Commerce included to the customs case reference file the following HTSUS classification numbers: 8202.39.0040 and 8202.39.0070 on January 22, 2015, and 6804.21.0010 and 6804.21.0080 on January 26, 2015.

The tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the *Order* is dispositive.

Merchandise Subject to the Covered Merchandise Inquiry

The covered merchandise inquiry will address whether the scope covers diamond sawblades assembled in the United Kingdom by DUK using diamond sawblade cores and diamond sawblade segments in the following three scenarios: (1) core and segments both sourced from China and joined in the United Kingdom; (2) core sourced from China, segments not sourced from China, and joined in the United Kingdom; and (3) segments sourced from China, core not sourced from China, and joined in the United Kingdom. If Commerce receives additional evidence regarding potential circumvention of the order on diamond sawblades from China by other companies in the United Kingdom, we will consider expanding the scope of this inquiry at that time. Pursuant to 19 CFR 351.227(m)(1), Commerce will consider, based on the available record evidence, whether the final determination in the covered merchandise inquiry should be applied on a (i) producer-specific, exporter-specific, importer-specific basis, or some combination thereof; or (ii) on a country-wide basis, regardless of the producer, exporter, or importer, to all products from the same country with the same relevant physical characteristics as the product at issue.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). An electronically filed document must be received successfully in its entirety by the applicable deadline. Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[6] Each submission must be placed on the record of the segment of the proceeding for the AD order (A–570–900), ACCESS Covered Merchandise Inquiry segment ''EAPA 8225.''

Suspension of Liquidation

In accordance with 19 CFR 351.227(l)(1), Commerce will notify CBP of the initiation of the covered merchandise inquiry and direct CBP to continue to suspend liquidation of entries of products subject to the covered merchandise inquiry that were already subject to the suspension of liquidation, and to apply the cash deposit rate that would be applicable if the product were determined to be covered by the scope of the order. Should Commerce issue a preliminary or final covered merchandise determination, Commerce will follow the suspension of liquidation rules under 19 CFR 351.227(l)(2)–(4). In accordance with 19 CFR 351.227(l)(5), nothing in this section affects CBP's authority to take any additional action with respect to the suspension of liquidation or related measures.

Notification to Interested Parties

Interested parties that wish to participate in this segment of the proceeding and be added to the public service list for this segment of the proceeding must file a letter of appearance in accordance with 19 CFR 351.103(d)(1), with one exception: the relevant parties to CBP's EAPA investigation publicly identified by CBP in the covered merchandise referral referenced above are not required to submit a letter of appearance, and will be added to the public service list for this segment of the proceeding by Commerce.

Commerce placed an APO on the record on September 28, 2026.[7]

[5] *See Diamond Sawblades and Parts Thereof from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review,* 76 FR 76128, 76130 (December 6, 2011).

[6] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069 (September 29, 2023).

[7] *See* Memorandum, ''Request for Establishment of Administrative Protective Order,'' dated September 28, 2026, and the Administrative Protective Order dated September 28, 2026.

Commerce intends to place the business proprietary versions of the documents (if any) contained in the covered merchandise referral on the record of this proceeding in ACCESS.

Representatives of interested parties must submit applications for disclosure under the APO in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to this segment of the proceeding, with one exception: APO applicants representing the parties that have been identified by CBP as an importer in the covered merchandise referral (referenced above) are exempt from the additional filing requirements for importers pursuant to 19 CFR 351.305(d).

This notice is issued and published pursuant to section 517(b)(4) of the Act and 19 CFR 351.227(b).

Dated: October 13, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–21281 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–854]

Certain Steel Nails From Taiwan: Final Results of Antidumping Duty Administrative Review; 2024–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) determines that certain steel nails (nails) from Taiwan were sold in the United States at less than normal value during the period of review (POR), July 1, 2024, through June 30, 2025.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Henry Wolfe, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0574.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 2026, Commerce published the *Preliminary Results* in the **Federal Register** and invited interested parties to comment on those results.[1] No interested party submitted comments on the *Preliminary Results,* which are herein adopted as the final results of review. Accordingly, because the final results remain unchanged from the *Preliminary Results,* no decision memorandum accompanies this notice.

Commerce conducted this administrative review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [2]

The merchandise covered by the *Order* is nails having a nominal shaft length not exceeding 12 inches.[3] Nails include, but are not limited to, nails made from round wire and nails that are cut from flat-rolled steel. Nails may be of one piece construction or constructed of two or more pieces. Nails may be produced from any type of steel, and may have any type of surface finish, head type, shank, point type and shaft diameter. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, including but not limited to electroplating or hot dipping one or more times), phosphate, cement, and paint. Nails may have one or more surface finishes. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted. Screw-threaded nails subject to this proceeding are driven using direct force and not by turning the nail using a tool that engages with the head. Point styles include, but are not limited to, diamond, needle, chisel and blunt or no point. Nails may be sold in bulk, or they may be collated in any manner using any material.

Excluded from the scope of the *Order* are nails packaged in combination with one or more non-subject articles, if the total number of nails of all types, in aggregate regardless of size, is less than 25. If packaged in combination with one or more non-subject articles, nails remain subject merchandise if the total number of nails of all types, in aggregate regardless of size, is equal to or greater than 25, unless otherwise excluded based on the other exclusions below.

Also excluded from the scope are nails with a nominal shaft length of one inch or less that are (a) a component of an unassembled article, (b) the total number of nails is sixty (60) or less, and (c) the imported unassembled article falls into one of the following eight groupings: (1) Builders' joinery and carpentry of wood that are classifiable as windows, French-windows and their frames; (2) builders' joinery and carpentry of wood that are classifiable as doors and their frames and thresholds; (3) swivel seats with variable height adjustment; (4) seats that are convertible into beds (with the exception of those classifiable as garden seats or camping equipment); (5) seats of cane, osier, bamboo or similar materials; (6) other seats with wooden frames (with the exception of seats of a kind used for aircraft or motor vehicles); (7) furniture (other than seats) of wood (with the exception of (i) medical, surgical, dental or veterinary furniture; and (ii) barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements); or (8) furniture (other than seats) of materials other than wood, metal, or plastics (*e.g.,* furniture of cane, osier, bamboo or similar materials). The aforementioned imported unassembled articles are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 4418.10, 4418.20, 9401.30, 9401.40, 9401.51, 9401.59, 9401.61, 9401.69, 9403.30, 9403.40, 9403.50, 9403.60, 9403.81, or 9403.89.

Also excluded from the scope of the *Order* are nails that meet the specifications of Type I, Style 20 nails as identified in Tables 29 through 33 of ASTM Standard F1667 (2013 revision).

Also excluded from the scope of the *Order* are nails suitable for use in powder-actuated hand tools, whether or not threaded, which are currently classified under HTSUS subheadings 7317.00.20.00 and 7317.00.30.00.

Also excluded from the scope of the *Order* are nails having a case hardness greater than or equal to 50 on the Rockwell Hardness C scale (HRC), a carbon content greater than or equal to 0.5 percent, a round head, a secondary reduced-diameter raised head section, a centered shank, and a smooth symmetrical point, suitable for use in gas-actuated hand tools.

Also excluded from the scope of the *Order* are corrugated nails. A corrugated nail is made up of a small strip of corrugated steel with sharp points on one side.

Also excluded from the scope of the *Order* are thumb tacks, which are

[1] *See Certain Steel Nails from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review; 2024–2025,* 91 FR 36116 (June 16, 2026) (*Preliminary Results*).

[2] *See Certain Steel Nails from the Republic of Korea, Malaysia, the Sultanate of Oman, Taiwan, and the Socialist Republic of Vietnam: Antidumping Duty Orders,* 80 FR 39994 (July 13, 2015) (*Order*).

[3] The shaft length of nails with flat heads or parallel shoulders under the head shall be measured from under the head or shoulder to the tip of the point. The shaft length of all other nails shall be measured overall.

currently classified under HTSUS subheading 7317.00.10.00.

Nails subject to the *Order* are currently classified under HTSUS subheadings 7317.00.55.02, 7317.00.55.03, 7317.00.55.05, 7317.00.55.07, 7317.00.55.08, 7317.00.55.11, 7317.00.55.18, 7317.00.55.19, 7317.00.55.20, 7317.00.55.30, 7317.00.55.40, 7317.00.55.50, 7317.00.55.60, 7317.00.55.70, 7317.00.55.80, 7317.00.55.90, 7317.00.65.30, 7317.00.65.60, and 7317.00.75.00. Nails subject to this *Order* also may be classified under HTSUS subheadings 7907.00.60.00, 8206.00.00.00, 7806.00.80.00, 7318.29.00.00, or other HTSUS subheadings.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.

Use of Adverse Facts Available

This review covers two producers and/or exporters of the subject merchandise. As discussed in the *Preliminary Results,* we are relying entirely upon facts otherwise available, pursuant to sections 776(a) and (b) of the Act, to assign estimated dumping margins to mandatory respondents Faithful Engineering and Top Forever because these companies were unresponsive to our requests for information, and thereby withheld necessary information that was requested by Commerce, failed to provide the information requested by the specified deadlines in the form and manner requested, and significantly impeded the review. Further, Commerce finds that Faithful Engineering and Top Forever failed to cooperate by not acting to the best of their ability to comply with requests for information and, thus, Commerce is applying an adverse inference in selecting among the facts available, in accordance with section 776(b) of the Act. Using adverse facts available (AFA), we are assigning these companies a rate of 78.17 percent, which is the highest rate applied in any segment of this proceeding.

Final Results of Review

We have determined the following dumping margins for the firms listed below for the period July 1, 2024, through June 30, 2025:

Exporter/producer	Weighted-average dumping margin (percent)
Faithful Engineering Products Co., Ltd	78.17
Top Forever Screws Co., Ltd	78.17

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with the final results of administrative review within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of the final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce did not calculate any dumping margins in this review, there are no new calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

Upon publication of this notice in the **Federal Register**, the following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Faithful Engineering and Top Forever, will be equal to the appropriate dumping margin established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers and exporters will continue to be 2.16 percent, the all-others rate established in the LTFV investigation, as amended.[4] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

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

Dated: October 13, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–21362 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See Certain Steel Nails from Taiwan: Notice of Court Decision Not in Harmony With Final Determination in Less Than Fair Value Investigation and Notice of Amended Final Determination,* 82 FR 55090 (November 20, 2017).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–911]

Thermal Paper From the Republic of Korea: Preliminary Results and Rescission, in Part, of Antidumping Duty Administrative Review; 2024–2025

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Hansol Paper Company (Hansol) made sales of subject merchandise at less than normal value (NV) during the period of review (POR), November 1, 2024, through October 31, 2025. In addition, we are rescinding the review with respect to 16 companies. Interested parties are invited to comment on these preliminary results of review.

DATES: Applicable October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Elizabeth Beuley, 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) 482–3269.

SUPPLEMENTARY INFORMATION:

Background

On January 27, 2026, based on timely requests for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the antidumping duty order on thermal paper from the Republic of Korea (Korea).[1] On February 23, 2026, Commerce selected Hansol as the mandatory respondent in this review.[2] On April 27, 2026, Domtar Corporation and Appvion, LLC (collectively, the petitioners) timely withdrew their review requests for the 16 companies listed in Attachment II.[3] On August 18, 2026, we extended the preliminary results of this review to no later than October 14, 2026.[4]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5] A list of the topics discussed in the Preliminary Decision Memorandum is attached as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

Scope of the Order

The merchandise subject to the *Order* is thermal paper from Korea. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if a party who requested a review withdraws its request within 90 days of the date of publication of notice of initiation. As noted above, Commerce received timely-filed withdrawal requests with respect to the companies listed in Appendix II, and no other parties requested an administrative review of these companies. Therefore, we are rescinding this administrative review with respect to the companies listed in Appendix II, pursuant to 19 CFR 351.213(d)(1).

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following estimated weighted-average dumping margin exists for the period November 1, 2024, through October 31, 2025:

Producer/exporter	Weighted-average dumping margin (percent)
Hansol Paper Company	1.69

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.309(c)(1)(ii), we have modified the deadline for interested parties to submit case briefs to Commerce to no later than 21 days after the date of the publication of this notice.[6] 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.[7] 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.[8] 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.[9] Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 91 FR 3421 (January 27, 2026); *see also Thermal Paper from Germany, Japan, the Republic of Korea, and Spain: Antidumping Duty Orders,* 86 FR 66284 (November 22, 2021) (*Order*).

[2] *See* Memorandum, ''Respondent Selection,'' dated February 23, 2026.

[3] *See* Petitioner's Letter, ''Partial Withdrawal of Request for Administrative Review,'' dated April 27, 2026.

[4] *See* Memorandum, ''Extension of Deadline for Preliminary Results of 2024–2025 Antidumping Duty Administrative Review,'' dated August 18, 2026.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Thermal Paper from the Republic of Korea; 2024–2025,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* 19 CFR 351.309.

[7] *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*).

[8] *See* 19 CFR 351.309(c)(2) and (d)(2).

[9] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

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).[10]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce will inform parties of the scheduled date for the hearing.[11]

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.

If Hansol's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.[12] To determine whether an importer-specific, per-unit assessment rate is *de minimis,* in accordance with 19 CFR 351.106(c)(2), we also will calculate an importer-specific *ad valorem* ratio based on estimated entered values. If Hansol's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[13]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Hansol for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate calculated in the less-than-fair-value (LTFV) investigation if there is no rate for the intermediate company(ies) involved in the transaction.[14]

For the companies listed in Appendix II for which the review is being rescinded, Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit rate for estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue rescission instructions to CBP no earlier than 35 days after the date of publication of this notice in the **Federal Register**.

Commerce intends to issue assessment instructions to CBP regarding Hansol no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously investigated or reviewed companies not covered by this review, the cash deposit rate will continue to be the company-specific cash deposit rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this review, or the LTFV investigation, but the manufacturer is, then the cash deposit rate will be the rate established for the most recent segment for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 6.19 percent, the all-others rate established in the LTFV investigation.[15] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

Notification to Interested Parties

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: October 14, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Methodology
V. Recommendation

Appendix II

Companies for Which the Review Is Rescinded

1. Akon Rulo Kagit Plastik Imalat IHR ITH. SAN. TIC. A.S.
2. Amtress (M) Sdn. Bhd.
3. Besto Sdn. Bhd.
4. Convertidoras PCM, S.A. de C.V.
5. Dor Etiket San VE Tic. Ltd.
6. Engin Kagir Mamulleri San. Tic.
7. Formas para Negocios, S.A. de C.V.
8. Formularios de Mexico S.A. de C.V.
9. Kagit Mamulleri San. Tic. Ltd., Stl.
10. Kooka Paper Manufacturing Sdn. Bhd.
11. Papeles y Conversiones de Mexico, S.A. de C.V.
12. Sailing Paper (Malaysia) Sdn. Bhd.

[10] *See APO and Service Procedures.*

[11] *See* 19 CFR 351.310(d).

[12] *See* 19 CFR 351.212(b)(1).

[13] *See* 19 CFR 351.106(c)(2); *see also Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[14] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[15] *See Order,* 86 FR at 66286.

13. ShenZhen Sailing Paper Co., Ltd.
14. Tele-Paper (M) Sdn. Bhd.
15. Wellden (M) Sdn. Bhd.
16. Wingle Industrial (Malaysia) Sdn. Bhd.

[FR Doc. 2026–21361 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–243, C–570–244]

Notice of Extension of the Deadline for Determining the Adequacy of the Antidumping and Countervailing Duty Petitions: Certain Wooden Fence Pickets from the People's Republic of China

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

DATES: Applicable October 13, 2026.

FOR FURTHER INFORMATION CONTACT: Frank Schmitt at (202) 482–4880 (the People's Republic of China (China) AD); and Suresh Maniam at (202) 482–0176 (China CVD), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

Extension of Initiation of Investigations

The Petitions

On September 24, 2026, the U.S. Department of Commerce (Commerce) received antidumping duty (AD) and countervailing duty (CVD) petitions on imports of certain wooden fence pickets (wooden fences) from China filed in proper form on behalf of the American Alliance of Wooden Fence Producers (the petitioner),[1] the members of which are domestic producers of wooden fences.[2]

Determination of Industry Support for the Petitions

Sections 702(b)(1) and 732(b)(1) of the Tariff Act of 1930, as amended (the Act), require that a petition be filed by or on behalf of the domestic industry. To determine that the petition has been filed by or on behalf of the industry, sections 702(c)(4)(A) and 732(c)(4)(A) of the Act require that the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, sections 702(c)(4)(D) and 732(c)(4)(D) of the Act provide that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) if there is a large number of producers, determine industry support using a statistically valid sampling method to poll the industry.

Extension of Time

Sections 702(c)(1)(A) and 732(c)(1)(A) of the Act provide that within 20 days of the filing of an AD or CVD petition, Commerce will determine, *inter alia,* whether the petition has been filed by or on behalf of the U.S. industry producing the domestic like product. Sections 702(c)(1)(B) and 732(c)(1)(B) of the Act provide that the deadline for the initiation determination, in exceptional circumstances, may be extended by 20 days in any case in which Commerce must ''poll or otherwise determine support for the petition by the industry.'' Because it is not clear from the Petitions whether the industry support criteria have been met, Commerce has determined it should extend the time period for determining whether to initiate the AD and CVD investigations in order to further examine the issue of industry support.

Commerce will need additional time to gather and analyze additional information regarding industry support. Therefore, it is necessary to extend the deadline for determining the adequacy of the Petitions by an additional 20 days. As a result, in accordance with sections 702(c)(1)(B) and 732(c)(1)(B) of the Act, Commerce's initiation determinations will now be due no later than November 3, 2026.

International Trade Commission Notification

Commerce will contact the U.S. International Trade Commission (ITC) and will make this extension notice available to the ITC.

Dated: October 13, 2026.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2026–21285 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–DS–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; South Pacific Tuna Act

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 June 11, 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: South Pacific Tuna Act.

OMB Control Number: 0648–0218.

Form Number(s): None.

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

Number of Respondents: 21.

Average Hours per Response: Catch Report Form: 1 hour, License Application: 1 hour, FFA Application form: 45 minutes, Unloading & Transshipment Logsheet Form: 30 minutes. Expression of Interest: Initial application 2 hours and Renewal: 15 minutes.

Total Annual Burden Hours: 222 hours.

Needs and Uses: This is a request for an extension of a currently approved information collection. The National Oceanic and Atmospheric Administration (NOAA) collects vessel license, vessel registration, catch, and unloading information from operators of U.S. purse seine vessels fishing under the provisions of the Treaty on Fisheries between the Governments of Certain Pacific Island States and the

[1] The individual members of the American Alliance of Wooden Fence Producers are Alta Forest Products, Sierra Pacific Industries, and Mendocino Forest Products.

[2] *See* Petitioner's Letter, ''Petition for the Imposition of Antidumping and Countervailing Duties,'' dated September 24, 2026 (Petition).

Government of the United States of America (Treaty). The Treaty provides access for U.S. purse seine vessels to fish in the exclusive economic zones (EEZs) of Pacific Island Parties to the Treaty (PIPs). The PIPs include Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. This collection of information is required to meet U.S. obligations under the Treaty.

The South Pacific Tuna Act of 1988 (16 U.S.C. 973–973r) and U.S. implementing regulations (50 CFR part 300, subpart D) authorize the collection of information from U.S. purse seine vessels fishing in the EEZs of PIPs under the Treaty. Vessel operators must submit annual vessel license and registration (including registration of vessel monitoring system (VMS) units) applications and periodic written reports of catch and unloading of fish from licensed vessels. They are also required to ensure the continued operation of VMS units on board licensed vessels, which is expected to require periodic maintenance of the units. The information collected is submitted to the Pacific Islands Forum Fisheries Agency (FFA) through the U.S. government, NOAA's National Marine Fisheries Service (NMFS). The license and registration application information is used by the FFA to determine the operational capability and financial responsibility of a vessel operator interested in fishing under the Treaty. Information obtained from vessel catch and unloading reports is used by the FFA to assess fishing effort and fishery resources in the region and to track the number of fish caught within each PIP's EEZ. Maintenance of VMS units is needed to ensure the continuous operation of the VMS units, which, as part of the VMS administered by the FFA, are used as an enforcement tool. If the information is not collected, the U.S. government will not meet its obligations under the Treaty, and the lack of fishing information will result in poor management of the fishery resources.

Affected Public: Business or other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

Legal Authority: South Pacific Tuna Act; 16 U.S.C. 973–973.

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 0648–0218.

Sheleen Dumas,

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

[FR Doc. 2026–21379 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG103]

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) Bering Sea Aleutian Islands Crab Plan Team (BSAI CPT) will meet November 5, 2026.

DATES: The meeting will be held on Thursday, November 5, 2026, from 8 a.m. to 5 p.m. AK time.

ADDRESSES: The meeting will be a web conference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/8164*.

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

FOR FURTHER INFORMATION CONTACT: Anita Kroska, Council staff; phone; (907) 271–2809; email: *akroska@npfmc.org*. For technical support, please contact our admin Council staff, email: *support@npfmc.org*; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Thursday, November 5, 2026

The agenda will include (a) Norton Sound red king crab (NSRKC) final Stock Assessment and Fishery Evaluation (SAFE) report; (b) Aleutian Islands golden king crab (AIGKC) proposed models; (c) SAFE Guidelines, and any other new business. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/8164* 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://meetings.npfmc.org/Meeting/Details/8164*.

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/8164*.

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

Dated: October 15, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–21350 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG122]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) and its advisory bodies will meet November 13–18, 2026, in Garden Grove, California and via webinar. The Pacific Council meeting will be live streamed with the opportunity to provide public comment remotely. The following groups will meet in person in Garden Grove: Pacific Council, Budget Committee, Scientific and Statistical Committee, Groundfish Advisory Subpanel, Groundfish Management Team, Highly Migratory Species (HMS) Advisory Subpanel, HMS Management Team, Coastal Pelagic Species Advisory Subpanel, Coastal Pelagic Species Management Team, Salmon Advisory Subpanel, Salmon Technical Team, and Enforcement Consultants.

DATES: The Pacific Council meeting will begin on Saturday, November 14, 2026, at 9 a.m. Pacific Time (PT), reconvening at 8 a.m. on Sunday, November 15, 2026, through Wednesday, November 18, 2026. All meetings are open to the public, except for a Closed Session held from 8 a.m. to 9 a.m., Saturday, November 14, 2026, to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business. Advisory Body meetings begin on Friday, November 13, 2026, as outlined in the schedule of ancillary meetings below.

ADDRESSES: Meetings of the Pacific Council and its advisory entities will be held at the Hyatt Regency Orange County, 11999 Harbor Blvd., Garden Grove, CA 92840; Telephone: 714–750–1234. Specific meeting information, including directions to join the meeting, connecting to the live stream broadcast, and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Hayden York (*hayden.york@pcouncil.org*) or contact him at (503) 820–2424 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Merrick Burden, Executive Director, Pacific Council; telephone: (503) 820–2418 or (866) 806–7204 ext. 418 toll-free, or access the Pacific Council website, *www.pcouncil.org,* for the proposed agenda and briefing materials.

SUPPLEMENTARY INFORMATION: The November 14–18, 2026, meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 9 a.m. PT Saturday, November 14, 2026, and 8 a.m. Sunday, November 15, 2026, through Wednesday, November 18, 2026. Broadcasts end when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion for the public is listen-only except that an opportunity for oral public comment will be provided prior to Council Action on each agenda item. Additional information and instructions on joining or listening to the meeting can be found on the Pacific Council's website (see *www.pcouncil.org*).

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''Final Action'' refer to actions requiring the Pacific Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional details on agenda items, Council action, and advisory entity meeting times are described in Agenda Item A.3, Proposed Council Meeting Agenda, and will be in the advanced November 2026 briefing materials and posted on the Pacific Council website at *www.pcouncil.org* no later than Wednesday, October 28, 2026.

A. Call to Order
1. Opening Remarks
2. Roll Call
3. Agenda
4. Executive Director's Report

B. Open Comment Period
1. Comments on Non-Agenda Items

C. Administrative Matters
1. Council Coordination Committee Meeting Update
2. Fiscal Matters
3. Approve Council Meeting Record
4. Membership Appointments and Council Operating Procedures
5. Future Council Meeting Agenda and Workload Planning

D. Cross Fishery Management Plan
1. NMFS 2026 Accomplishments and 2027 Priorities
2. Marine Planning

E. Habitat Issues
1. Current Habitat Issues

F. Salmon Management
1. NMFS Report
2. Final 2027 Preseason Management Schedule
3. Sacramento River Fall Chinook Spawner Abundance at Maximum Sustainable Yield (S_{MSY}): Peer Review Results and Next Steps

G. Groundfish Management
1. NMFS Report
2. Economics Workshop Report
3. Methodology Review: Final Fishery Impact Model Review Topics and Stock Assessment Methodologies
4. Stock Assessment Process Review Adjustments for 2027
5. Stock Assessment Terms of Reference for 2027–28
6. Inseason Adjustments for 2026–27 including Pacific Whiting Off-the-Top Bycatch Deductions—Final Action
7. Harvest Specifications and Management Measures Flexibility—Final Action
8. Risk Management Framework

H. Pacific Halibut Management
1. 2027 Commercial and Recreational Catch Sharing Plan and Annual Regulations—Final Action

I. Highly Migratory Species Management
1. NMFS Report
2. International Management Activities including Pacific Bluefin Tuna Trip Limits
3. Exempted Fishing Permits (EFP)—Preliminary or Final Action
4. 2027–28 Biennial Harvest Specifications and Management Measures—Preliminary or Final Action
5. HMS Roadmap: EFP Benchmarks and Evaluation Framework

J. Coastal Pelagic Species Management
1. NMFS Report
2. 2028–29 Stock Assessment Prioritization and Schedule
3. Fishery Management Plan Amendment: Revised Sardine Stock and Management Provisions—Final Action

Advisory Body Agendas

Advisory body agendas will include discussions of relevant issues that are on the Pacific Council agenda for this meeting and may also include issues that may be relevant to future Pacific Council meetings. Proposed advisory body agendas for this meeting will be available on the Pacific Council website, *www.pcouncil.org,* no later than the end of the day, Wednesday, October 28, 2026.

SCHEDULE OF ANCILLARY MEETINGS

Day 1—Friday, November 13, 2026	
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
HMS Advisory Subpanel	8 a.m.
HMS Management Team	8 a.m.
Scientific and Statistical Committee	8 a.m.
Salmon Advisory Subpanel	10:30 a.m.
Salmon Technical Team	1 p.m.
Budget Committee	12:30 p.m.

SCHEDULE OF ANCILLARY MEETINGS—Continued

Enforcement Consultants	2 p.m.
Day 2—Saturday, November 14, 2026	
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
HMS Advisory Subpanel	8 a.m.
HMS Management Team	8 a.m.
Salmon Advisory Subpanel	8 a.m.
Salmon Technical Team	8 a.m.
Scientific and Statistical Committee	8 a.m.
Enforcement Consultants	As necessary.
Day 3—Sunday, November 15, 2026	
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
HMS Advisory Subpanel	8 a.m.
HMS Management Team	8 a.m.
Coastal Pelagic Species Advisory Subpanel	10 a.m.
Coastal Pelagic Species Management Team	10 a.m.
Enforcement Consultants	As necessary.
Day 4—Monday, November 16, 2026	
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.
Coastal Pelagic Species Advisory Subpanel	8 a.m.
Coastal Pelagic Species Management Team	8 a.m.
Enforcement Consultants	As necessary.
Day 5—Tuesday, November 17, 2026	
Groundfish Advisory Subpanel	8 a.m.
Groundfish Management Team	8 a.m.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Hayden York (*hayden.york@pcouncil.org;* (503) 820–2424) at least 10 business days prior to the meeting date.

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

Dated: October 15, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–21349 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XG087]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Habitat Committee (HC) will hold an online public meeting.

DATES: The online meeting will be held Tuesday, November 3, 2026, from 1 p.m. to 5 p.m. Pacific Time, or until business for the day has been completed, and Wednesday, November 4, 2026, from 8:30 a.m. to 5 p.m., or until business for the day has been completed.

ADDRESSES: This meeting will be held online. Specific meeting information, including a proposed agenda and instructions on how to attend the meeting and system requirements, will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Hayden York (*hayden.york@pcouncil.org*) or contact him at 503–820–2424 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kerry Griffin, Staff Officer, Pacific Council; telephone: (503) 820–2409.

SUPPLEMENTARY INFORMATION: The purpose of this online meeting is for the HC to consider items on the Pacific Council's November 2026 meeting agenda and to prepare supplemental reports, as necessary. The HC will discuss current habitat issues and may consider other items on the Pacific Council's November agenda, as appropriate.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Hayden York *(hayden.york@pcouncil.org;* 503–820–2424) at least 10 days prior to the meeting date.

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

Dated: October 15, 2026.

Rey Israel Marquez,

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

[FR Doc. 2026–21351 Filed 10–16–26; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0093, Part 40, Provisions Common to Registered Entities

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') 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 (''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 collections of information provided for by Part 40 of the Commission's regulations, Provisions Common to Registered Entities.

DATES: Comments must be submitted on or before December 18, 2026.

ADDRESSES: You may submit comments, specifically referencing OMB Control No. 3038–0093, by any of the following methods:

- *Regulations.gov:* Go to *https://www.regulations.gov* and press the ''Search'' button, then proceed as follows:

1. Under Refine Documents Results—check the box to ''Only show documents open for comment'';

2. Under Agency—select ''See More'' and check the box for ''Commodity Futures Trading Commission,'' then press the Apply button;

3. Identify this 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 of these methods. To avoid possible delays with mail or in-person deliveries, submissions through *Regulations.gov* are encouraged.

All comments must be submitted in English or, if not, accompanied by an English translation. Do not include in your comment text or attachments any personal identifying information or business information that you do not want published online. Comments (regardless of submission method) will be published without review for, and without removal of, any personal identifying information or information your business may consider confidential.

If you wish to submit confidential information for the Commission's consideration, please contact the CFTC personnel listed in this Notice under **FOR FURTHER INFORMATION CONTACT** before making any submission. Please also carefully review the Commission's procedures in Commission regulation 145.9 for requesting confidential treatment under the Freedom of Information Act (FOIA) of information submitted to the Commission.[1]

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 PRA, and other applicable laws, and may be accessible under the FOIA.

[1] 17 CFR 145.9.

FOR FURTHER INFORMATION CONTACT: Roger Smith, Division of Market Oversight, Commodity Futures Trading Commission, 77 West Jackson Blvd., Suite 800, Chicago, Illinois 60604, (202) 418–5344, email: *rsmith@cftc.gov.*

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 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed extension of the currently approved collection 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: Part 40, Provisions Common to Registered Entities (OMB Control No. 3038–0093). This is a request for extension of a currently approved information collection.

Abstract: This collection of information involves the collection and submission to the Commission of information from registered entities concerning new products, rules, and rule amendments pursuant to the procedures outlined in §§ 40.2, 40.3, 40.5, 40.6, and 40.10 found in 17 CFR part 40. Part 40 of the Commission's regulations implements section 5c(c) of the CEA and sets forth provisions that are common to registered entities, including designated contract markets (''DCMs''), derivatives clearing organizations (''DCOs''), swap execution facilities (''SEFs''), and swap data repositories (''SDRs''). Part 40 establishes requirements and procedures for registered entities to submit information about their rules and products to the Commission prior to implementing rules, listing products for trading, or accepting products for clearing. Part 40 generally provides two means for registered entities to submit rules and products to the Commission. Typically, a registered entity elects to

certify that their product (§ 40.2) or rule (§ 40.6) complies with the CEA and the Commission regulations. This process is known as self-certification. Alternatively, a registered entity may seek Commission approval of the product (§ 40.3) or rule (§ 40.5).[2] The regulations also include special certification provisions (§ 40.10) for certain rules submitted by systemically important DCOs (''SIDCOs'').

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is 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 burden of the proposed collection 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 burden 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:

OMB Control Number 3038–0093 reflects the information collection burden under Commission regulations associated with product filings (§§ 40.2 and 40.3); rule filings (§§ 40.5 and 40.6); and SIDCO filings (§ 40.10). As part of this renewal, the Commission has updated its burden estimates to reflect current respondent numbers, filing volumes, and burden hours.

Provisions Common to Regulated Entities IC

The Commission estimates the average burden of the Provisions Common to Regulated Entities IC as follows:

Product Submissions (§§ 40.2 and 40.3)

Estimated Number of Respondents: 100.

Annual Responses by each Respondent: 87.

Estimated Hours per Response: 22.

Estimated Total Hours per Year: 191,400.

Rule Submissions (§§ 40.5 and 40.6)

Estimated Number of Respondents: 100.

Annual Responses by each Respondent: 40.

Estimated Hours per Response: 2.5

Estimated Total Hours per Year: 10,000.

SIDCO Submissions (§ 40.10)

Estimated Number of Respondents: 2.

Annual Responses by each Respondent: 1.

Estimated Hours per Response: 50.

Estimated Total Hours per Year: 100.

Frequency of Collection: On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: October 15, 2026.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2026–21275 Filed 10–16–26; 8:45 am]

BILLING CODE 6351–01–P

[2] Commission regulations may expressly or impliedly trigger the requirement for a registered entity to make a submission pursuant to part 40. For example, the Commission's part 150 regulation on position limits contains an express requirement to make a § 40.5 rule filing in certain circumstances. *See* 17 CFR 150.9(a).

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Wednesday, October 22, 2026—12 p.m. (noon) and 1:00 p.m.

PLACE: The meetings will be held remotely.

STATUS: Closed Commission Meetings.

MATTERS TO BE CONSIDERED: Briefing matters.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 441 G Street NW, Washington, DC 20548, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: October 15, 2026.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2026–21384 Filed 10–15–26; 4:15 pm]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Comment Request; NCCC Service Project Application

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Corporation for National and Community Service (operating as AmeriCorps) is proposing to revise an information collection.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by December 18, 2026.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) Electronically through *www.regulations.gov* (preferred method).

(2) *By mail sent to:* AmeriCorps, Attention: Sarah Reynolds, 250 E Street SW, Washington, DC 20525.

(3) By hand delivery or by courier to the AmeriCorps mailroom at the mail address given in paragraph (2) above, between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Comments submitted in response to this notice may be made available to the public through *regulations.gov*. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Sarah Reynolds, Systems and Operations Lead, AmeriCorps NCCC at (202) 606–6956 or by email at *sreynolds@americorps.gov*.

SUPPLEMENTARY INFORMATION: *Title of Collection:* NCCC Service Project Application.

OMB Control Number: 3045–0010.

Type of Review: Revision.

Respondents/Affected Public: Businesses and organizations (Current and prospective AmeriCorps NCCC sponsors).

Total Estimated Number of Annual Responses: 1,800.

Total Estimated Number of Annual Burden Hours: 15,300.

Abstract: The AmeriCorps NCCC Service Project Application is completed by organizations interested in sponsoring an AmeriCorps National Civilian Community Corps (NCCC) team. AmeriCorps NCCC engages teams

of members in projects in communities across the United States. Service projects, which typically last from six to eight weeks, address critical needs in natural and other disasters, infrastructure improvement, environmental stewardship and conservation, energy conservation, and urban and rural development. Members construct and rehabilitate low-income housing, respond to natural disasters, clean up streams, help communities develop emergency plans, and address other local needs. The currently approved information collection is due to expire on September 30, 2029. AmeriCorps is proposing to revise the application to ask additional, more specific questions about available housing. These changes are expected to increase the burden hours because we're asking more questions.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. 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. All written comments will be available for public inspection on *regulations.gov*.

Walter Goodson,

Director, AmeriCorps NCCC.

[FR Doc. 2026–21303 Filed 10–16–26; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2026–0529; OMB Control Number 0704–0272]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS) Parts 223 and 226, Occupational Safety and Drug-Free Work Force

AGENCY: Defense Acquisition Regulations System; Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of DoD's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use under Control Number 0704–0272 through January 31, 2027. DoD proposes that OMB approve an extension of the information collection requirement, to expire three years after the approval date.

DATES: DoD will consider all comments received by December 18, 2026.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0272, using either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0272 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: David Johnson, 202–913–5764.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Parts 223 and 226, Occupational Safety and Drug-Free Work Force and Related Clauses; OMB Control Number 0704–0272.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Number of Respondents: 2,283.

Responses per Respondent: 34.5, approximately.

Annual Responses: 71,857.

Average Burden per Response: 0.4 hour, approximately.

Annual Burden Hours: 29,134.

Needs and Uses: This information collection requires that an offeror or contractor submit information to DoD in response to four contract clauses relating to occupational safety and drug-free work force program. DoD contracting officers use this information to—

- Verify compliance with requirements for labeling of hazardous materials;
- Ensure contractor compliance and monitor subcontractor compliance with DoD 4145.26–M, DoD Contractors' Safety Manual for Ammunition and Explosives, and minimize risk of mishaps;
- Identify the place of performance of all ammunition and explosives work;
- Ensure contractor compliance and monitor subcontractor compliance with DoD 5100.76–M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives; and
- Ensure compliance with the clause requirements with regard to programs for achieving the objective of a drug-free work force; requires contractor recordkeeping.

This information collection addresses the following requirements:

1. DFARS 252.223–7001, Hazard Warning Labels. Paragraph (c) requires all offerors to list which hazardous materials will be labeled in accordance with certain statutory requirements instead of the Hazard Communication Standard. Paragraph (d) requires only the apparently successful offeror to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of the clause.

2. DFARS 252.223–7002, Safety Precautions for Ammunition and Explosives. Paragraph (c)(2) requires the contractor, within 30 days of notification of noncompliance with DoD 4145.26–M, to notify the contracting officer of actions taken to correct the noncompliance. Paragraph (d)(1)

requires the contractor to notify the contracting officer immediately of any mishaps involving ammunition or explosives. Paragraph (d)(3) requires the contractor to submit a written report of the investigation of the mishap to the contracting officer. Paragraph (g)(4) requires the contractor to notify the contracting officer before placing a subcontract for ammunition or explosives.

3. DFARS 252.223–7003, Changes in Place of Performance—Ammunition and Explosives. Paragraph (a) requires the offeror to identify, in the Place of Performance provision of the solicitation, the place of performance of all ammunition and explosives work covered by the Safety Precautions for Ammunition and Explosives clause of the solicitation. Paragraphs (b) and (c) require the offeror or contractor to obtain written permission from the contracting officer before changing the place of performance after the date set for receipt of offers or after contract award.

4. DFARS 252.223–7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives. Paragraph (e) requires the contractor to notify the cognizant Defense Security Service field office within 10 days after award of any subcontract involving sensitive conventional arms, ammunition, and explosives within the scope of DoD 5100.76–M.

5. DFARS 252.223–7004, Drug-Free Work Force. The clause requires that necessary to demonstrate reasonable efforts to eliminate the unlawful use by contractor employees of controlled substances. DoD does not regularly collect any information with regard to this clause.

Jennifer D. Johnson,

Alternate Federal Register Liaison Officer, Defense Acquisition Regulations System.

[FR Doc. 2026–21330 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2026–0562; OMB Control Number 0704–0248]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Inspection and Receiving Report

AGENCY: Defense Acquisition Regulations System; Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of DoD's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use under Control Number 0704–0248 through January 31, 2027. DoD proposes that OMB approve an extension of the information collection requirement, to expire three years after the approval date.

DATES: DoD will consider all comments received by December 18, 2026.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0248, using either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0248 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Saleemah McMillan, at 202–308–5383.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Appendix F, Inspection and Receiving Report; OMB Control Number 0704–0248.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Number of Respondents: 133,691.

Responses per Respondent: 21, approximately.

Annual Responses: 2,822,560.

Average Burden per Response: 0.05 hour.

Annual Burden Hours: 141,128.

Needs and Uses: This information collection is necessary to process shipping and receipt documentation for contractor-provided goods and services and permit payment under DoD contracts. This information collection includes the requirements of DFARS Appendix F, Material Inspection and Receiving Report. Appendix F contains procedures and instructions for submission of contractor payment requests and receiving reports using Wide Area WorkFlow (WAWF). The statute at 10 U.S.C. 2227(c) requires electronic submission and processing of claims for contract payments under DoD contracts. DoD has designated WAWF as the designated platform for contractors to submit payment requests and supporting documentation, including receiving reports. WAWF supports the preparation and distribution of electronic equivalents for the DD Form 250, Material Inspection and Receiving Report, and DD Form 250 series equivalents for repair of Government property and energy-related overland or waterborne shipments.

Jennifer D. Johnson,

Alternate Federal Register Liaison Officer, Defense Acquisition Regulations System.

[FR Doc. 2026–21329 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2026–0595; OMB Control Number 0704–0497]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS) Part 215 Negotiation

AGENCY: Defense Acquisition Regulations System; Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of DoD's estimate of the burden of the proposed information

collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use under Control Number 0704–0497 through January 31, 2027. DoD proposes that OMB approve an extension of the information collection requirement, to expire three years after the approval date.

DATES: DoD will consider all comments received by December 18, 2026.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0497, using either of the following methods:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

• *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0497 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Saleemah McMillan, at 202–308–3383.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 215, Negotiation; OMB Control Number 0704–0497.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Number of Respondents: 193.

Responses per Respondent: 1.

Annual Responses: 193.

Average Burden per Response: 4 hours.

Annual Burden Hours: 772.

Needs and Uses: DFARS 215.403–5 provides contractors with guidance for the submittal of forward pricing rate proposals, including a checklist for contractors to use in preparing their proposals. The checklist is submitted to DoD with the forward pricing rate proposal. The purpose of this information collection is to improve the efficiency of the negotiations process by ensuring the submission of thorough, accurate, and complete forward pricing rate proposals. If the contracting officer determines that a forward pricing rate proposal should be obtained pursuant to Federal Acquisition Regulation 42.1701, then contractors following the contract cost principles for commercial organizations in FAR subpart 31.2 will be required to submit a forward pricing rate proposal that complies with Federal Acquisition Regulation 15.408, Table 15–2, and DFARS 215.403–5 and 215.407–5–70. The forward pricing rate proposal adequacy checklist at Table 215.403–1 is used by the contracting officer and the contractor to ensure the proposal is complete. The completed forward pricing rate proposal adequacy checklist will be submitted to DoD with the forward pricing rate proposal.

Jennifer D. Johnson,

Alternate Federal Register Liaison Officer, Defense Acquisition Regulations System.

[FR Doc. 2026–21327 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–68]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency (DSCA), 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 26–68, Policy Justification, and Sensitivity of Technology.

Dated: October 15, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–68

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$300 million
Other	*$450 million*
TOTAL	$750 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Sixty (60) AGT–1500 tank engines

Non-MDE:

The following non-MDE items will also be included: AGT–1500 containers; spare parts, consumables, and accessories; contractor logistics support; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Army (SR–B–VEM)

(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:* September 1, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kingdom of Saudi Arabia—AGT–1500 Engines

The Kingdom of Saudi Arabia has requested to buy sixty (60) AGT–1500 tank engines. The following non-major defense equipment items will also be included: AGT–1500 containers; spare parts, consumables, and accessories; contractor logistics support; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is $750 million.

This proposed sale will support the foreign policy and national security objectives of the United States by improving the security of a partner country that is a force for political stability and economic progress in the Gulf Region.

The proposed sale will improve Saudi Arabia's capability to meet current and future threats by bolstering its readiness, its ability to support operational requirements, and contributing to capabilities necessary to achieve improved interoperability and execution of bilateral contingency plans. The Kingdom of Saudi Arabia 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 Honeywell, located in Anniston Army

Depot, AL. 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 Saudi Arabia.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26–68

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. AGT–1500 gas turbine propulsion system: The use of the AGT–1500 gas turbine propulsion system in the M1A1 is a unique application of armored vehicle power pack technology. The hardware is composed of the AGT–1500 engine and transmission and is not classified. Manufacturing processes associated with the production of turbine blades, recuperator, bearings and shafts, and hydrostatic pump and motor are proprietary and therefore sensitive in nature.

2. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Saudi Arabia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Kingdom of Saudi Arabia.

[FR Doc. 2026–21341 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–1E]

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 26–1E.

Dated: October 15, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–1E

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) *Purchaser:* Kingdom of Saudi Arabia

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 17–28

Date: October 6, 2017 Implementing Agency: Missile Defense Agency

Funding Source: National Funds

(iii) *Description:* On October 6, 2017, Congress was notified by congressional certification transmittal number 17–28 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of forty-four (44) Terminal High Altitude Area Defense (THAAD) launchers; three hundred sixty (360) THAAD interceptor missiles; sixteen (16) THAAD fire control and communications mobile tactical station group; and seven (7) AN/TPY–2 THAAD radars. Also included were THAAD battery maintenance equipment; prime movers (trucks); generators; electrical power units; trailers; communications equipment; tools; test and maintenance equipment; repair and return; system integration and checkout; spare and repair parts; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor technical and logistics personnel support services; facilities construction; studies; and other related elements of logistics and program support. The estimated cost was $15.0 billion. Major defense equipment (MDE) constituted $9.0 billion of this total.

This transmittal reports the addition of one hundred twelve (112) THAAD interceptor missiles; and fifteen (15) THAAD launchers. The following non-MDE items will also be included: remote launch kits, sling kits, and software updates. The estimated total cost of the new MDE articles is $3.0 billion, resulting in a revised total estimated MDE cost of $12 billion. The total estimated cost of the new non-MDE articles is $200 million. The total estimated case value increases by $3.2 billion to a revised $18.2 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 Saudi Arabia's capability to counter current and future regional threats.

(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 contributes to political stability and economic progress in the Gulf Region.

(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 1, 2026

[FR Doc. 2026–21338 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–93]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency (DSCA), 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 26–93, Policy Justification, and Sensitivity of Technology.

Dated: October 15, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–93

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 Spain

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$27 million
Other	$48 million
TOTAL	$75 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Seven (7) Sonar, Mine Hunting, AN/SQQ–32(V)3+ upgrade kits

Non-MDE:

The following non-MDE items will also be included: towed body parts; support equipment; spare parts, consumables, and accessories; unclassified operation and maintenance software; unclassified publications, technical documentation; and studies and surveys; U.S. government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Navy (SP–P–LIM)

(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:* September 16, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Spain—Sonar Upgrade Kits

The Government of Spain has requested to buy seven (7) Sonar, Mine Hunting, AN/SQQ–32(V)3+ upgrade kits. The following non-MDE items will also be included: towed body parts; support equipment; spare parts, consumables, and accessories; unclassified operation and maintenance software; unclassified publications, technical documentation; and studies and 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 $75 million.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO ally that is a force for political stability and economic progress in Europe.

The proposed sale will improve Spain's capability to meet current and future threats by providing an advanced and reliable sonar system, enhancing its ability to detect, classify, and neutralize underwater threats. This modernization prevents a capability gap in Spain's Mine Countermeasure forces and ensures continued contribution to NATO maritime security operations. Spain 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.

There is no principal contractor in connection with this sale. The articles and support will be provided by the Naval Surface Warfare Center, located in Panama City, FL. At this time, the U.S. Government is not aware of any offset agreement proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Spain.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 26–93

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 AN/SQQ–32 sonar is a variable-depth mine-hunting sonar system designed for detecting and classifying moored and bottom mines in mine countermeasure operations. It includes two separate active sonar systems to detect and classify mine-like objects on the surface in the volume or on the bottom of the sea. The sonar systems are packaged in a single towed body tethered to the ship through a cable providing power and data transmission with the cable length variable via an electric winch.

2. The detect and classify sonar subsystems are independently monitored and controlled by two operators at independent panels working together to find and characterize underwater objects as mine or non-mine like objects. The detection system is a low frequency, low resolution, high range sonar designed to provide a general location of possible mine-like objects. It provides much greater range than the classify sonar system, but provides little resolution and detail of the objects it detects. The classify sonar has a lower range, but higher frequency and higher resolution, allowing the classification of a target as mine-like or non-mine-like.

3. The highest level of classification of defense articles, components, and services included in this potential sale is SECRET.

4. 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.

5. A determination has been made that Spain 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.

6. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Spain.

[FR Doc. 2026–21343 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25–83]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency (DSCA), 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 25–83 and Policy Justification.

Dated: October 15, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 25–83

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) (U) *Prospective Purchaser:* Government of Iraq

(ii) (U) *Total Estimated Value:*

Major Defense Equipment * ..	$ 0
Other	$150 million
TOTAL	$150 million

Funding Source: National Funds and Foreign Military Financing

(iii) (U) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

None

Non-Major Defense Equipment:

Bell 412EPX helicopters; Very High Frequency (VHF) radios; spare parts; ground support equipment; publications and technical data; new equipment training including pilot and maintenance; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) (U) *Military Department:* Army (IQ–B–ZDV)

(v) (U) *Prior Related Cases, if any:* None

(vi) (U) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) (U) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) (U) *Date Report Delivered to Congress:* September 1, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

(U) Iraq—Bell 412 Helicopters

(U) The Government of Iraq has requested to buy Bell 412EPX helicopters; Very High Frequency (VHF) radios; spare parts; ground support equipment; publications and technical data; new equipment training including pilot and maintenance; 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 $150 million.

(U) This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a strategic partner.

(U) The proposed sale will improve Iraq's capability to meet current and future threats by providing an airlift capability for troop, medical and logistics transport. The addition of air-lift capability affords Counter-Terrorism Services operational capabilities. Iraq will have no difficulty absorbing these articles and services into its armed forces.

(U) The proposed sale of this equipment and support will not alter the basic military balance in the region.

(U) The principal contractor will be Bell-Textron, 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.

(U) Implementation of this proposed sale will require temporary duty travel of three (3) to five (5) U.S. Government representatives to Iraq for a duration of up to five (5) years. Implementation of this proposed sale will also require twelve (12) contractor representatives for support equipment fielding and training.

(U) There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2026–21336 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–1D]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency (DSCA), 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 26–1D.

Dated: October 15, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–1D

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) *Prospective Purchaser:* Government of Jordan

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 21–46

Date: February 8, 2022

Implementing Agency: Army

Funding Source: Foreign Military Financing

(iii) *Description:* On February 8, 2022, Congress was notified by congressional certification transmittal number 21–46 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of one hundred fourteen (114) Guided Multiple Launch Rocket System (GMLRS) Unitary High Explosive (HE) Tri-Mode Fuze (GMLRS–U) (M31) rockets; and one hundred fourteen (114) Reduced Range Practice Rockets. Also included were support equipment; publications and technical data; personnel training and equipment; systems integration support; 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 $70 million. Major Defense Equipment (MDE) constituted $50 million of this total.

This transmittal notifies the inclusion of the following MDE items: up to sixteen (16) GMLRS M31A2 Unitary HE Pods. The following non-MDE items will also be included: support equipment; publications and technical data; personnel training and equipment; systems integration support; U.S. Government and contractor engineering and logistics personnel services; other related elements of logistics support; missile canisters; and test equipment. The estimated total value of the new items is $75 million. The estimated MDE value will increase by $65 million to a revised $115 million. The estimated

non-MDE value will increase by $10 million to a revised $30 million. The estimated total case value will increase by $75 million to a revised $145 million.

(iv) *Significance:* This notification accounts for requested additional MDE and non-MDE items not included in the original notification. The inclusion of this MDE represents an increase in capability over what was previously notified. The proposed sale will support Jordan's capability to meet current and future threats on its borders, provide greater security for its economic infrastructure, and provide a long-range precision artillery support capability that will significantly improve U.S.-Jordan interoperability to facilitate the defense of vital installations.

(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:* August 18, 2026

[FR Doc. 2026–21337 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–1I]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency (DSCA), 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 26–1I.

Dated: October 15, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–1I

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) Prospective Purchaser: Government of the Netherlands

(ii) Sec. 36(B)(1), AECA Transmittal No.: 22–25

Date: May 26, 2022

Implementing Agency: Navy

(iii) Description: On May 26, 2022, Congress was notified by congressional certification transmittal number 22–25 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act, of ninety-five (95) AIM–9X Block II Tactical Missiles; forty-three (43) AIM–9X Block II+ Tactical Missiles; and one (1) AIM–9X Block II+ Tactical Guidance Unit. Also included were containers; classified and unclassified software; U.S. Government and contractor technical assistance; and other related elements of logistical and program support. The total estimated value was $117 million. Major Defense Equipment (MDE) constituted $104.6 million of this total.

This transmittal notifies the addition of the following MDE items: up to three hundred ninety-two (392) AIM–9X Sidewinder Block II Tactical Missiles. The following non-MDE items will also be included: additional containers; classified and unclassified software; transportation; technical assistance; U.S. Government and contractor technical assistance; and other related elements of logistical and program support. The estimated total value of the new items is $295 million. The estimated MDE value will increase by $269.9 million to a revised $374.5 million. The estimated non-MDE value will increase by $25.1 million to a revised $37.5 million. The estimated total case value will increase by $295 million to a revised $412 million.

(iv) Significance: This notification accounts for requested additional MDE and non-MDE items not included in the original notification. The inclusion of this MDE and non-MDE represents an increase in capability over what was previously notified. The proposed articles and services will support the Netherlands' air defense capability by improving its capability to conduct self-defense and regional security missions and enhancing interoperability with the U.S. and other NATO members.

(v) Justification: This proposed sale will support the foreign policy and national security objectives of the United States by improving 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 16, 2026

[FR Doc. 2026–21339 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

President's Military Spouse Commission; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD). ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD (referred to herein as ''Department of War'') is publishing this notice to announce that the following Federal Advisory Committee meeting of the President's Military Spouse Commission will take place.

DATES: Open to the public via livestream, Monday, October 19, 2026, from 12:00 p.m. to 1:00 p.m.

ADDRESSES: This meeting will be held at the White House and viewable by the public at *https://www.whitehouse.gov/military-spouse-commission/*. Registration is not required.

FOR FURTHER INFORMATION CONTACT: The President's Military Spouse Commission at *https://www.whitehouse.gov/military-spouse-commission/contact/or* Josie Beets, Designated Federal Officer, at 571–256–3140 or *osd.mc-alex.ousd-p-r.mbx.spouse-employment-team@mail.mil*.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Due to circumstances beyond the control of the Designated Federal

Officer, the President's Military Spouse Commission was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its October 19, 2026 meeting. Accordingly, the Advisory Committee Management Officer for the Department of War, pursuant to 41 CFR 102–3.150(b), waives the seven-calendar day notification requirement.

Purpose of the Meeting: The purpose of the meeting is to execute the provisions of Executive Order 14417. Per the Executive Order, the Commission will discuss strengthening military families, improving retention, and ensuring military spouses and families are ready to meet any challenge. The Commission will advise and assist the President on policies affecting military spouses and military families by identifying challenges and developing policy recommendations to address housing, employment, healthcare, education, child care, and deployment-related support.

Agenda: Monday, October 19, 2026, from 12:00 p.m. to 1:00 p.m. Official Call to Order, Opening Remarks, Executive Director Welcome, Administrative Session Briefing, Briefing: Public Submissions & Survey Updates and Review of ''State of the Spouses'' Report, Commission Participation, Adjournment.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public from 12:00 p.m. to 1:00 p.m. on October 19, 2026, via livestream. Written Statements: Written comments must be received by the President's Military Spouse Commission at least one (1) business day prior to the meeting date so that they may be made available to the Commission members for their consideration prior to the meeting. Written comments not received by the President's Military Spouse Commission at least one (1) business day prior to the meeting date, or after, will be provided to the Chair of the President's Military Spouse Commission for consideration. Written comments may be submitted via *https://www.whitehouse.gov/military-spouse-commission/contact/.* Written comments may also be emailed to *osd.mc-alex.ousd-p-r.mbx.spouse-employment-team@mail.mil.* Please note that since the President's Military Spouse Commission operates under the provisions of the FACA, all written comments received will be treated as public documents and will be made available for public inspection. Those who make submissions are requested to avoid including personally identifiable information such as names of adults and children, phone numbers, addresses, Social Security Numbers and other contact information within the body of the written statement.

Dated: October 15, 2026.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–21372 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 25–82]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency (DSCA), 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 25–82 and Policy Justification.

Dated: October 15, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 25–82

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) (U) *Prospective Purchaser:* Government of Iraq

(ii) (U) *Total Estimated Value:*

Major Defense Equipment* ..	$ 0
Other	$800 million
TOTAL	$800 million

Funding Source: National Funds

(iii) (U) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE): None

Non-Major Defense Equipment: Bell 412EPX helicopters; Bell 407M helicopters; GAU–19 three-barrel machine gun launchers; M260 2.75-inch, 7-tube rockets; L–3 Wescam MX–15HDI Electro-Optical/Infrared sensor; AN/AAR–60 Block 2 Missile Launch Detection Systems; very high frequency radios; spare parts; peculiar ground support equipment; publications and technical data; new equipment training, including pilot and maintenance; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) (U) *Military Department:* Army (IQ–B–ZDT; IQ–B–ZEH)

(v) (U) *Prior Related Cases, if any:* None

(vi) (U) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None known at this time

(vii) (U) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* None

(viii) (U) *Date Report Delivered to Congress:* August 31, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

(U) Iraq—Bell 412EPX and Bell 407M Helicopters

(U) The Government of Iraq has requested to buy Bell 412EPX helicopters; Bell 407M helicopters; GAU–19 three-barrel machine gun launchers; M260 2.75-inch, 7-tube rockets; L–3 Wescam MX–15HDI Electro-Optical/Infrared sensor; AN/AAR–60 Block 2 Missile Launch Detection Systems; very high frequency radios; spare parts; peculiar ground support equipment; publications and technical data; new equipment training, including pilot and maintenance; 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 $800 million.

(U) This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a strategic partner.

(U) The proposed sale will improve Iraq's capability to meet current and future threats by improving its rotary wing transport, reconnaissance, and air-to-surface targeting capabilities.

(U) The proposed sale of this equipment and support will not alter the basic military balance in the region.

(U) The principal contractor will be Bell-Textron, 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.

(U) Implementation of this proposed sale will not require the assignment of additional U.S. Government personnel but will require the assignment of approximately four contractor representatives to Iraq.

(U) There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2026–21335 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–1L]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency (DSCA), 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 26–1L.

Dated: October 15, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–1L

REPORT OF ENHANCEMENT OR UPGRADE OF SENSITIVITY OF TECHNOLOGY OR CAPABILITY (SEC. 36(B)(5)(C), AECA)

(i) *Prospective Purchaser:* Government of Spain

(ii) *Sec. 36(b)(1), AECA Transmittal No.:* 22–09

Date: March 15, 2022

Implementing Agency: Navy

(iii) *Description:* On March 15, 2022, Congress was notified by congressional certification transmittal number 22–09 of the possible sale, under Section 36(b)(1) of the Arms Export Control Act (AECA), of eight (8) MH–60R multi-mission helicopters; twenty (20) T–700–GE–401C engines (16 installed, 4 spares); thirty-two (32) AGM–114R(N) Hellfire missiles, All-up-rounds; two (2) Hellfire II Captive Air Training Missiles; one hundred (100) WGU–59/B Advanced Precision Kill Weapon System (APKWS) II guidance sections, All-up-rounds; eight (8) Link 16 Multifunctional Information Distribution System—Joint Tactical Radio System (MIDS–JTRS) (8 installed); and four (4) Airborne Low Frequency Sonars (ALFS) (4 installed on 4 aircraft). Also included were M514 impulse cartridge/cartridge actuated devices; MJ20 cartridge actuated thruster/cartridge actuated devices; WB53 fire extinguisher cartridge/cartridge actuated devices; CCU–136A/A impulse cartridges; M299 Hellfire missile launchers; GAU–21 crew served guns (including pintle and laser pointer); LAU–61 digital rocket launchers; M152 high explosive warheads for airborne 2.75 rockets; MK66 MOD 4, 2.75-inch rocket motors; rocket motors, 2.75-inch, MK–66–4 inert; WTU–1B inert warheads (HA23); AN/ARC–210 RT–2036 radios with Communications Security; AN/AAR–47 missile warning systems; AN/SSQ–62F sonobuoys; AN/SSQ–53G sonobuoys; AN/SSQ–36B sonobuoys; SRQ–4 Hawklink radio terminals with Hawklink crypto control modules; AN/APX–123 Identification Friend or Foe (IFF) transponders; AN/ALE–47 dispenser, electronic countermeasures; Advanced Data Transfer Systems; AN/AAS–44C(V) multi-spectral targeting systems; IFF Mode 4/5 cryptographic applique, KIV–78; Joint Mission Planning System; Embedded Global Positioning System/Precise Positioning Service (GPS/PPS)/Inertial Navigation Systems (EGI) with Selective Availability/Anti-Spoofing Module (SAASM); ALFS (aircraft provisions only for 4 aircraft); AN/ARQ–59 Hawklink radio terminals; Training Simulators/Operational Machine Interface Assistants; tactical operational flight trainer; AN/ALQ–210 Electronic Support Measures systems; APS–153(V) multi-mode radars; spare engine containers; spare and repair parts; support and test equipment; communications equipment; ferry support; publications and technical documentation; personnel training and training equipment; U.S. Government and contractor engineering, technical, and logistics support services; obsolescence engineering, integration, and test activities required to ensure readiness for the production of the Spanish MH–60R helicopters; and other related elements of logistics and program support. The estimated total value was $950 million. Major Defense Equipment (MDE) constituted $425 million of this total. On October 25, 2024, Congress was notified by Congressional certification transmittal number 24–0X, under Section 36(b)(5)(C) of the Arms Export Control Act, of the addition of the following MDE items: replacement of the previously notified non-MDE EGI with SAASM for, twenty-four (24) MDE EGI with SAASM; and replacement of the previously notified twenty (20) MDE T–700–GE–401C engines for twenty (20) MDE T–700–401D engines. Also included were Infrared Zoom Laser Illuminator Designators; AN/PYQ–10 Simple Key Loaders; and other related elements of logistics and program support. The total notified MDE value increased by $50 million to $475 million, and the total notified case value remained at $950 million.

This transmittal notifies the inclusion of the following MDE items: two (2) AN/AQS–22 ALFS; two (2) MIDS–JTRS; and four (4) EGIs. The following non-MDE items will also be included: aircraft components; parts and accessories; and non-recurring engineering costs. The estimated total value of the new items is $250 million. The estimated MDE value will increase by $60 million to a revised $535 million. The estimated non-MDE value will increase by $190 million to a revised $665 million. The estimated total case value will increase by $250 million to a revised $1.2 billion. MDE constitutes $535 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 articles and services will support Spain's capability to perform anti-surface and anti-submarine warfare missions along with the ability to perform secondary missions including vertical replenishment, search and rescue, and communications relay and will bolster the Spanish Navy's ability to support NATO and remain interoperable with the U.S. and the NATO alliance.

(v) *Justification:* This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a NATO ally that is a force for political stability and economic progress in Europe.

(vi) *Sensitivity of Technology:*

The 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 16, 2026

[FR Doc. 2026–21344 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–35]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency (DSCA), 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 26–35, Policy Justification, and Sensitivity of Technology.

Dated: October 15, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–35

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Kingdom of Saudi Arabia

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$2.0 billion
Other	$3.0 billion
TOTAL	$5.0 billion

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

Five thousand four (5,004) KMU–572 Joint Direct Attack Munition (JDAM) guidance kits

Five thousand (5,000) KMU–556 JDAM guidance kits

Five thousand four (5,004) BLU–111 500-lb general purpose bombs

Five thousand (5,000) BLU–117 2,000-lb general purpose bombs

Non-MDE:

The following non-MDE items will also be included: FMU–139 fuze systems; DSU–38 and DSU–40 target detectors; containers and support equipment; spare parts, consumables and accessories, and repair and return support; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (SR–D–YAJ)

(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:* September 1, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Kingdom of Saudi Arabia—Joint Direct Attack Munitions—Extend Range

The Kingdom of Saudi Arabia has requested to buy five thousand four (5,004) KMU–572 Joint Direct Attack Munition (JDAM) guidance kits; five thousand (5,000) KMU–556 JDAM guidance kits; five thousand four (5,004) BLU–111 500-lb general purpose bombs; and five thousand (5,000) BLU–117 2,000-lb general purpose bombs. The following non-major defense equipment will also be included: FMU–139 fuze systems; DSU–38 and DSU–40 target detectors; containers and support equipment; spare parts, consumables and accessories, and repair and return support; U. S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support. The estimated total cost is $5.0 billion.

This proposed sale will support the foreign policy goals and national security objectives of the United States by improving the security of a Major non-NATO Ally that is a force for political stability and economic progress in the Gulf Region.

The proposed sale will improve Saudi Arabia's airborne defense capability to counter current and future regional threats, strengthen its homeland defense, and improve interoperability with systems operated by U.S. forces and other Gulf Region partners. The Kingdom of Saudi Arabia 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 military balance in the region.

The principal contractor will be The Boeing 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 Kingdom of Saudi Arabia.

There will be no adverse impact on U.S. defense readiness because of this proposed sale.

Transmittal No. 26–35

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 Joint Direct Attack Munition-Extended Range (JDAM–ER) consist of a bomb body paired with a warhead-specific tail kit containing an Inertial Navigation System/Global Positioning System Precision Positioning Service guidance capability that converts unguided free-fall bombs into accurate, adverse weather ''smart'' munitions. The extended range wing kit can be readily installed on existing JDAM MK–82 500-lb weapons and JDAM MK–84 2,000-lb weapons in the field. The JDAM weapon can be used against a variety of land and surface targets during the day or night. It can also receive target coordinates via preplanned mission data from the delivery aircraft, by onboard aircraft sensors during captive carry, or from a third-party source via manual or automated aircrew cockpit entry.

a. The GBU–31 is a 2,000-lb JDAM, and consists of a KMU–556 tail kit and BLU–117 or MK–84 bomb body.

b. The GBU–38 is a 500-lb JDAM, and consists of a KMU–572 tail kit and BLU–111 or MK–82 bomb body.

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. The U.S. Government has determined that Saudi Arabia can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Kingdom of Saudi Arabia.

[FR Doc. 2026–21340 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 26–71]

Arms Sales Notification

AGENCY: Defense Security Cooperation Agency (DSCA), 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 26–71 and Policy Justification.

Dated: October 15, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Transmittal No. 26–71

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 Oman

(ii) *Total Estimated Value:*

Major Defense Equipment * ..	$ 0
Other	$188 million
TOTAL	$188 million

Funding Source: National Funds

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:*

Major Defense Equipment (MDE):

None

Non-MDE:

The following non-MDE items will be included: major and minor modifications support and equipment; spare parts, consumables and accessories, and repair and return support; aircraft components, parts, and accessories; communications equipment; instruments and lab equipment; precision navigation; ground handling equipment; precision measurement equipment laboratory calibration; computer program identification numbers; engine component improvement program; weapons system support to include software, classified and unclassified software and software support, and classified and unclassified publications and technical documentation; maps and charts; clothing, textiles, and individual equipment; personnel training and training equipment; studies and surveys; U.S. Government and contractor engineering, technical, and logistics support services; and other related elements of logistics and program support.

(iv) *Military Department:* Air Force (MU–D–YAJ)

(v) *Prior Related Cases, if any:* (MU–D–QAO)

(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:* September 1, 2026

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Oman—F–16 Sustainment

The Government of Oman has requested to buy the following non-major defense equipment (non-MDE) items: major and minor modifications support and equipment; spare parts, consumables and accessories, and repair and return support; aircraft components, parts, and accessories; communications equipment; instruments and lab equipment; precision navigation; ground handling equipment; precision measurement equipment laboratory calibration; computer program identification numbers; engine component improvement program; weapons system support to include software, classified and unclassified software and software support, and classified and unclassified publications and technical documentation; maps and charts; clothing, textiles, and individual equipment; personnel training and training equipment; studies and 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 $188 million.

This proposed sale will support the foreign policy and national security of the United States by helping to improve the security of a longstanding partner that continues to be an important force for political stability and economic progress in the Middle East.

The proposed sale will improve Oman's capability to meet current and future threats by increasing interoperability with U.S. and coalition partners and improving prospects for bilateral training and exercises with Oman's military forces. Oman already has F–16 aircraft in its inventory 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.

There is no principal contractor associated with this potential sale. Support will be provided by U.S. Government or contracted vendors based upon requirements as they are determined. 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 Oman.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2026–21342 Filed 10–16–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP27–34–000.
Applicants: Midship Pipeline Company, LLC.
Description: Compliance filing: Midship Pipeline Order No. 587–AB Compliance Filing to be effective 1/1/2027.
Filed Date: 10/13/26.
Accession Number: 20261013–5274.
Comment Date: 5 p.m. ET 10/26/26.

Docket Numbers: RP27–35–000.
Applicants: Portland Natural Gas Transmission System.
Description: Compliance filing: Portland Natural Gas Transmission Order No. 587–AB Compliance Filing to be effective 1/1/2027.
Filed Date: 10/13/26.
Accession Number: 20261013–5276.
Comment Date: 5 p.m. ET 10/26/26.

Docket Numbers: RP27–36–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 10.13.26 Negotiated Rates—Emera Energy Services, Inc. R–2715–119 to be effective 11/1/2026.
Filed Date: 10/13/26.
Accession Number: 20261013–5285.
Comment Date: 5 p.m. ET 10/26/26

Docket Numbers: RP27–37–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 10.13.26 Negotiated Rates—Emera Energy Services, Inc. R–2715–120 to be effective 11/1/2026.
Filed Date: 10/13/26.
Accession Number: 20261013–5288.
Comment Date: 5 p.m. ET 10/26/26.

Docket Numbers: RP27–38–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 10.13.26 Negotiated Rates—Emera Energy Services, Inc. R–2715–123 to be effective 11/1/2026.
Filed Date: 10/13/26.
Accession Number: 20261013–5289.
Comment Date: 5 p.m. ET 10/26/26.

Docket Numbers: RP27–39–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 10.13.26 Negotiated Rates—Emera Energy Services, Inc. R–2715–124 to be effective 11/1/2026.
Filed Date: 10/13/26.
Accession Number: 20261013–5290.
Comment Date: 5 p.m. ET 10/26/26.

Docket Numbers: RP27–40–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 10.14.26 Negotiated Rates—Dynegy Marketing and Trade, LLC R–8040–02 to be effective 11/1/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5039.
Comment Date: 5 p.m. ET 10/26/26.

Docket Numbers: RP27–41–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 10.14.26 Negotiated Rates—Dynegy Marketing and Trade, LLC R–8040–03 to be effective 11/1/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5042.
Comment Date: 5 p.m. ET 10/26/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP26–1132–001.
Applicants: Cadeville Gas Storage LLC.
Description: Compliance filing: NAESB 4.0 Compliance Amendment Filing to be effective 1/1/2027.
Filed Date: 10/14/26.
Accession Number: 20261014–5006.
Comment Date: 5 p.m. ET 10/26/26.

Docket Numbers: RP26–1136–001.
Applicants: Perryville Gas Storage LLC.
Description: Compliance filing: NAESB 4.0 Compliance Amendment Filing to be effective 1/1/2027.
Filed Date: 10/14/26.
Accession Number: 20261014–5007.
Comment Date: 5 p.m. ET 10/26/26.

Docket Numbers: RP26–1137–001.
Applicants: Pine Prairie Energy Center, LLC.
Description: Compliance filing: NAESB 4.0 Compliance Amendment Filing to be effective 1/1/2027.
Filed Date: 10/14/26.
Accession Number: 20261014–5016.
Comment Date: 5 p.m. ET 10/26/26.

Docket Numbers: RP26–1138–001.
Applicants: SG Resources Mississippi, L.L.C.
Description: Compliance filing: NAESB 4.0 Compliance Amendment Filing to be effective 1/1/2027.
Filed Date: 10/14/26.
Accession Number: 20261014–5024.
Comment Date: 5 p.m. ET 10/26/26.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: October 14, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–21283 Filed 10–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2538–102]

Erie Boulevard Hydropower, L.P.; Notice of Reasonable Period of Time for Water Quality Certification Application

On October 5, 2026, the New York State Department of Environmental Conservation (New York DEC) submitted to the Federal Energy Regulatory Commission (Commission) notice that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Erie Boulevard Hydropower, L.P., in conjunction with the above captioned project on October 2, 2026. Pursuant to the Commission's regulations,[1] we hereby notify New York DEC of the following dates.

Date of Receipt of the Certification Request: October 2, 2026.

Reasonable Period of Time to Act on the Certification Request: One year, October 2, 2027.

If New York DEC fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

(Authority: 18 CFR 2.1)

[1] 18 CFR 5.23(b)(2).

Dated: October 14, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–21363 Filed 10–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2569–169]

Erie Boulevard Hydropower, L.P.; Notice of Reasonable Period of Time for Water Quality Certification Application

On October 5, 2026, the New York State Department of Environmental Conservation (New York DEC) submitted to the Federal Energy Regulatory Commission (Commission) notice that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Erie Boulevard Hydropower, L.P., in conjunction with the above captioned project on October 2, 2026. Pursuant to the Commission's regulations,[1] we hereby notify New York DEC of the following dates.

Date of Receipt of the Certification Request: October 2, 2026.

Reasonable Period of Time to Act on the Certification Request: One year, October 2, 2027.

If New York DEC fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

(Authority: 18 CFR 2.1)

Dated: October 14, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–21284 Filed 10–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Exempt Wholesale Generator filings:

Docket Numbers: EG27–11–000.

Applicants: Boxcar Energy Storage, LLC.

Description: Boxcar Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 10/13/26.

Accession Number: 20261013–5456.

Comment Date: 5 p.m. ET 11/3/26.

Docket Numbers: EG27–12–000.

Applicants: City Breeze BESS LLC.

Description: City Breeze BESS LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 10/13/26.

Accession Number: 20261013–5462.

Comment Date: 5 p.m. ET 11/3/26.

Take notice that the Commission received the following Electric Rate filings:

Docket Numbers: ER10–3285–005; ER10–3177–003.

Applicants: UGI Energy Services, Inc., GI Utilities Inc.

Description: Supplement to 12/04/2025, Triennial Market Power Analysis for Northeast Region of UGI Utilities, Inc., et al.

Filed Date: 1/16/26.

Accession Number: 20260116–5196.

Comment Date: 5 p.m. ET 2/6/26.

Docket Numbers: ER26–384–002; ER26–382–002; ER26–1923–002; ER26–1924–002; ER26–1925–002; ER26–1926–002.

Applicants: Piney River VA BESS 1 LLC, Meadow Creek VA BESS 1 LLC, Colleen VA BESS 1 LLC, Salem VA BESS 1 LLC, Holyoke MA BESS 1 LLC, Danville VA BESS 2 LLC.

Description: Notice of Non-Material Change in Status of Danville VA BESS 2 LLC, et al.

Filed Date: 10/13/26.

Accession Number: 20261013–5412.

Comment Date: 5 p.m. ET 11/3/26.

Docket Numbers: ER26–2749–001.

Applicants: Atlas Solar IV, LLC.

Description: Report Filing: Supplemental COC SFA Substation #2 to update effective date to be effective N/A.

Filed Date: 10/7/26.

Accession Number: 20261007–5186.

Comment Date: 5 p.m. ET 10/28/26.

Docket Numbers: ER26–3188–002.

Applicants: Sprague Energy Solutions LLC.

Description: Tariff Amendment: Amendment to filing 2 to be effective 9/19/2026.

Filed Date: 10/14/26.

Accession Number: 20261014–5122.

Comment Date: 5 p.m. ET 11/4/26.

Docket Numbers: ER26–3285–000.

Applicants: Atlas Solar II, LLC.

Description: Report Filing: Supplement to COC SFA Substation #2 to update effective date to be effective N/A.

Filed Date: 10/7/26.

Accession Number: 20261007–5187.

Comment Date: 5 p.m. ET 10/28/26.

Docket Numbers: ER26–3317–001.

Applicants: Moonshot Solar, LLC.

Description: Tariff Amendment: Response to Information Request to be effective 7/30/2026.

Filed Date: 10/13/26.

Accession Number: 20261013–5384.

Comment Date: 5 p.m. ET 11/3/26.

Docket Numbers: ER26–3318–001.

Applicants: Old Hayneville Solar, LLC.

Description: Tariff Amendment: Response to Information Request to be effective 7/30/2026.

Filed Date: 10/13/26.

Accession Number: 20261013–5391.

Comment Date: 5 p.m. ET 11/3/26.

Docket Numbers: ER26–3319–001.

Applicants: PGR 2021 Lessee 13, LLC.

Description: Tariff Amendment: Response to Information Request to be effective 7/30/2026.

Filed Date: 10/13/26.

Accession Number: 20261013–5398.

Comment Date: 5 p.m. ET 11/3/26.

Docket Numbers: ER26–3320–001.

Applicants: PGR 2021 Lessee 18, LLC.

Description: Tariff Amendment: Response to Information Request to be effective 7/30/2026.

Filed Date: 10/13/26.

Accession Number: 20261013–5401.

Comment Date: 5 p.m. ET 11/3/26.

Docket Numbers: ER26–3321–001.

Applicants: PGR 2021 Lessee 9, LLC.

Description: Tariff Amendment: Response to Information Request to be effective 7/30/2026.

Filed Date: 10/13/26.

Accession Number: 20261013–5414.

Comment Date: 5 p.m. ET 11/3/26.

Docket Numbers: ER26–3324–001.

Applicants: PGR 2022 Lessee 4, LLC

Description: Tariff Amendment: Response to Information Request to be effective 7/30/2026.

Filed Date: 10/13/26.

Accession Number: 20261013–5424.

Comment Date: 5 p.m. ET 11/3/26.

Docket Numbers: ER26–3325–001.

Applicants: PGR 2022 Lessee 5, LLC.

Description: Tariff Amendment: Response to Information Request to be effective 7/30/2026.

Filed Date: 10/13/26.

Accession Number: 20261013–5428.

Comment Date: 5 p.m. ET 11/3/26.

Docket Numbers: ER26–3326–001.

Applicants: PGR 2023 Lessee 1, LLC.

Description: Tariff Amendment: Response to Information Request to be effective 7/30/2026.

Filed Date: 10/13/26.

Accession Number: 20261013–5432.

Comment Date: 5 p.m. ET 11/3/26.

Docket Numbers: ER26–3327–001.

Applicants: Sonny Solar, LLC.

[1] 18 CFR 5.23(b)(2).

Description: Tariff Amendment: Response to Information Request to be effective 7/30/2026.
Filed Date: 10/13/26.
Accession Number: 20261013–5434.
Comment Date: 5 p.m. ET 11/3/26.
Docket Numbers: ER27–125–000.
Applicants: AEP Texas Inc.
Description: § 205(d) Rate Filing: AEPTX- Elk Ridge Solar Generation Interconnection Agreement to be effective 9/22/2026.
Filed Date: 10/13/26.
Accession Number: 20261013–5394.
Comment Date: 5 p.m. ET 11/3/26.
Docket Numbers: ER27–126–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Study Agreement in Furtherance of Ohio's State Agreement Approach Request to be effective 9/25/2026.
Filed Date: 10/13/26.
Accession Number: 20261013–5422.
Comment Date: 5 p.m. ET 11/3/26.
Docket Numbers: ER27–127–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: APS Markets+ OATT Revisions to be effective 3/31/2027.
Filed Date: 10/14/26.
Accession Number: 20261014–5000.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–128–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Non-Substantive Revisions to Attachment H of the Tariff to be effective 4/1/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5040.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–129–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Markets+ Tariff to Remove Real-Time Capability to be effective 12/31/9998.
Filed Date: 10/14/26.
Accession Number: 20261014–5044.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–130–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: DEC–NCEMC Amended and Restated Rate Schedule No. 273 to be effective 12/31/9998.
Filed Date: 10/14/26.
Accession Number: 20261014–5049.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–131–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Markets+ Tariff to Properly Reflect Greenhouse Gas Pricing Comp. to be effective 12/31/9998.
Filed Date: 10/14/26.
Accession Number: 20261014–5066.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–132–000.
Applicants: Walker Road Solar Farm LLC.
Description: Request for Limited and Prospective Waiver, et al. of Walker Road Solar Farm LLC.
Filed Date: 10/9/26.
Accession Number: 20261009–5189.
Comment Date: 5 p.m. ET 10/30/26.
Docket Numbers: ER27–133–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: Tariff Amendment: Notice of Cancellation of Service Agreement No. 867 to be effective 12/14/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5082.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–134–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii: Revisions to Provide a Financial Assurance Methodology for Opinion 594 to be effective 12/14/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5084.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–135–000.
Applicants: Duke Energy Carolinas, LLC.
Description: § 205(d) Rate Filing: DEC–NCEMC Amended and Restated Rate Schedule No. 347 to be effective 12/31/9998.
Filed Date: 10/14/26.
Accession Number: 20261014–5086.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–136–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Tariff to Update Markets+ Transmission Service Provider OASIS Queue to be effective 12/31/9998.
Filed Date: 10/14/26.
Accession Number: 20261014–5092.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–137–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: Transmission Application OATT Revisions to be effective 12/14/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5096.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–138–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2026–10–14_SA 4880 METC-Bell Solar GIA (R5063) to be effective 10/5/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5100.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–139–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 5014 Public Service Company of Oklahoma GIA to be effective 9/23/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5102.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–140–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 5015 Public Service Company of Oklahoma GIA to be effective 9/23/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5107.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–141–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 5016 Public Service Company of Oklahoma GIA to be effective 9/23/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5110.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–142–000.
Applicants: CleanCapital Holdings LLC, Brough Storage LLC.
Description: Joint Petition of Clean Capital Holdings LLC and Brough Storage LLC for a Limited One-Time Waiver of Tariff Provisions of ISO-New England Inc's OATT.
Filed Date: 10/8/26.
Accession Number: 20261008–5222.
Comment Date: 5 p.m. ET 10/29/26.
Docket Numbers: ER27–143–000.
Applicants: ITC Midwest LLC.
Description: § 205(d) Rate Filing: Amended and Restated Transmission (ITC Midwest R.S. No. 121) to be effective 12/14/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5124.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–144–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: Ameren Illinois Company submits tariff filing per 35.13(a)(2)(iii: 2026–10–14_SA 3028 Ameren IL-Prairie Power Project #47 Atkinson to be effective 12/14/2026.
Filed Date: 10/14/26.
Accession Number: 20261014–5126.
Comment Date: 5 p.m. ET 11/4/26.
Docket Numbers: ER27–145–000.

Applicants: Louisville Gas and Electric Company.

Description: § 205(d) Rate Filing: LGE and KU Trimble Unit 6 PLGIA Service Agreement FERC No. 30 to be effective 9/15/2026.

Filed Date: 10/14/26.

Accession Number: 20261014–5134.

Comment Date: 5 p.m. ET 11/4/26.

Docket Numbers: ER27–146–000.

Applicants: Louisville Gas and Electric Company.

Description: § 205(d) Rate Filing: LGE and KU Trimble Unit 7 PLGIA Service Agreement FERC No. 31 to be effective 9/15/2026.

Filed Date: 10/14/26.

Accession Number: 20261014–5144.

Comment Date: 5 p.m. ET 11/4/26.

Docket Numbers: ER27–147–000.

Applicants: Louisville Gas and Electric Company.

Description: § 205(d) Rate Filing: LGE and KU Trimble Unit 9 PLGIA Service Agreement FERC No. 32 to be effective 9/15/2026.

Filed Date: 10/14/26.

Accession Number: 20261014–5149.

Comment Date: 5 p.m. ET 11/4/26.

Take notice that the Commission received the following Electric Securities filings:

Docket Numbers: ES27–3–000.

Applicants: GridLiance High Plains LLC.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of GridLiance High Plains LLC.

Filed Date: 10/13/26.

Accession Number: 20261013–5470.

Comment Date: 5 p.m. ET 11/3/26.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at:*http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: October 14, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–21282 Filed 10–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–10811–000]

Dunn, Keith M.; Notice of Filing

Take notice that on October 13, 2026, Keith M. Dunn submitted for filing, application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d (b) and Part 45.8 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR part 45.8.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Comment Date: 5:00 p.m. Eastern Time on November 3, 2026.

Dated: October 14, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–21366 Filed 10–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2645–176]

Erie Boulevard Hydropower, L.P.; Notice of Reasonable Period of Time for Water Quality Certification Application

On October 5, 2026, the New York State Department of Environmental Conservation (New York DEC) submitted to the Federal Energy Regulatory Commission (Commission) notice that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Erie Boulevard Hydropower, L.P., in conjunction with the above captioned project on October 2, 2026. Pursuant to the Commission's regulations,[1] we hereby notify New York DEC of the following dates.

Date of Receipt of the Certification Request: October 2, 2026.

Reasonable Period of Time to Act on the Certification Request: One year, October 2, 2027.

[1] 18 CFR 5.23(b)(2).

If New York DEC fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

(Authority: 18 CFR 2.1)

Dated: October 14, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–21365 Filed 10–16–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL26–112–000]

Moraga Storage, LLC, River Mill Storage, LLC, Hecate Energy Medway Energy Center LLC, Brough Storage, LLC, Partridge Storage, LLC v. ISO New England Inc.; Notice on Comment Periods

On September 30, 2026, Moraga Storage, LLC; River Mill Storage, LLC; Hecate Energy Medway Energy Center LLC; Brough Storage, LLC; and Partridge Storage, LLC (collectively, Project Companies) filed a complaint and waiver request in the above-referenced docket. Project Companies request a shortened 10-day comment period because they must decide whether to execute a Large Generator Interconnection Agreement (LGIA), seek to file an unexecuted LGIA, or withdraw from the ISO New England Inc. (ISO–NE) interconnection queue by October 20, 2026.

On October 1, 2026, ISO–NE filed a motion in opposition to a shortened comment period, requesting the full 30-day comment period to respond to the complaint. On October 2, 2026, Project Companies filed an answer requesting a 10-day comment period for the waiver request and a 20-day answer period for the complaint.

Upon consideration, notice is hereby given that Project Companies' request for shortened comment period is partially granted. The deadline for filing comments pertaining to the waiver request is hereby shortened to 5:00 p.m. EDT on Tuesday, October 13, 2026.

The deadline for filing ISO–NE's answer or comments pertaining to the complaint is 5:00 p.m. EDT on Friday, October 30, 2026.

Dated: October 5, 2026.

Debbie-Anne A. Reese,

Secretary.

[FR Doc. 2026–21364 Filed 10–16–26; 8:45 am]

BILLING CODE 6717–01–P

EXPORT-IMPORT BANK

[Public Notice: 2026–0364]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Equity Express Select Insurance

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (EXIM Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

DATES: Comments must be received on or before December 18, 2026 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV,* by mail to Edward Coppola, Export-Import Bank of the United States, 811 Vermont Ave. NW, Washington, DC 20571, or by email to *Edward.Coppola@exim.gov.*

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact Edward Coppola <*Edward.Coppola@exim.gov*>, 202–565–3717.

SUPPLEMENTARY INFORMATION: This form is used by an exporter (or broker acting on its behalf) in order to obtain approval for coverage of the repayment risk of export sales. The information received allows EXIM staff to make a determination of the eligibility of the applicant and the creditworthiness of one of the applicant's foreign buyers for EXIM assistance under its programs.

The application can be reviewed at: *https://img.exim.gov/s3fs-public/pub/pending/EIB23-02_2027-PENDING.pdf.*

Title and Form Number: EIB 23–02, Application for Equity Express Select Insurance.

OMB Number: 3048–0060.

Type of Review: Regular.

Need and Use: This is the application form for use by underserved U.S. businesses with limited export experience. Companies that are eligible to use the Equity Express Select policy will need to answer approximately 20 questions and sign an acknowledgement of the certifications that appear on the reverse of the application form. This program does not provide discretionary credit authority to the U.S. exporter, and therefore the financial and credit information needs are minimized.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 500.

Estimated Time per Respondent: 0.25 hours.

Annual Burden Hours: 125 hours.

Frequency of Reporting of Use: Once per year.

Dated: October 14, 2026.

Andrew Smith,

Records Officer.

[FR Doc. 2026–21252 Filed 10–16–26; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 372595]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) proposes to modify a system of records, FCC/WCB–6, USAC Customer Relationship Management (CRM), subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the Agency. The Universal Service Administrative Company (USAC), under the direction of the Commission and, by delegation, of the Commission's Wireline Competition Bureau (WCB), administers the Universal Service Fund (USF) programs and certain programs funded by Congressional appropriations (appropriated programs). This system of records contains information about individuals who are customers, participants, and stakeholders of the programs who submit complaints and requests for assistance to USAC to address issues with their program participation. The modification includes the addition of one new routine use.

DATES: This modified system of records will become effective on October 19, 2026. Written comments on the routine uses are due by November 18, 2026. The routine uses in this action will become effective on November 18, 2026, unless comments are received that require a contrary determination.

ADDRESSES: Send comments to Shana Yates, FCC, 45 L Street NE, Washington, DC 20554, care of the Office of General

Counsel, Privacy Team; or to *privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: FCC Office of General Counsel, Privacy Team, at *privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: This notice serves to update and modify FCC/WCB–6, USAC Customer Relationship Management (CRM), system of records as a result of necessary changes and updates. The substantive changes and modifications to the previously published version of the FCC/WCB–6 system of records includes adding one new routine use (listed by the routine use number provided in this notice): (16) Suspension and Debarment Disclosure.

SYSTEM NAME AND NUMBER:

FCC/WCB–6, USAC Customer Relationship Management.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Universal Service Administrative Company (USAC), 700 12th Street NW, Suite 900, Washington, DC 20005; and Wireline Competition Bureau (WCB), Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554.

SYSTEM MANAGER(S):

Address inquiries to USAC, 700 12th Street NW, Suite 900, Washington, DC 20005; or WCB, FCC, 45 L Street NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

47 U.S.C. 151–154, 201–205, 214, 403; Safe Connections Act of 2022, Public Law 117–223, 116 Stat. 2280.

PURPOSE(S) OF THE SYSTEM:

USAC administers the programs of the USF (including the Lifeline, High Cost, Rural Health Care, and E-Rate programs) on behalf of the FCC, as set forth in 47 CFR part 54, under the direction of the Commission and, by delegation, of WCB. Under the Memorandum of Understanding Between the FCC and USAC (Oct. 27, 2024), USAC is responsible for the effective administration of the programs, including responding to inquiries from program participants and providing timely and relevant data and analysis to inform the Commission in its policy making and oversight of the USF and appropriated programs. The USAC CRM handles and processes inquiries from individuals, groups, and other entities, for all of the programs administered by USAC. The system allows USAC customer service representatives to access prior related inquiries in order to provide excellent customer service. It includes a portal to allow customers to easily interact with USAC through one channel of communication, maintaining the ability to view case status, create new cases, and review closed cases within the same interface. This system of records includes existing data from the USF programs administered by USAC. The system can also accommodate data from any future programs assigned by the FCC to be administered by USAC. The system allows USAC to retrieve records based on an individual's information within the system.

This system of records is maintained to provide a unified tool to enable USAC, on behalf of the FCC, to respond to inquiries from consumers, participants, and stakeholders in the USF programs; to inform the FCC of concerns regarding the USF programs in support of the agency's policymaking and enforcement endeavors or otherwise to evaluate the efficiency and administration of FCC programs and to inform future FCC rulemaking activity; to provide consumers with access to a unified portal to view case status, create new cases, and review closed cases; and to provide USAC staff with access to documents and otherwise improve staff efficiency.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals in this system include, but are not limited to, individuals who contact USAC with inquiries concerning USF programs administered by USAC on behalf of the FCC. These individuals include, but are not limited to, individuals and representatives of individuals who participate in these programs; individuals making inquiries on behalf of program participants and stakeholders; and employees of USAC, USAC's vendors, and the FCC.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in the system collected by design include first and last name, telephone number, email address, and user ID numbers; service representative names and ID numbers; USAC-assigned identifying numbers, such as Application ID, Eligibility Check ID, or eligibility ID numbers; and the name of the organization associated with the individual. Examples for organization names include but are not limited to carrier and school names. Customers or customer representatives may provide data elements that have not been specifically requested, including date of birth, home address, place of birth, gender, work address, taxpayer ID numbers, facsimile numbers, Social Security numbers (SSNs), mother's maiden name, information contained in birth, death, or marriage certificates, financial account numbers, employment status, employer identification numbers (EINs), and a driver's licenses or State ID (or foreign country equivalent). This system of records also includes existing data from the USF programs administered by USAC.

RECORD SOURCE CATEGORIES:

Information systems for established USF programs administered by USAC; participants in USF programs; participating providers and their registered enrollment representatives; and USAC employees or contractors or FCC employees or contractors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC, as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. Customer Relations—Records may be disclosed to the individual to whom a record pertains in order to respond to inquiries about that individual's participation in USF and appropriated programs or otherwise assist that individual.

2. Program Management—Records may be disclosed to USAC employees to conduct official duties associated with the administration of FCC programs or the management, operation, and oversight of the CRM, as directed by the Commission.

3. Third Party Contractors—Records may be disclosed to an employee of a third-party contractor engaged by USAC or a participating provider, or to a subcontractor engaged by a third-party contractor, engaged by USAC, to, among other things, develop the CRM, respond to inquiries concerning USF and appropriated programs, run call center and email support operations, assist in dispute resolution, and develop, test, and operate the database system and network.

4. Service Providers—Records may be disclosed to service providers, and their registered representatives, limited to information that may be required to help resolve a consumer complaint or dispute.

5. State, Tribal, or Local Governmental Agencies and Other

Authorized Governmental Entities—Records may be disclosed to State, Tribal, or local government agencies and other authorized governmental entities, including public utility commissions, limited to information that may be required to help resolve a consumer complaint or dispute.

6. FCC Enforcement Actions—When a record in this system involves an informal complaint filed alleging a violation of the Communications Act of 1934, as amended, or FCC regulations or orders (FCC Rules and Regulations) by an applicant, licensee, certified or regulated entity, or an unlicensed person or entity, the complaint may be provided to the alleged violator for a response. Where a complainant, in filing his or her complaint, explicitly requests confidentiality of his or her name from public disclosure, the Commission will endeavor to protect such information from public disclosure. Complaints that contain requests for confidentiality may be dismissed if the Commission determines that the request impedes the Commission's ability to investigate and/or resolve the complaint.

7. Congressional Inquiries—Information may be provided to a Congressional office in response to an inquiry from that Congressional office made at the written request of the individual to whom the information pertains.

8. Government-Wide Program Management and Oversight—Records may be disclosed to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

9. Law Enforcement and Investigation—When the FCC investigates any violation or potential violation of a civil or criminal law, regulation, policy, executed consent decree, order, or any other type of compulsory obligation and determines that a record in this system, either alone or in conjunction with other information, indicates a violation or potential violation of law, regulation, policy, consent decree, order, or other compulsory obligation, the FCC may disclose pertinent information as it deems necessary to the target of an investigation, as well as with the appropriate Federal (including the Internal Revenue Service to investigate income eligibility verification), State, local, Tribal, international, or multinational agencies, or a component of such an agency, responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, or other compulsory obligation.

10. Litigation—Records may be disclosed to the DOJ when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the DOJ is for a purpose that is compatible with the purpose for which the FCC collected the records.

11. Adjudication—Records may be disclosed in a proceeding before a court or adjudicative body, when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

12. Breach Notification—Records may be disclosed to appropriate agencies, entities (including USAC), and persons when: (a) the Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

13. Assistance to Federal Agencies and Entities Related to Breaches—Records may be disclosed to another Federal agency or entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

14. Department of Treasury—Records may be disclosed to the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

15. Prevention of Fraud, Waste, and Abuse Disclosure—Records may be disclosed to Federal agencies, or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State, Tribal, or local governmental agency), and their employees and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom the FCC or USAC has a contract, service agreement, cooperative agreement, or computer matching agreement for the purpose of: (1) detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds, prevent and recover improper payments for services rendered under programs of the FCC or of those Federal agencies and non-Federal entities to which the FCC or USAC provides information under this routine use.

16. Suspension and Debarment Disclosure—The FCC may disclose information from this system to other Federal agencies considering suspension or debarment action if the information is relevant to the suspension and debarment action

17. Non-Federal Personnel—Records may be disclosed to non-Federal personnel, including FCC or USAC contractors, other vendors (*e.g.,* identity verification services), grantees, or volunteers who have been engaged to assist the FCC or USAC in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records that has

not been otherwise identified in this Notice and who need to have access to the records in order to perform their activity.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The information pertaining to the CRM includes electronic records, files, data, records, and may include audio recordings of calls. Records are maintained in secure, limited access areas. Physical entry by unauthorized persons is restricted through use of locks, passwords, and other security measures. Both USAC and its contractors will jointly manage the electronic data housed at USAC and contractors will have access to the data at their locations.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information in the CRM system of records may be retrieved by various identifiers, including, but not limited to the individual's name or identification number. USAC employees and contractors information can also be retrieved through identifiers including first or last name, title, email address, and username.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Data from USF programs contained in the CRM system are maintained and disposed of in accordance with the National Archives and Records Administration (NARA) Records Schedule DAA–0173–2017–0001. ACP records are maintained and disposed of in accordance with NARA Records Schedule DAA–0173–2021–0022, Emergency Broadband Benefit Program (EBB Program)/Affordable Connectivity Program (ACP). Records related to the Connected Care Pilot Program/COVID–19 Telehealth Program are maintained and disposed of in accordance with NARA Records Schedule DAA–0173–2020–0006.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, data, and files are maintained in the FCC and the USAC computer network databases, which are protected by the FCC's and USAC's privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal IT privacy standards, including those required by OMB, the National Institute of Standard and Technology (NIST) and the Federal Information Security Modernization Act of 2014 (FISMA). In addition, access to the electronic files is restricted to authorized USAC and contractors' supervisors and staff, to the FCC's supervisors and staff in WCB, and to the IT contractors who maintain these computer databases. Other FCC employees and contractors may be granted access only on a ''need-to-know'' basis. In addition, data in USAC's network servers which are accessible by USAC's contractors will be routinely backed-up. The servers will be stored in secured environments to protect the data.

The paper documents and files are maintained in file cabinets in USAC and the contractors' office suites. The file cabinets are locked when not in use and at the end of the business day. Access to these files is restricted to authorized USAC and its contractors' staffs.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request an amendment of records about themselves should follow the Notification Procedures below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554, or to *privacy@fcc.gov.* Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to the records (47 CFR part 0, subpart E).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

91 FR 9272 (Feb. 25, 2026).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2026–21314 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 25–59; DA 26–1076; FR ID 372889]

Wireless Telecommunications Bureau Seeks Comment on Proposed Rebate Categories and Amounts for Radio Altimeter Retrofits To Support the Upper C-band Transition

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comments.

SUMMARY: In this document, the Wireless Telecommunications Bureau (Bureau) invites interested parties to comment on proposed categories, dollar amounts, and any other relevant information or procedures in connection with rebates to support retrofits of radio altimeters mandated by the Federal Aviation Administration (FAA) to facilitate the introduction of terrestrial wireless services in the Upper C-band. In *Upper C-band (3.98–4.2 GHz); Expanding Flexible Use of the 3.7 to 4.2 GHz Band,* GN Docket Nos. 25–59 and 18–122, Report and Order, Order of Proposed Modification, and Order on Reconsideration, FCC 26–46 (July 24, 2026) (*Upper C-band R&O*), the Commission established that new 3.7 GHz Service licensees will provide rebates to defined classes of eligible aircraft owners and operators to facilitate their compliance with the FAA's radio altimeter retrofit requirements and directed the Bureau to develop and seek public comment on its proposed rebate categories, dollar amounts, and other relevant procedures for administering the rebates.

DATES: Comments are due on or before October 26, 2026; reply comments are due on or before November 16, 2026.

ADDRESSES: You may submit comments, identified by GN Docket No. 25–59, by any of the following methods:

- *Federal Communications Commission's Website: https://www.fcc.gov/ecfs/filings/standard.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530.

FOR FURTHER INFORMATION CONTACT: Andrew McArdell, Wireless Telecommunications Bureau, at *Andrew.McArdell@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's

document (*Public Notice*), in GN Docket No. 25–59, DA 26–1076, released on October 5, 2026. The *Public Notice* includes the following appendix: Appendix A, *Proposed Radio Altimeter Rebate Categories and Amounts.* The complete text of this document, including the appendix, is available on the Commission's website at *https://docs.fcc.gov/public/attachments/DA-26-1076A1.pdf,* or by using the search function for GN Docket No. 25–59 on the Commission's ECFS web page at *https://www.fcc.gov/ecfs.*

Ex Parte Rules. This proceeding shall be treated as a ''permit but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Synopsis

With this Public Notice, the Wireless Telecommunications Bureau (Bureau) invites interested parties to comment on proposed categories, dollar amounts, and any other relevant information or procedures in connection with rebates to support retrofits of radio altimeters mandated by the Federal Aviation Administration (FAA) to facilitate the introduction of terrestrial wireless services in the Upper C-band. The adjacent 4.2–4.4 GHz band is allocated for the operation of radio altimeters, which are aeronautical safety systems primarily used at altitudes less than 2,500 feet above ground level to measure aircraft height above terrain and obstacles in all phases of flight. In adopting the *Upper C-band R&O,* 91 FR 48700, July 31, 2026, the Commission worked in close coordination with a parallel FAA rulemaking to ensure a successful coexistence environment between new wireless operations and neighboring radio altimeters by increasing radio altimeters' robustness and signal rejection capabilities through retrofits. To ensure that new Upper C-band licensees may deploy on a predictable timeline aligned with the FAA's radio altimeter retrofit schedule, the *Upper C-band R&O* established that new 3.7 GHz Service licensees will, as a condition of their licenses, fund rebates to facilitate compliance with the FAA's retrofit requirements by defined classes of eligible aircraft owners and operators.

In deciding to facilitate compliance with the FAA's requirements in this manner, the Commission specifically noted that the radio altimeters subject to the retrofit are in the adjacent band, that they are not being relocated, and that their Commission authorizations are not being modified, putting them in a distinct posture as compared with in-band incumbents. Accordingly, and considering the large scope of potential claims for rebates with accompanying administrative burdens and operational costs, the Commission declined to adopt an actual cost reimbursement framework, finding it neither appropriate nor practicable in this context. Instead, the Commission adopted a rebate structure that will establish set amounts for different categories of aircraft based on the number of radio altimeters involved in each upgrade, the general level of efforts involved in each type of retrofit, and other reasonable and necessary factors involved in accomplishing each category of retrofit, including timing considerations such as the relevant FAA deadline for compliance. The Commission explained that this rebate structure was intended to streamline the overall process to make support for the retrofits available more quickly and to prevent fraud, waste, and abuse. The rebate structure is also meant to minimize the operational costs of administering the rebates and help to ensure that these adjacent band stakeholders are able to meet the applicable retrofit deadlines imposed by the FAA. With these same factors in mind, the Commission also specified defined classes of eligible aircraft, as well as aircraft owners and operators, who must be subject to the FAA deadlines and operate in the airspace of the contiguous United States in order to qualify for the rebates. The Commission also determined that it would not be in the public interest to offer rebates to foreign-registered aircraft operators and owners given the fluid and itinerant nature of their operations in the airspace of the contiguous United States, and determined that other entities and radio altimeter equipment would not be eligible for rebates. The Commission delegated authority to the Bureau to implement the rebate structure adopted in the *Upper C-band R&O.*

While the record to date reflects limited economic information relating to upgraded radio altimeters, we recognize that commenters and FAA have developed estimates in part based on experience with existing radio altimeter models. Based on these estimates, as well as more refined technical assistance provided by FAA subsequent to the completion of the *FAA Final Rule,* Appendix A hereto proposes draft categories and rebate amounts upon the type of aircraft, the number of radio altimeters each aircraft type has, and the relative level of effort involved in retrofitting such aircraft. Each aircraft category and corresponding rebate amount is predicated on certain assumptions, namely that the effort needed to upgrade an existing radio altimeter design will be less time- and resource-intensive than the acquisition and installation of an entirely new design. These draft rebate amounts also anticipate different timing and scheduling considerations for those entities that must comply with the FAA's first retrofit deadline in late 2030, as compared to those that must meet the second retrofit deadline in 2034. We seek comment on these draft rebate categories and dollar amounts, as well as the assumptions and methodology underlying these proposals. Given the lack of detailed supporting data in the current record, commenters recommending any adjustments are strongly encouraged to specify those changes in detail and provide supporting data,

documentation, and other record support for their recommendations.

Finally, we also seek comment on any other requirements or guidance the Bureau can consider in terms of relevant information, documentation, or procedures that will be helpful to eligible aircraft owners and operators and enable the Upper C-band Clearinghouse to equitably and expeditiously administer the rebates. For example, what records or other documentation (such as maintenance logs) would be available across different aircraft categories that would sufficiently establish that the FAA-mandated retrofits have been completed by the relevant deadline and could serve as support for a rebate claim filed with the Upper C-band Clearinghouse? Should aircraft owners and operators be advised to provide any additional detail in such records reflecting, for example, the number of radio altimeters per aircraft, type of retrofit work (*i.e.,* upgrade of an existing radio altimeter design, or installation of an entirely new design), and date of retrofit completion for each type of aircraft? What other documentation might supplement those records or serve as an alternative to achieve the same goals, such as detailed certifications by the eligible aircraft owner and operator? What information from other sources could be used to validate a claim (for example, the FAA maintains records regarding aircraft owner information associated with aircraft registrations, technical standard order authorizations for radio altimeters, and design approvals)? Commenters should address any documentation best practices that they suggest would both provide appropriate support for any rebate claim and enable the Upper C-band Clearinghouse to prevent any fraud, waste, or abuse in administering the rebates. Our intent in seeking comment on these matters is not to unduly constrain the Upper C-band Clearinghouse in developing any relevant claims processing procedures, but rather to develop a factual record and provide guidance to all stakeholders that will facilitate and expedite the administration of these rebates.

Consistent with the *Upper C-band R&O,* the Bureau will issue a public notice finalizing the rebate categories and amounts, as well as any other requirements and guidance, as soon as feasible.

Federal Communications Commission.

Amy Brett,

Chief of Staff, Wireless Telecommunications Bureau.

[FR Doc. 2026–21280 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 372593]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) proposes to modify an existing system of records, FCC/CGB–4, internet-based Telecommunications Relay Service-User Registration Database (ITRS–URD) Program, subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency. The ITRS–URD's system of records contains personally identifiable information (PII) that is collected, used, stored, and maintained to support the administration, management, operations, and functions of the ITRS programs. The ITRS–URD, which is administered by a third party under contract with the FCC, is a database registration system that provides a necessary interface for multiple ITRS services, which include, but are not limited to Video Relay Service (VRS) and internet Protocol Captioned Telephone Service (IP CTS). These services are available to individuals who are deaf, deaf-blind, hard of hearing, or have speech disabilities, who are eligible under the Americans with Disabilities Act (ADA), and who register to participate in a TRS program. This modification updates the Categories of Records Covered by the System, adds a new routine use, and updates and revises language in one existing routine use.

DATES: This modified system of records will become effective on October 19, 2026. Written comments on the routine uses are due by November 18, 2026. The new or revised routine uses in this action will become effective on November 18, 2026 unless comments are received that require a contrary determination.

ADDRESSES: Send comments to Shana Yates, FCC, 45 L Street NE, Washington, DC 20554, care of the Office of General Counsel, Privacy Team; or to *privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: FCC Office of General Counsel, Privacy Team, at *privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: This notice serves to update and modify FCC/CGB–4 to make various necessary changes and updates, including modification of the Categories of Records Covered by the System, the addition of a new routine use, and the revision of one existing routine use to provide more detail. The substantive changes and modifications to the previously published version of the FCC/CGB–4 system of records include:

1. Modifying the language in the Categories of Records in the System to reflect the collection and maintenance of information regarding ITRS program providers and suspension and debarment history and current status of program providers;

2. Updating and/or revising language in the following routine use (listed by the routine use number provided in this notice): (2) Prevention of Fraud, Waste, and Abuse Disclosure; and

3. Adding one new routine use (listed by the routine use number provided in this notice): (4) Suspension and Debarment Disclosure.

SYSTEM NAME AND NUMBER:

FCC/CGB–4, internet-based Telecommunications Relay Service-User Registration Database (ITRS–URD).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Consumer and Governmental Affairs Bureau (CGB), FCC, 45 L Street NE, Washington, DC 20554.

SYSTEM MANAGER(S):

CGB, FCC, 45 L Street NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

47 U.S.C. 141–154, 225, 255, 303(r), 616, and 620.

PURPOSE(S) OF THE SYSTEM:

This system collects and maintains:

1. Information that is used to determine whether an individual who is applying for a TRS program is eligible to register for the program;

2. Information that the ITRS–URD administrator uses to determine whether information with respect to registered users already in the ITRS–URD is correct and complete;

3. Information that the ITRS–URD administrator uses or will use in a system for automated validation of the registration information that has been submitted and ensure that the authorized VRS and IP CTS providers are unable to register individuals who do not pass the identification verification check conducted through the ITRS–URD;

4. Information that VRS and IP CTS providers must request to validate each individual who seeks to register that he/she is an actual person living or visiting in the United States;

5. Information related to users signed up with multiple providers for VRS or IP CTS; and

6. Information that is contained in the records of the inquiries that VRS and IP CTS providers will make available to the ITRS–URD administrator and its contractors and subcontractors who manages the database (providing verification/call/service center(s) services) to verify that individuals who are deaf, deaf-blind, hard of hearing, or have speech disabilities and who are eligible under the ADA to participate in ITRS programs.

Collecting and maintaining these types of information allows staff access to documents necessary for key activities discussed in this SORN, including verifying the eligibility of individuals to participate in ITRS programs; analyzing effectiveness and efficiency of related FCC programs and informing future rule-making and policy-making activity; and improving staff efficiency. Records in this system are available for public inspection, *e.g.,* in response to requests under the Freedom of Information Act (FOIA), after redaction of identifying information such as a name, address, telephone number, fax number, and/or email address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Individuals who are deaf, deaf-blind, hard of hearing, or have speech disabilities, and who are eligible under the ADA to register for one or more of the ITRS program's multiple services;

2. Representatives of certified ITRS Program providers;

3. Individuals who are registered and currently receiving ITRS Program services; and/or

4. Individuals who are minors whose status makes them eligible for a parent or guardian to register them for ITRS program services.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Electronic records regarding ITRS participants, subscribers, and applicants, including their full names (first, middle, and last names); the names of parents or guardians; full residential addresses; dates of birth; last four digits of social security numbers (SSNs) or Tribal identification numbers (or alternative proof of identification for those who do not have an SSN or Tribal identification number); ten digit telephone number(s) assigned in the TRS number directory and associated uniform resource identifier (URI) information; users' registered location information for emergency calling purposes; eligibility certifications (digital copy) for ITRS program's service(s) and date obtained from provider; users' VRS or IP CTS initiation dates and (when applicable) termination dates; date on which user last placed a point-to-point or relay call;

2. Electronic records regarding ITRS program providers (including points of contact for and those who certify on behalf of program providers), including name and contact information, street and email addresses, phone number(s), and fax number(s);

3. Suspension and debarment history and current status, as well as history of misconduct of individuals (including points of contact for and those who certify on behalf of entities) who are ITRS program providers.

RECORD SOURCE CATEGORIES:

Information in this system is provided by individuals, or by parents or guardians of minor individuals, who are deaf, deaf-blind, hard of hearing or have speech disabilities to determine their eligibility for ITRS programs; and by ITRS program providers for registration of subscribers, participants, and applicants, and/or their re-certification in ITRS programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside of the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. FCC Program Management—A record from this system may be accessed and used by the ITRS–URD Administrator and disclosed to third-party contractor's employees (including employees of subcontractors) to conduct official duties associated with the administration, management, and operation of the ITRS programs, as directed by the Commission. Such duties include conducting the verification process that allows the ITRS–URD administrator to determine the accuracy of the PII provided by or regarding participants, subscribers, and applicants to the system of records, *i.e.,* when an employee of a third-party contractor (and/or subcontractor), responsible for management registration and fraud prevention, verifies the eligibility of the participant, registrant, or subscriber.

2. Prevention of Fraud, Waste, and Abuse Disclosure—Records may be disclosed to Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom the FCC has a contract, service agreement, cooperative agreement, or computer matching agreements for the purposes of: (1) detection, prevention, and recovery of improper payments; (2) detection of fraud, waste, and abuse in Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds, prevent and recover improper payments for services rendered under programs of the FCC or of those Federal agencies and non-Federal entities to which the FCC provides information under this routine use.

3. Department of Treasury—Records may be disclosed to the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

4. Suspension and Debarment Disclosure—The FCC may disclose information from this system to other Federal agencies considering suspension or debarment action if the information is relevant to the suspension and debarment action.

5. ADA Eligibility Verification Data—A record from this system may be disclosed to the appropriate Federal, State, Tribal, or local authorities (including transfers of PII data to/from the ITRS–URD Administrator, contractors, and subcontractors, as required) for the purposes of verifying whether individuals who are deaf, deaf-blind, hard of hearing or have speech disabilities are eligible under the ADA to register to participate in/subscribe to ITRS programs;

6. State or Tribal Agencies and Authorized Entities—A record from this system may be disclosed to designated State or Tribal agencies and other authorized entities, which include, but are not limited to state public utility commissions, and their agents, as is consistent with applicable Federal and State laws, to administer TRS or ITRS (as applicable) programs in that state and to perform other management and oversight duties and responsibilities, including determining eligibility for TRS or ITRS programs.

7. FCC Enforcement Actions—When a record in this system involves an informal complaint filed with the FCC alleging a violation of FCC rules, regulations, orders, or requirements by an ITRS applicant, subscriber, participant, licensee, certified or regulated entity/provider, or an unlicensed person or entity, the complaint may be served to the alleged violator for a response through the FCC's normal complaint-handling process. When an order or other Commission-issued document that includes consideration of an informal complaint or complaints is issued by the FCC for resolution or enforcement, the complainant's name may be made public in that order or letter document. Where a complainant in filing his or her complaint explicitly requests that confidentiality of his or her name from public disclosure, the Commission will endeavor to protect such information from public disclosure. Complaints that contain requests for confidentiality may be dismissed if the Commission determines that the request impedes the Commission's ability to investigate and/or resolve the complaint.

8. Congressional Inquiries—Records may be disclosed to a Congressional office in response to an inquiry from that Congressional office made at the written request of the individual to whom the information pertains.

9. Government-wide Program Management and Oversight—Records may be disclosed to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

10. Law Enforcement and Investigation—When the FCC investigates any violation or potential violation of a civil or criminal law, regulation, policy, executed consent decree, order, or any other type of compulsory obligation and determines that a record in this system, either alone or in conjunction with other information, indicates a violation or potential violation of law, regulation, policy, consent decree, order, or other compulsory obligation, the FCC may disclose pertinent information as it deems necessary to the target of an investigation, as well as with the appropriate Federal, State, Tribal, local, international, or multinational agencies, or a component of such an agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, or other compulsory obligation.

11. Litigation—Records may be disclosed to DOJ when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the DOJ is for a purpose that is compatible with the purpose for which the FCC collected the records.

12. Adjudication—Records may be disclosed in a proceeding before a court or adjudicative body, when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

13. Breach Notification—Records may be disclosed to appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of PII maintained in the system of records; (b) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

14. Assistance to Federal Agencies and Entities Related to Breaches—Records may be disclosed to another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

15. Non-Federal Personnel—Records may be disclosed to non-Federal personnel, including contractors, other vendors (*e.g.,* identity verification services), grantees, and volunteers who have been engaged to assist the FCC in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

This system contains electronic records, files, and data. The ITRS–URD Program Administrator will host the electronic data, which will reside in the administrator's ITRS–URD Program's database(s) and in the databases of third-party contractors and subcontractors who conduct the subscribers/participants' verification processes.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system of records can be retrieved by any category field, *e.g.,* first or last name or email address.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information in this system is maintained and disposed of in accordance with NARA records schedule ''Telecommunications Relay Service (TRS),'' Records Schedule Number DAA–0173–2015–0006.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, files, and data are stored within FCC or a vendor's accreditation boundaries and maintained in a database housed in the FCC's or vendor's computer network databases. Access to the electronic files is restricted to authorized employees and contractors; and to IT staff, contractors, and vendors who maintain the IT networks and services. Other employees and contractors may be granted access on a need-to-know basis. The electronic files and records are

protected by the FCC and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), OMB, and the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing to *privacy@fcc.gov.* Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to records as required under 47 CFR part 0, subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

88 FR 60455 (Sept. 1, 2023).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2026–21315 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FR ID 373236]

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 November 18, 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 Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@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 Nicole Ongele at (202) 418–2991. 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–XXXX.

Title: Protecting our Communications Networks by Promoting Transparency Regarding Foreign Adversary Control, Report and Order, (GN Docket No. 25–166, FCC 26–2).

Form Number: FCC Form 5655.

Type of Review: New information collection.

Respondents: Business or other for-profit entities, Not-for-profit institutions.

Number of Respondents and Responses: 18,000 respondents; 18,000 responses.

Estimated Time per Response: 2 hours (average).

Frequency of Response: One-time reporting and on occasion reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for collecting information is set out in 47 U.S.C. 34–39, 151, 152, 153, 154(i), 154(n), 155, 201–205, 211–220, 222, 225, 227b–1, 251(e), 254, 301, 302a, 303, 304, 307–310, 312, 316, 317, 319, 325, 332, 335, 336, 337, 338(i), 403, 409(e), 412, 503, 521, 551, 573, 761, 1302, 1401–1473.

Total Annual Burden: 36,000 hours.

Total Annual Cost: No Cost.

Needs and Uses: In January 2026, the Federal Communications Commission adopted the *Foreign Adversary Control Report & Order* which established new attestation and disclosure requirements for Commission regulated entities to report whether and the extent to which they are owned, controlled, or subject to the jurisdiction of a foreign adversary. The Order categorized each Commission assigned license, authorization, and other approval into different schedules with different levels of attestation and disclosure requirements based on their

importance to national security. Respondents who indicate they are subject to control by a foreign adversary must report additional information on the nature of that control. The Order additionally establishes ongoing reporting triggers and a streamlined enforcement and revocation process for non-compliance when necessary. Finally, the Order directed the Commission to establish a new system and procedures for collecting the information from regulated entities.

The information collected in the Foreign Adversary Risk Report will fill critical information gaps in the existing understanding of the threat that adversaries pose to U.S. networks. As such, the information from the collection will improve the Commission's situational awareness of the threat that foreign adversaries currently pose. The Commission will use this information in support of various rulemakings and proceedings as they relate to national security and in developing appropriate actions to mitigate and eliminate threats from adversarial control or influence. Additionally, certain information from the attestation and the additional disclosures will be made available to the public for inspection, subject to privacy and confidentiality considerations, to improve transparency into U.S. communications network and enable outside parties to raise concerns where appropriate.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–21318 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FR ID 372963]

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 November 18, 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–XXXX.

Title: Upper C-band Clearinghouse and Relocation Coordinator Real-Time Disclosure of Communications Required by §§ 27.1413(c)(10) and 27.1414(c)(4)(i).

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 2 respondents and up to 12 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 2, 4(i), 4(j), 5(c), 201, 302, 303, 304, 307(e), and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 201, 302, 303, 304, 307(e), 309.

Total Annual Burden: 12 hours.

Total Annual Cost: No cost.

Needs and Uses: Pursuant to Congress' directive in Public Law 119–21, 40002(b)(2), 139 Stat. 72 (2025), that it grant licenses for spectrum in the 3.98–4.2 GHz band (Upper C-band) through a system of competitive bidding no later than July 4, 2027, on July 22, 2026, the Commission adopted the Upper C-band Report and Order, FCC 26–46, in which it reconfigured 160 megahertz of spectrum in the 3.98–4.14 GHz portion of the Upper C-band in order to make new flexible-use licenses in that band available in a Commission auction that is tentatively scheduled to begin in April 2027.

Prior to the Commission's adoption of the Upper C-Band Report and Order, the 4.0–4.2 GHz portion of the Upper C-

band was allocated for non-Federal use on a primary basis for Fixed Satellite Service (FSS) and Fixed Service (FS) links throughout the United States, although FS operations were sunset in the contiguous United States across the entire C-band as part of the Lower C-band transition. Space station operators use 4.0–4.2 GHz nationwide to provide space-to-Earth (*i.e.,* downlink) signals of various bandwidths to licensed transmit-receive, registered receive-only, and unregistered receive-only earth stations throughout the United States. In addition, the 3.98–4.0 GHz portion of the Upper C-band in the contiguous United States was reserved as a guard band to protect operations in the Upper C-band from potential harmful interference. In the Upper C-band Report and Order, the Commission modified the licenses and market access authorizations of incumbent FSS operators to clear the Upper C-band for new flexible-use terrestrial wireless operations in the contiguous United States.

The Commission established a framework in the Upper C-band Report and Order for relocating impacted incumbent FSS operations within the contiguous United States and for requiring that new Upper C-band licensees reimburse eligible FSS incumbents' reasonable and necessary transition costs. To facilitate a rapid and predictable transition of incumbent FSS services in the Upper C-band, the Upper C-band Report and Order establishes a Primary Transition Deadline of December 30, 2030 for the relocation of all incumbent FSS operations in the top 75 Partial Economic Areas (PEAs) in the contiguous United States, and a Final Transition Deadline of June 30, 2031 for the entire 160 megahertz in all remaining PEAs in the contiguous United States. Terrestrial wireless operations may begin in PEAs subject to the Final Transition Deadline as of July 1, 2031 or once all eligible space station operators have had their Certifications of Completion for those PEAs validated and the associated incentive payments have been made by the new Upper C-band wireless licensees.

In keeping with the approach used to relocate incumbents in the Lower C-band, the Commission concluded in the Upper C-band Report and Order that an independent third-party clearinghouse (Upper C-band Clearinghouse) should be used to oversee the cost-related aspects of the FSS transition, and that the logistics of clearing FSS operations from 4.0–4.16 GHz should be structured around an eligible space station operator-led process facilitated by a Relocation Coordinator (RC) that will use its expertise to track and supplement transition efforts across all eligible space station operators to ensure a timely and coordinated relocation process.

To protect the fair and level playing field for applicants to participate in the Commission's auction for licenses in the Upper C-band, the Upper C-band Clearinghouse and the RC are each required to make real-time disclosures of the content and timing of and the parties to communications, if any, from or to such applicants, as applicants are defined by the Commission's rule prohibiting certain auction-related communications, 47 CFR 1.2105(c)(5)(i), whenever the prohibition in 47 CFR 1.2105(c) applies to competitive bidding for licenses in the in the Upper C-band. See 47 CFR 27.1413(c)(10) and 27.1414(c)(4)(i) (as adopted in the Upper C-band Report and Order). The Commission is seeking approval for a new information collection to permit the Upper C-band Clearinghouse and the RC to make the required real-time disclosure of any such communications, as necessary.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–21323 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 372591]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) proposes to rename and modify an existing system of records, FCC–2, Business Contacts, Disclosures, and Certifications (formerly: FCC–2, Business Contacts and Certifications), subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the Agency. The Commission uses this system to collect and maintain points of contact and to ensure compliance with FCC rules through certifications of disclosures and other information provided to the Commission. The FCC is modifying FCC–2 to include disclosures of prior misconduct from FCC program participants, consistent with the Office of Management and Budget Governmentwide Guidelines on Suspension and Debarment and FCC-specific rules. This modification changes the name of the system; updates the Purposes of the System, Categories of Records in the System, and Record Source Categories; and adds one routine use.

DATES: This modified system of records will become effective on October 19, 2026. Written comments on the routine uses are due by November 18, 2026. The new or revised routine uses in this action will become effective on November 18, 2026 unless comments are received that require a contrary determination.

ADDRESSES: Send comments to Shana Yates, FCC, 45 L Street NE, Washington, DC 20554, care of the Office of General Counsel, Privacy Team; or to *privacy@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: FCC Office of General Counsel, Privacy Team, at *privacy@fcc.gov*.

SUPPLEMENTARY INFORMATION: This notice serves to update and modify FCC–2 as a result of various necessary changes and updates. The substantive changes and modifications to the previously published version of the FCC–2 system of records include:

1. Renaming the system FCC–2, Business Contacts, Disclosures, and Certifications;

2. Updating the Purposes of the System, Categories of Records in the System, and Record Source Categories; and

3. Adding one new routine use (listed by the routine use number provided in this notice): (15) Suspension and Debarment Disclosure.

SYSTEM NAME AND NUMBER:

FCC–2, Business Contacts, Disclosures, and Certifications

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554; Universal Service Administrative Company, 700 12th Street NW, Suite 900, Washington, DC 20005; or FISMA-compliant contractor.

SYSTEM MANAGER(S):

Federal Communications Commission (FCC), Office of the Managing Director, 45 L Street NE, Washington, DC 20554, (888) 225–5322; Universal Service Administrative Company (USAC), 700

12th Street NW, Suite 900, Washington, DC 20005; or FISMA-compliant contractors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

47 U.S.C. 151, 152, 154 (i)-(j) & (o), 155, 251(e)(3), 254, 257, 301, 303, 332, 402, 1302; and 5 U.S.C. 602(c) and 609(a)(3).

PURPOSES OF THE SYSTEM:

The FCC and organizations administering programs on behalf of the FCC use this system to collect and maintain points of contact, disclosures, and certifications from: (1) entities regulated by the FCC and in related industries, as well as contractors, vendors, and those performing collateral duties for the FCC; (2) individuals, including points of contact for and those who certify on behalf of entities, that participate in FCC programs; (3) other Federal, state, local, U.S. territorial, and Tribal government entities that administer, support, participate in, or receive information related to, FCC programs and activities; and (4) public interest organizations, nonprofit organizations, international organizations, and other non-business entities that participate in FCC proceedings or are included in FCC programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, including points of contact for and those who certify on behalf of, businesses, public interest organizations, nonprofit organizations, government organizations, international organizations, and other non-business entities that participate in FCC proceedings or programs, or are included in FCC programs; points of contact for Federal, state, local, U.S. territorial, or Tribal governmental entities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contact information, such as name, username, signature, phone numbers, emails, and addresses; work and educational history; suspension and debarment history and current status, as well as history of misconduct germane to suspension or debarment.

RECORD SOURCE CATEGORIES:

Information in this system is provided by individuals, including points of contact for and those who certify on behalf of: FCC contractors; vendors; those providing collateral duties to the FCC; regulated entities and entities in related industries; participants in FCC programs; Federal, state, local, U.S. territorial, and Tribal government entities; public interest organizations, nonprofit organizations, government organizations, international organizations, and other non-business entities that participate in FCC proceedings.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows.

1. Public Access—Contact information and certifications made by individuals contained in this system may be made available for public inspection to comply with FCC regulations that require public disclosure of this information, or in Commission releases, including notices of proposed rulemaking, public notices, orders, and other actions released by the Commission.

2. Authorized Third Parties—Contact information and certifications made by individuals contained in this system may be shared with authorized third parties, including individuals and businesses in regulated and related industries, FCC vendors, and their contractors, to administer, support, participate in, or receive information related to, FCC programs and activities; or to ensure compliance with the confidentiality and other rules regarding information sharing in the FCC's programs and activities.

3. Federal Agencies—Contact information and certifications made by individuals contained in this system may be shared with other Federal agencies in order to administer, support, participate in, or receive information related to: FCC programs and activities; and programs and activities the FCC supports.

4. State, Local, U.S. Territorial, and Tribal Government Entities—Contact information and certifications made by individuals contained in this system may be shared with authorized state, local, U.S. territorial and Tribal government entities to administer, support, participate in, or receive information related to: FCC programs and activities; and programs and activities the FCC supports.

5. Litigation—Records may be disclosed to the Department of Justice (DOJ) when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the DOJ is for a purpose that is compatible with the purpose for which the FCC collected the records.

6. Adjudication—Records may be disclosed in a proceeding before a court or adjudicative body, when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

7. Law Enforcement and Investigation—When the FCC investigates any violation or potential violation of a civil or criminal law, regulation, policy, executed consent decree, order, or any other type of compulsory obligation and determines that a record in this system, either alone or in conjunction with other information, indicates a violation or potential violation of law, regulation, policy, consent decree, order, or other compulsory obligation, the FCC may disclose pertinent information as it deems necessary to the target of an investigation, as well as with the appropriate Federal, State, local, Tribal, international, or multinational agencies, or a component of such an agency, responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, or other compulsory obligation.

8. Congressional Inquiries—Information may be provided to a Congressional office in response to an inquiry from that Congressional office made at the written request of the individual to whom the information pertains.

9. Government-wide Program Management and Oversight—Records may be disclosed to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

10. Breach Notification—Records may be disclosed to appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of PII maintained in the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information system, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

11. Assistance to Federal Agencies and Entities Related to Breaches—Records may be disclosed to another Federal agency or Federal entity when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

12. Non-Federal Personnel—Records may be disclosed to non-Federal personnel, including contractors, other vendors (*e.g.,* identity verification services), grantees, and volunteers who have been engaged to assist the FCC in the performance of a service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

13. Department of Treasury—Records may be disclosed to the U.S. Department of Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

14. Prevention of Fraud, Waste, and Abuse Disclosure—Records may be disclosed to Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom the FCC has a contract, service agreement, cooperative agreement, or computer matching agreements for the purpose of: (1) detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds, prevent and recover improper payments for services rendered under programs of the FCC or of those Federal agencies and non-Federal entities to which the FCC provides information under this routine use.

15. Suspension and Debarment Disclosure—The FCC may disclose information from this system to other Federal agencies considering suspension or debarment action if the information is relevant to the suspension and debarment action.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

This is an electronic system of records that resides on the FCC's network, USAC's network, or on an FCC vendor's network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system of records can be retrieved by any category field, *e.g.,* first name or email address.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information in this system is maintained and disposed of in accordance with the National Archives and Records Administration (NARA) General Records Schedule 6.5, Item 020 (DAA–GRS–2017–0002–0002).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, files, and data are stored within FCC, USAC, or a vendor accreditation boundaries and maintained in a database housed in the FCC's, USAC's, or a vendor's computer network databases. Access to the electronic files is restricted to authorized employees and contractors; and to IT staff, contractors, and vendors who maintain the IT networks and services. Other employees and contractors may be granted access on a need-to-know basis. The electronic files and records are protected by the FCC, USAC, and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal IT privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), the Office of Management and Budget (OMB), and the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing to *privacy@fcc.gov.* Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to records as required under 47 CFR part 0, subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

91 FR 9255 (Feb. 25, 2026).

Federal Communications Commission.

Aleta Bowers,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2026–21301 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 25–59; DA 26–1049; FR ID: 372721]

Wireless Telecommunications Bureau Seeks Comment on Preliminary Cost Catalog for Upper C-Band Incumbent Transition

AGENCY: Federal Communications Commission.

ACTION: Notice; solicitation of comment.

SUMMARY: In this document, the Wireless Telecommunications Bureau (Bureau) invites interested parties to comment on the Upper C-band Transition Preliminary Cost Catalog (Cost Catalog), which is attached as

Attachment A. The Cost Catalog contains preliminary estimates of reasonable and necessary transition costs that eligible space station operators and incumbent earth station operators (collectively, incumbents) may incur as they transition out of 4.0–4.16 GHz to make 160 megahertz of mid-band spectrum available to 3.7 GHz Service licensees for flexible use throughout the contiguous United States. The Cost Catalog also includes the payment categories for incumbent earth station operators that elect lump sum reimbursement in lieu of actual cost reimbursement. In *Upper C-band (3.98–4.2 GHz); Expanding Flexible Use of the 3.7 to 4.2 GHz Band,* GN Docket Nos. 25–59 and 18–122, Report and Order, Order of Proposed Modification, and Order on Reconsideration, FCC 26–46 (July 24, 2026) (*Upper C-band R&O*), the Commission established that new 3.7 GHz Service licensees will reimburse incumbents for their reasonable and necessary relocation costs to transition out of 4.0–4.16 GHz and directed the Bureau to develop the Cost Catalog.

DATES: Comments are due on or before October 20, 2026; reply comments are due on or before November 9, 2026.

ADDRESSES: You may submit comments, identified by GN Docket No. 25–59, by any of the following methods:

- *Federal Communications Commission's Website: https://www.fcc.gov/ecfs/filings/standard.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) via email at *FCC504@fcc.gov* or telephone at (202) 418–0530.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Andrew McArdell, Wireless Telecommunications Bureau, via telephone at (202) 418–1576 or via email at *Andrew.McArdell@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document (Public Notice), in GN Docket No. 25–59, DA 26–1049, released on September 30, 2026. The *Public Notice* includes the following attachment: Attachment A, *Upper C-band Transition Preliminary Cost Catalog of Potential Expenses and Estimate Costs.* The complete text of the *Public Notice,* including the attachment, is available on the Commission's website at *https://docs.fcc.gov/public/attachments/DA-26-1049A1.pdf* or by using the search function for GN Docket No. 25–59 on the Commission's ECFS web page at *https://www.fcc.gov/ecfs/.*

Pursuant to 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of the *Public Notice.*

Ex Parte Rules: The proceeding 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. 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 § 1.1206(b) of the Commission's rules. In proceedings governed by § 1.49(f) of the Commission's rules or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules (47 CFR 1.1200 *et seq.*).

Synopsis

With this *Public Notice,* the Bureau invites interested parties to comment on the Cost Catalog contained in Attachment A. In the *Upper C-band R&O* (91 FR 55281 (Aug. 27, 2026)), the Commission adopted rules to make 160 megahertz of mid-band spectrum available for flexible use throughout the contiguous United States by transitioning incumbent Fixed Satellite Service (FSS) operations out of 4.0–4.16 GHz. The *Upper C-band R&O* established that new Upper C-band wireless licensees in the 3.7 GHz Service will reimburse the reasonable and necessary transition costs of incumbents to transition out of the reconfigured portion of the band. The *Upper C-band R&O* further gives incumbent earth station operators the option to elect on a per-site basis a lump sum payment in lieu of actual cost reimbursement. The lump sum election is irrevocable, and any incumbent earth station operators that select the lump sum will have opted out of the formal transition process, will be responsible for their own transition work for the relevant sites from that point forward, and must comply with the relevant Transition Deadline for the partial economic area (PEA) where they are located.

Actual Cost Reimbursement. To provide additional guidance on compensable costs in connection with actual cost reimbursements, the Commission directed the Bureau to develop a Cost Catalog and instructed the Upper C-band Clearinghouse, which will administer the financial aspects of the transition, to presume as reasonable all reimbursement claims that fall within the estimated range of costs that the Cost Catalog identifies. To this end, the Commission engaged a contractor, Teltrium, Inc. (Teltrium), to assist with developing the Preliminary Cost Catalog in Attachment A, which contains draft categories for the most common anticipated transition tasks and related ranges of presumptively reasonable expenses that incumbents may incur as they clear operations out of 4.0–4.16 GHz. This Preliminary Cost Catalog is based in part upon the Final Cost Catalog that was developed in 2020 for the Lower C-band transition (85 FR 47209), with adjustments for inflation, but it also includes proposed new categories tailored to the different anticipated transition steps implicated by the Upper C-band transition. To compile the information needed for the Preliminary Cost Catalog, Teltrium considered comments and filings in the underlying record in GN Docket No. 25–59, publicly available pricing and technical information, and information obtained from confidential interviews with vendors and other targeted stakeholders, including satellite

operators and earth station operators, about their anticipated transition work.

We seek comment on the Preliminary Cost Catalog, including whether the draft categories and estimated range of expenses for each category are reasonable. As mentioned, this Preliminary Cost Catalog is based in part on the Lower C-band Final Cost Catalog, and we seek comment whether additional updates are necessary to better suit the specific circumstances of the Upper C-band transition. If so, what additional transition tasks and categories should we include? We note that the Cost Catalog is only intended to cover the most common anticipated transition tasks and is not a comprehensive list of every possible relocation action whose costs may ultimately be deemed reimbursable. Claimants may still submit claims for items not included in the final Cost Catalog, and those claims will be subject to review and disposition by the Upper C-band Clearinghouse as part of its remit to prevent fraud, waste, and abuse. Further, in formulating this list as a guidance resource, we do not intend for it to constrain the Upper C-band Clearinghouse from exercising its independent judgment on what claims or elements thereof constitute optional upgrades or non-compensable costs as it assesses the specific merits of individual claims. For the initial categories set forth in the Preliminary Cost Catalog, and for any additions that commenters may suggest, commenters seeking adjustments are encouraged to provide specific pricing information for individual items as well as more general information on the costs that incumbents expect to incur.

Incumbent Earth Station Lump Sum Payments. The Preliminary Cost Catalog sets forth specific lump sum categories and amounts for incumbent earth station operators seeking to opt out of the formal transition process led by the eligible space station operators. This mechanism will afford lump sum electees the option to: (1) perform their own transition work to maintain FSS service; (2) migrate to an alternative distribution technology, such as an IP-delivered service; or (3) discontinue service altogether. While the decision to opt for the lump sum payment in lieu of actual cost reimbursement is irrevocable, incumbent earth station operators may elect lump sum payments on a per-site basis to enable operators with a mix of facilities in urban and rural areas to opt for the type of transition that best meets their long-term needs. We reiterate that any incumbent earth station operators electing the lump sum will be responsible for their own transition work for the relevant sites from that point forward and must comply with the relevant Transition Deadline for the PEA where they are located.

We seek comment on the preliminary lump sum categories and amounts provided in Appendix A, which, as directed by the Commission in the *Upper C-band R&O,* are based upon the average estimated, reasonable costs of transitioning those facilities out of 4.0–4.16 GHz, including costs related to the potential migration of service or links to the Ku-band. We also seek comment on the proposed lump sum amount for each category and the methodology used to arrive at those amounts. Does the methodology described in Appendix A and these amounts reflect the appropriate lump-sum inputs for each class of earth station? Should we make any adjustments to account for other factors? We also seek comment on the specific filing and certification procedures used in connection with the Lower C-band transition and whether to repurpose them here or adjust them, given the shift to a per-site lump sum approach in the instant transition.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–21321 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 372592]

Privacy Act System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) proposes to modify an existing system of records, FCC/CGB–3, National Deaf-Blind Equipment Distribution Program (NDBEDP), subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency. The Commission uses the information, including personally identifiable information (PII), that is submitted by the certified equipment distribution program in each state, as required by the NDBEDP, to maintain each state's certification to participate in the NDBEDP to support the distribution of specialized customer premises equipment (CPE) and the provision of associated services. State equipment distribution programs, other public programs, and private entities may apply to the Commission for certification for the state to participate in the NDBEDP and receive reimbursement for its activities. This modification updates the Purposes of the System, Categories of Individuals Covered by the System, and Categories of Records Covered by the System, adds two new routine uses, and updates and revises language in one existing routine use.

DATES: This modified system of records will become effective on October 19, 2026. Written comments on the routine uses are due by November 18, 2026. The new or revised routine uses in this action will become effective on November 18, 2026 unless comments are received that require a contrary determination.

ADDRESSES: Send comments to Shana Yates, FCC, 45 L Street, NE, Washington, DC 20554, care of Office of General Counsel, Privacy Team; or to *privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: FCC Office of General Counsel, Privacy Team, at *privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: This notice serves to modify FCC/CGB–3 to make various necessary changes and updates. The substantive changes and modifications to the previously published version of the FCC/CGB–3 system of records include:

1. Modifying the language in the Purposes of the System, Categories of Individuals Covered by the System, and Categories of Records in the System to reflect the collection and maintenance of information necessary to identify any waste, fraud, or abuse in the program and to identify prior misconduct by program participants for purposes of a suspension and debarment action;

2. Modifying the Categories of Records to reflect the system includes suspension and debarment history and current status of individuals who participate in the NDBEDP;

3. Adding two new routine uses (listed by the routine use number provided in this notice): (12) Prevention of Fraud, Waste, and Abuse Disclosure; and (13) Suspension and Debarment Disclosure; and

4. Updating and revising language in the following routine use (listed by the routine use number provided in this notice): (4) Law Enforcement and Investigation.

SYSTEM NAME AND NUMBER:

FCC/CGB–3, National Deaf-Blind Equipment Distribution Program (NDBEDP).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Consumer and Governmental Affairs Bureau (CGB), FCC, 45 L Street NE, DC 20554.

SYSTEM MANAGER:

CGB, FCC, 45 L Street NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

47 U.S.C. 154, 201, 218, 222, 225, 226, 228, 254(k), and 620; Telecommunications Act of 1996, Public Law 014–104, 110 Stat. 56; Twenty-First Century Communications and Video Accessibility Act of 2010, as amended, Public Law 111–265, 124 Stat 2795.

PURPOSES OF THE SYSTEM:

This system collects records submitted by the certified equipment distribution program in each state, as required by the NDBEDP, to maintain each state's certification to participate in this program. Collecting and maintaining the required types of information allows staff access to documents necessary for key activities discussed in this SORN, including maintaining information regarding certified program participants; analyzing effectiveness and efficiency of this and related FCC programs; informing future rule and policy-making activity; identifying any waste, fraud, and abuse in the program; identifying prior misconduct of program participants for purposes of a suspension or debarment action; and improving staff efficiency. Records in this system are available for public inspection, *e.g.,* in response to requests under the Freedom of Information Act (FOIA), after redaction of information that could identify a complainant or correspondent, such as the complainant's name, address, telephone number, fax number, and/or email address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Individuals who request or receive the NDBEDP equipment;

2. Individuals who attest to the disability of the individual receiving the NDBEDP equipment and/or matters related to the eligibility requirements, qualifications, and regulations, etc., for those seeking to participate in the NDBEDP;

3. Individuals who may file complaints, and parties named in or involved with the complaint, including, but not limited to, both formal and informal complaints, and inquiries on behalf of themselves or NDBEDP participants and matters related to NDBEDP rules and regulations;

4. Individuals, including points of contact for and those who certify on behalf of entities, that participate in the NDBEDP; and

5. Certain non-Federal personnel performing services or activities related to this system of records, including, but not limited to, representatives of equipment distribution programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. The name and contact information, including street address, email address, and phone number for the individuals requesting or receiving the NDBEDP equipment;

2. The name and contact information, including street and email addresses, phone number(s), and fax number(s) for the individuals attesting to the disability of the individual who is deaf-blind;

3. Other miscellaneous PII related to the individuals who participate in this program, *e.g.,* response data for equipment requests, users' complaints, evaluation of the users' needs, user training data, outreach activities, equipment request denial data, and medical attestations or records regarding disability qualifications and eligibility requirements;

4. The name and contact information, including street and email addresses, phone number(s), and fax number(s) for certain non-Federal personnel performing services or activities related to this system of records, including, but not limited to, representatives of equipment distribution programs;

5. Suspension and debarment history and current status, as well as history of misconduct of individuals (including points of contact for and those who certify on behalf of entities) who participate in the NDBEDP;

6. The name and contact information, including street and email addresses, phone number(s), and fax number(s) for individuals who make or have made formal and informal complaints and inquiries (including related supporting information), and parties named in or involved with the complaint or inquiry, in any format (including but not limited to paper, telephone, TTY, recording, Braille, and electronic submissions, such as email, internet, etc.) on behalf of themselves or NDBEDP participants; and

7. Commission correspondence, *e.g.,* letters and related communications regarding formal and informal complaints and inquiries (which may include PII and related information) that pertain to the NDBEDP programs, NDBEDP participants, involved parties, and the certification and participation of each entity approved by the Commission to participate in the NDBEDP.

RECORD SOURCE CATEGORIES:

Information in this system is provided by individuals who request or receive the NDBEDP equipment; individuals, groups, and other entities who attest to the disability of the individual requesting or receiving the equipment; individuals, including points of contact for and those who certify on behalf of entities, that participate in NDBEDP; and other individuals, groups, and other entities who have a connection to the NDBEDP and its participants, *e.g.,* those filing or involved with formal and informal complaints or inquiries on behalf of the participants or otherwise performing services or activities related to this system of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information about individuals in this system of records may routinely be disclosed under the following conditions:

1. Formal or Informal Complaints—When a record in this system involves a formal or informal complaint, and/or inquiry filed against an NDBEDP certified program and related entities, the complaint or inquiry may be forwarded to the subject certified program for that state, the appropriate State and Federal medical boards, certifying associations, and related groups, and personal physicians (who may determine whether an individual meets the eligibility criteria for participation in the NDBEDP) for a response.

2. Medical Records—A medical attestation or record (including but not limited to third-party attestations, certifications, and declarations of disability) from this system may be disclosed to appropriate entities, including, but not limited to, the subject certified program for that state, the appropriate State and Federal medical boards, certifying associations, and related groups, and personal physicians for the purposes of determining whether an individual meets the eligibility criteria of being deaf-blind required to participate in the NDBEDP.

3. Income Eligibility Records—A record from this system may be disclosed to appropriate entities,

including but not limited to the subject certified program for that state, as well as the appropriate State and Federal certifying boards and authorities, for the purposes of determining whether an individual meets the income eligibility criteria required to participate in the NDBEDP.

4. Law Enforcement and Investigation—When the FCC investigates any violation or potential violation of a civil or criminal law, regulation, policy, executed consent decree, order, or any other type of compulsory obligation and determines that a record in this system, either alone or in conjunction with other information, indicates a violation or potential violation of law, regulation, policy, consent decree, order, or other compulsory obligation, the FCC may disclose pertinent information as it deems necessary to the target of an investigation, as well as with the appropriate Federal, State, local, Tribal, international, or multinational agencies, or a component of such an agency, responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, or other compulsory obligation.

5. Litigation—Records may be disclosed to the Department of Justice (DOJ) when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the DOJ is for a purpose that is compatible with the purpose for which the FCC collected the records.

6. Adjudication—Records may be disclosed in a proceeding before a court or adjudicative body, when: (a) the FCC or any component thereof; or (b) any employee of the FCC in his or her official capacity; or (c) any employee of the FCC in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

7. Congressional Inquiries—Information may be provided to a Congressional office in response to an inquiry from that Congressional office made at the written request of the individual to whom the information pertains.

8. Government-wide Program Management and Oversight—Records may be disclosed to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

9. Breach Notification—Records may be disclosed to appropriate agencies, entities, and persons when: (a) the Commission suspects or has confirmed that there has been a breach of PII maintained in the system of records; (b) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information system, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

10. Assistance to Federal Agencies and Entities Related to Breaches—Records may be disclosed to another Federal agency or Federal entity, when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

11. Non-Federal Personnel—Records may be disclosed to non-Federal personnel, including contractors, other vendors (*e.g.,* identity verification services), grantees, and volunteers who have been engaged to assist the FCC in the performance of a contract, service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity.

12. Prevention of Fraud, Waste, and Abuse Disclosure—Records may be disclosed to Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom the FCC has a contact, service agreement, cooperative agreement, or computer matching agreements for the purpose of: (1) detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds, prevent and recover improper payments for services rendered under programs of the FCC or of those Federal agencies and non-Federal entities to which the FCC provides information under this routine use.

13. Suspension and Debarment Disclosure—The FCC may disclose information from this system to other Federal agencies considering suspension or debarment action if the information is relevant to the suspension and debarment action.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

This electronic system of records resides on the FCC's network or on an FCC vendor's network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system of records can be retrieved by any category field, *e.g.,* the individual's contact information, including the individual's name(s), street address, email address(es), landline phone and cell phone number(s), complainant(s), and description fields.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information in this system is maintained and disposed of in accordance with the National Archives and Records Administration (NARA) General Records Schedule DAA–0173–2017–0002.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, files, and data are stored within FCC or a vendor's accreditation boundaries and maintained in a database housed in the FCC's or vendor's computer network databases. Access to the electronic files is restricted to authorized employees and contractors; and to IT staff, contractors, and vendors who maintain the IT networks and services. Other employees and contractors may be granted access on a need-to-know basis.

The electronic files and records are protected by the FCC and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), OMB, and the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing to *privacy@fcc.gov*. Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to records as required under 47 CFR Part 0, subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

88 FR 60451 (Sept. 1, 2023).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–21352 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1287; FR ID 372896]

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 (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.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid 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 Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before December 18, 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: 3060–1287.

Title: Secure Telephone Identity Governance Authority Token Revocation Review Process.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 50 respondents; 50 responses.

Estimated Time per Response: 24 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Mandatory and required to obtain or retain benefits. The statutory authority for these collections are contained in 47 U.S.C. 227b, 251(e), and 227(e) of the Communications Act of 1934.

Total Annual Burden: 1,200 hours.

Total Annual Cost: No Cost.

Needs and Uses: On December 30, 2019, Congress enacted the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act. The TRACED Act directed the Commission to require, no later than 18 months from enactment, all service providers to implement the STIR/SHAKEN caller ID authentication framework in the internet protocol (IP) portions of their networks and implement an effective caller ID authentication framework in the non-IP portions of their networks, subject to certain exemptions. To implement the TRACED Act's provisions related to caller ID authentication, the Commission adopted a Report and Order and Further Notice of Proposed Rulemaking on March 30, 2020, which required service providers to implement the STIR/SHAKEN framework in the IP portions of their voice networks by June 30, 2021. The Commission then adopted a Second Report and Order on September 29, 2020 to further implement the remaining portions of the TRACED Act related to caller ID authentication and STIR/SHAKEN.

On August 5, 2021, the Commission adopted a Third Report and Order, which established a limited role for the Commission to oversee certificate revocation decisions by the private STIR/SHAKEN governance system that would have the effect of placing providers in noncompliance with the Commission's rules. Within the STIR/SHAKEN framework, service providers share a digital certificate along with each call as a means of maintaining trust and accountability. The STIR/SHAKEN governance system can revoke a service provider's access to these digital certificates due to that service provider's violation of a specified list of rules and policies. Because this revocation would place an affected service provider in noncompliance with the Commission's rules, the *Third Report and Order* established an oversight role for the Commission over the governance system's token revocation decisions similar to the one the Commission holds in the context of decisions by the Universal Service Administrative Company. The rules allow for review by the Wireline Competition Bureau in the first instance.

Under the rules adopted in the Third Report and Order, a request for Commission review from a service provider, at a minimum, must contain: (1) a statement setting forth the service provider's asserted basis for appealing the governance system's revocation decision; (2) a full statement of relevant, material facts with supporting affidavits and documentation, including any

background information the service provider deems useful to the Commission's review; and (3) the question presented for review, with reference, where appropriate, to any underlying Commission rule or STIR/SHAKEN governance system policy.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–21313 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 372594]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: The Federal Communications Commission (FCC, Commission, or Agency) is modifying an existing system of records, FCC/WCB–1, Lifeline Program, subject to the Privacy Act of 1974, as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of records maintained by the agency. The Lifeline Program (or ''Lifeline'') provides discounts for one Lifeline Program voice service per household and/or broadband internet access service (BIAS) to qualifying low-income individuals. Individuals may qualify for Lifeline through proof of income or participation in another qualifying program. Since the enactment of the Telecommunications Act of 1996 (1996 Act), the Lifeline Program has been administered by the Universal Service Administrative Company (USAC) under the direction of the Commission and, by delegation, of the Commission's Wireline Competition Bureau (WCB). This system of records contains information about individuals who have started an application online or applied to participate in the Lifeline Program, respondents to consumer surveys related to the Lifeline program, and enrollment representatives. The modification updates the Categories of Records in the System and adds one new routine use.

DATES: This modified system of records will become effective on October 19, 2026. Written comments on the routine uses are due by November 18, 2026. The routine uses in this action will become effective on November 18, 2026, unless comments are received that require a contrary determination.

ADDRESSES: Send comments to Shana Yates, FCC, 45 L Street NE, Washington, DC 20554, care of the Office of General Counsel, Privacy Team; or to *privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: FCC Office of General Counsel, Privacy Team, at *privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: This notice modifies FCC/WCB–1, Lifeline Program system of records as a result of necessary changes and updates. The substantive changes and modifications to the previously published version of the FCC/WCB–1 system of records includes updating the Categories of Records in the System and adding one new routine use (listed by the routine use number provided in this notice): (22) Suspension and Debarment Disclosure.

SYSTEM NAME AND NUMBER:

FCC/WCB–1, Lifeline Program.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Universal Service Administrative Company (USAC), 700 12th Street NW, Suite 900, Washington, DC 20005; and Wireline Competition Bureau (WCB), Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554.

SYSTEM MANAGER(S):

USAC administers the Lifeline Program for the FCC. Address inquiries to the Universal Service Administrative Company (USAC), 700 12th Street NW, Suite 900, Washington, DC 20005; or Wireline Competition Bureau (WCB), 45 L Street NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

47 U.S.C. 151–154, 201–205, 214, 254, 403; Safe Connections Act of 2022, Public Law 117–223, 116 Stat. 2280.

PURPOSE(S) OF THE SYSTEM:

The Lifeline Program provides discounts for one Lifeline voice service and/or BIAS per household, and the initial connection charge in certain Tribal areas to support such service, to qualifying low-income individuals, including survivors eligible to receive emergency communications support. Individuals may qualify for Lifeline through proof of income, proof of participation in another qualifying program, or proof of the need for emergency communications support for survivors, including documentation of financial hardship as defined in FCC regulations and orders. The Lifeline Program system of records is maintained to determine whether the applicant meets the eligibility requirements for initial enrollment and recertification, including the limit of one benefit per household; program administration; dispute resolution; monitoring of enrollment representatives; and consumer surveys.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals in this system include those individuals residing in a single household who have applied for benefits; are currently receiving benefits; are individuals who enable another individual in their household to qualify for benefits; are minors whose status qualifies a parent or guardian for benefits; are individuals who have received benefits under the Lifeline Program; are survivors seeking emergency communications support and, as required, their alleged abusers; are individuals that respond to a consumer survey developed using information in this system; and are individuals acting as contractor, supplier or enrollment representatives, or their agents or representatives and providing information directly or indirectly into USAC's Lifeline Systems on behalf of an eligible telecommunications carrier (ETC) to enroll subscribers, recertify subscribers, or update subscriber information in the Lifeline Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in the system include first and last name of the applicant, subscriber, other household members, survivor, alleged abuser, caregiver, or consumer survey participant; date of birth; last four digits of Social Security Number or a full Tribal identification number; residential address; descriptive address; address based on geographic coordinates (geolocation); internet Protocol (IP) address; contact information; evidence of residence on Tribal lands; qualifying program participation; financial information; username and password; account security questions and answers; Lifeline subscriber identification number; assigned Representative ID Number; Lifeline participation status; amount of benefit received; documents demonstrating eligibility; documents showing only one benefit is received per household; voice recordings; USAC-assigned identifying numbers, such as Application ID, Eligibility Check ID, or eligibility ID numbers; for survivors seeking emergency communications support, documentation related to the

submission of a legitimate line separation request to a telecommunications provider and documentation or certification of financial hardship (such as income self-certification or documentation related to receipt of Pell Grants or qualification for federal nutrition programs); and signatures.

For ETC enrollment representatives who register to access the National Verifier or National Lifeline Accountability Database the following information may be collected: first and last name, date of birth, the last four digits of his or her social security number, email address, residential address, or other identity proof documentation, and suspension and debarment history and current status, as well as history of misconduct germane to suspension or debarment. For contractors, subcontractors, suppliers, consultants, or their agents who are not ETC enrollment representatives, suspension and debarment history and current status, as well as history of misconduct germane to suspension or debarment may be collected.

RECORD SOURCE CATEGORIES:

The sources for the information in the Lifeline Program system of records include ETCs and their contractors, suppliers and registered enrollment representatives; applicants; consumer survey respondents; State, Tribal, and Federal databases; and, third-party identity verifiers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows. In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose(s) for which the records were collected:

1. Program Management—Records may be disclosed to USAC employees to conduct official duties associated with the management, operation, and oversight of the Lifeline Program, NLAD, National Verifier, Lifeline Claims System, and Representative Accountability Database, as directed by the Commission.

2. Application, Enrollment, and Recertification—Records may be disclosed to facilitate the Lifeline application, enrollment, or recertification processes, including for survivors seeking or receiving communications support, records from this system may be disclosed to the individual who originally submitted the records, to the individual applicant to whom the records pertain, or to an authorized representative, entity, or organization supporting the individual in the application, enrollment, or recertification process.

3. Third Party Contractors—Records may be disclosed to an employee of a third-party contractor, or subcontractor of the third-party contractor, engaged by USAC or an ETC to, among other things, develop the Lifeline Eligibility Database, conduct the eligibility verification process, recertification process, run call center and email support operations, and assist in dispute resolution.

4. Business Process Outsourcing (BPO) Entity—Records may be disclosed to an employee of the BPO engaged by USAC or an employee of a third-party contractor engaged by the BPO to perform and review eligibility evaluations where the National Verifier conducts such processes for purposes of conducting the eligibility verification process or recertification process, performing manual eligibility verification (when needed), run call center and email support operations, and to assist in dispute resolution.

5. State Agencies and Other Authorized State Government Entities—Records may be disclosed to designated State agencies and other authorized governmental entities, including State public utility commissions, State departments of health and human services or other State entities that share data with USAC or the FCC, and their agents, as is consistent with applicable Federal and State laws, for purposes of eligibility verification and recertification; administering the Lifeline Program on behalf of ETCs in that State; performing other management and oversight duties and responsibilities; enabling the National Verifier to perform eligibility verification for individuals applying for or re-certifying for Lifeline support; enabling the State to perform eligibility verification for individuals applying for or re-certifying for Lifeline support; providing enrollment and other selected reports to the State; comparing information contained in the National Lifeline Accountability Database (NLAD) and Lifeline eligibility, recertification, and related systems to information contained in state databases associated with State-administered Lifeline Programs in order to assess differences between State and Federal programs and make adjustments.

6. Social Service Agencies and Other Approved Third Parties—Records may be disclosed to social service agencies and other third parties that have been approved by USAC for purposes of assisting individuals in applying for and recertifying for Lifeline support.

7. Federal Agencies—Records may be disclosed to other Federal agencies for the development of and operation under data sharing agreements with USAC or the FCC to enable the National Verifier to perform eligibility verification or recertification for individuals applying for Lifeline support or another federal program using Lifeline qualification as an eligibility criterion.

8. Tribal Nations—Records may be disclosed to Tribal Nations to perform eligibility verification or recertification for individuals applying for Lifeline support, to provide enrollment and other selected reports to Tribal Nations, and for purposes of assisting individuals in applying for and recertifying for Lifeline support.

9. Service Providers—Records may be disclosed to service providers and their registered representatives in states or territories where the National Verifier is operating where the service provider is using the carrier eligibility and status check Application Programming Interface (API) to initiate Lifeline applications and eligibility checks and complete benefit transfer requests. Records may also be disclosed to service providers who have been designated as ETCs to facilitate the provision of service, allow for the service provider to receive reimbursement through the Lifeline Program, to provide information to the relevant ETC about an ETC representative whose account has been disabled for cause, and provide enrollment and other selected reports to service providers.

10. FCC Enforcement Actions—When a record in this system involves an informal complaint filed alleging a violation of the Communications Act of 1934, as amended, or FCC regulations or orders (FCC Rules and Regulations) by an applicant, licensee, certified or regulated entity, or an unlicensed person or entity, the complaint may be provided to the alleged violator for a response. Where a complainant in filing his or her complaint explicitly requests confidentiality of his or her name from public disclosure, the Commission will endeavor to protect such information from public disclosure. Complaints that contain requests for confidentiality may be dismissed if the Commission determines that the request impedes the

Commission's ability to investigate and/or resolve the complaint.

11. Congressional Inquiries—Information may be provided to a Congressional office in response to an inquiry from that Congressional office made at the written request of the individual to whom the information pertains.

12. Government-Wide Program Management and Oversight—Records may be disclosed to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

13. Other Federal Program Eligibility—Records related to an individual's Lifeline participation or qualification status may be disclosed to a Federal agency or contractor when a federal program administered by the agency or its contractor uses qualification for Lifeline as an eligibility criterion.

14. Law Enforcement and Investigation—When the FCC investigates any violation or potential violation of a civil or criminal law, regulation, policy, executed consent decree, order, or any other type of compulsory obligation and determines that a record in this system, either alone or in conjunction with other information, indicates a violation or potential violation of law, regulation, policy, consent decree, order, or other compulsory obligation, the FCC may disclose pertinent information as it deems necessary to the target of an investigation, as well as with the appropriate Federal (including the Internal Revenue Service to investigate income eligibility verification), State, local, Tribal, international, or multinational agencies, or a component of such an agency, responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, or other compulsory obligation.

15. Litigation—Records may be disclosed to the DOJ when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the DOJ is for a purpose that is compatible with the purpose for which the FCC collected the records.

16. Adjudication—Records may be disclosed in a proceeding before a court or adjudicative body, when: (a) the FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

17. Breach Notification—Records may be disclosed to appropriate agencies, entities (including USAC), and persons when: (a) the Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

18. Assistance to Federal Agencies and Entities Related to Breaches—Records may be disclosed to another Federal agency, Federal entity, or USAC when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

19. Computer Matching Program Disclosure—Records may be disclosed to (a) Federal, State, and local agencies; and (b) USAC, their employees, and agents for the purpose of developing and conducting computer matching programs as regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a).

20. Department of Treasury—Records may be disclosed to the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

21. Prevention of Fraud, Waste, and Abuse Disclosure—Records may be disclosed to Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom the FCC or USAC has a contract, service agreement, cooperative agreement, or computer matching agreement for the purpose of: (1) detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds, prevent and recover improper payments for services rendered under programs of the FCC or of those Federal agencies and non-Federal entities to which the FCC or USAC provides information under this routine use.

22. Suspension and Debarment Disclosure—The FCC may disclose information from this system to other Federal agencies considering suspension or debarment action if the information is relevant to the suspension and debarment action.

23. Non-Federal Personnel—Records may be disclosed to non-Federal personnel, including FCC or USAC contractors, other vendors (*e.g.,* identity verification services), grantees, or volunteers who have been engaged to assist the FCC or USAC in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records that has not been otherwise identified in this Notice and who need to have access to the records in order to perform their activity.

24. Consumer Survey Development and Execution—Records may be disclosed to contractors, grantees, experts, consultants and their agents, or others performing or working under a contract service, grant, or cooperative agreement with the FCC or USAC, when necessary to develop and conduct consumer surveys as described in this

system of records. Individuals who are provided information under these routine use conditions are subject to Privacy Act requirements and disclosure limitations imposed on the Commission.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The information pertaining to the Lifeline Program includes electronic records, files, data, paper documents, records, and may include audio recordings of calls. Records are maintained in secure, limited access areas. Physical entry by unauthorized persons is restricted through use of locks, passwords, and other security measures. Both USAC and its contractors will jointly manage the electronic data housed at USAC and at the contractors' locations. Paper documents and other physical records (*i.e.,* tapes, compact discs, etc.) will be kept in locked, controlled access areas. Paper documents submitted by applicants to the Lifeline Program will be digitized, and paper copies will be immediately destroyed.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Information in the Lifeline Program system of records may be retrieved by various identifiers, including, but not limited to the individual's name, last four digits of the Social Security Number (SSN), Tribal identification number, date of birth, phone number, residential address, and Lifeline subscriber identification number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information in this system is maintained and disposed of in accordance with the National Archives and Records Administration (NARA) Records Schedule DAA–0173–2017–0001–0002 (Universal Service).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The electronic records, data, and files are maintained in the FCC and the USAC computer network databases, which are protected by the FCC's and USAC's privacy safeguards, a comprehensive and dynamic set of safety and security protocols and features that are designed to meet all Federal IT privacy standards, including those required by OMB, the National Institute of Standard and Technology (NIST) and the Federal Information Security Modernization Act of 2014 (FISMA). In addition, access to the electronic files is restricted to authorized USAC and contractors' supervisors and staff and to the FCC's IT supervisors and staff and to the IT contractors who maintain these computer databases. Other FCC employees and contractors may be granted access only on a ''need-to-know'' basis. In addition, data in the network servers for both USAC and its contractors will be routinely backed-up. The servers will be stored in secured environments to protect the data.

The paper documents and files are maintained in file cabinets in USAC and the contractors' office suites. The file cabinets are locked when not in use and at the end of the business day. Access to these files is restricted to authorized USAC and its contractors' staffs.

RECORDS ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request an amendment of records about themselves should follow the Notification Procedures below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by writing to *privacy@fcc.gov.* Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to the records (47 CFR part 0, subpart E).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

91 FR 9251 (Feb. 25, 2026).

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–21381 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1272; FR ID 372596]

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 (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 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 December 18, 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 or copies of 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: 3060–1272.

Title: 3.7 GHz Band Space Station Operator Transition Plans; 3.7 GHz Band Incumbent Earth Station Lump Sum Payment Elections.

Form Number: N/A.

Type of Review: Extension of a currently approved information collection.

Respondents: Business or other for-profit entities.

Estimated Number of Respondents and Responses: 3,003 respondents and 3,003 responses.

Estimated Time per Response: 2,720 hours per eligible space station transition plan; 32 hours per incumbent earth station lump sum payment election.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 2, 4(i), 4(j), 5(c), 201, 302, 303, 304, 307(e), and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j), 155(c), 201, 302, 303, 304, 307(e), and 309.

Estimated Total Annual Burden: 104,160 hours.

Total Annual Costs: $540,000.

Needs and Uses: On July 22, 2026, in furtherance of the goal of releasing more mid-band spectrum into the market to support and enable next-generation wireless networks, the Federal Communications Commission (Commission) adopted a Report and Order, FCC 26–46 (*Upper C-band R&O*) in which it reformed the use of the 4.0–4.2 GHz portion of the C-Band. The 4.0–4.2 GHz band currently is allocated in the United States exclusively for non-Federal use on a primary basis for Fixed Satellite Service (FSS) and Fixed Service.

Domestically, space station operators use the 4.0–4.2 GHz band to provide downlink signals of various bandwidths to licensed transmit-receive, registered receive-only, and unregistered receive-only earth stations throughout the United States. The *Upper C-band R&O* calls for the relocation of existing FSS operations in the C-band, making 160 megahertz (3.98–4.14 GHz) available for flexible-use terrestrial wireless service throughout the contiguous United States through a Commission-administered public auction of licenses that must be completed by July 4, 2027, pursuant to a statutory mandate in the One Big Beautiful Bill Act, Public Law 119–21, section 40002(b)(2).

The Commission adopted a robust transition schedule to achieve an expeditious clearing and relocation of FSS operations and ensure that a significant amount of spectrum is made available quickly for next-generation wireless deployments, while also ensuring effective accommodation of relocated incumbent users. Pursuant to the *Upper C-band R&O,* all incumbent FSS operations in the contiguous United States must clear the 4.0–4.16 GHz portion of the C-band by December 30, 2030, or June 30, 2031, to ensure a timely transition process. The December 30 deadline applies to the top 75 Partial Economic Areas (PEAs) and aligns with the Federal Aviation Administration's first deadline to retrofit aircraft radio altimeters. The June 30 deadline applies to all other areas.

The Commission concluded in the *Upper C-band R&O* that, before the public auction of new licenses commences, it is appropriate for potential bidders to: (1) know when they will get access to the spectrum in the 3.98–4.14 GHz portion of the C-band that is currently occupied by incumbent FSS space station operators and earth stations; and (2) have an estimate of how much they may be required to pay for incumbent relocation costs and incentive payments should they become Upper C-band wireless licensees. New Upper C-band wireless licensees are required to pay for the reasonable and necessary relocation costs of incumbent space station and incumbent earth station operators that are required to clear the 4.0–4.16 GHz portion of the C-band.

To facilitate the provision of this information to potential auction bidders, the Commission is seeking approval for a modified information collection to permit it to collect the following information from incumbents as adopted in the *Upper C-band R&O:*

Transition Plans

The *Upper C-band R&O* requires each eligible space station operator to submit to the Commission by November 5, 2026, and make available for public review, a detailed transition plan describing the necessary steps and estimated costs for the eligible space station operator to clear its existing operations in the 4.0–4.16 GHz portion of the C-band in the contiguous United States and its individual timeline for doing so. An eligible space station operator may make changes to its transition plan to update certain information or cure any defects that may be identified by the Commission or by relevant stakeholders during a public comment window.

Incumbent Earth Station Lump Sum Payment Elections

The *Upper C-band R&O* provides an incumbent earth station operator with the option of: (1) accepting reimbursement payments for its reasonable and necessary relocation costs for the transition; or (2) in lieu of actual relocation costs, opting out of the formal relocation process and accepting a lump sum reimbursement payment for its incumbent earth stations on a per-site basis based on the average, estimated cost of relocating such incumbent earth stations. The *Upper C-band R&O* directs the Wireless Telecommunications Bureau to announce the lump sum that will be available per incumbent earth station as well as the process for electing lump sum payments and requires that, no later than 60 days after the Wireless Telecommunications Bureau announces the lump sum payment amounts, an incumbent earth station operator that wishes to receive a lump sum payment make an irrevocable lump sum payment election that will apply to such earth stations in the contiguous United States.

This information collection will serve as the starting point for planning and managing the process of efficiently and expeditiously clearing the 4.0–4.16 GHz portion of the C-band, so that this spectrum can be auctioned for flexible-use service licenses.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–21328 Filed 10–16–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meetings

TIME AND DATE: October 27, 2026, at 10:00 a.m. EST.

PLACE: This meeting will be held at the Federal Maritime Commission (Commission), 800 North Capitol St. NW, 1st Floor Hearing Room, Washington, DC 20573. The meeting will also be streamed live through a link that will be published on the Commission's website, *www.fmc.gov.*

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public. Visitors will be subject to security checks. If technical issues prevent the Commission from streaming live, the Commission will post a recording of the public portion of the meeting on the Commission's YouTube channel following the meeting.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Staff Briefing from the Bureau of Enforcement, Investigations, and Compliance
2. Staff Briefing from the Office of Consumer Affairs and Dispute Resolution Services
3. Staff briefing from the Office of the General Counsel

Portions Closed to the Public

1. Staff Briefing from the Office of Information Technology
2. Staff Briefing from the Office of Consumer Affairs and Dispute Resolution Services
3. Staff briefing from the Office of the General Counsel

CONTACT PERSON FOR MORE INFORMATION: David Eng, Secretary; Phone: (202) 523–5725; Email: *secretary@fmc.gov.*

David Eng,

Secretary.

[FR Doc. 2026–21259 Filed 10–15–26; 11:15 am]

BILLING CODE 6730–02–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Notice of Board Meeting

DATES: October 27, 2026 at 9:00 a.m. ET.

ADDRESSES: Telephonic. Dial-in (listen only) information: Number: 1–202–599–1426, Code: 192 871 229#; or via web: *https://www.frtib.gov/.*

FOR FURTHER INFORMATION CONTACT: James Kaplan, Director, Office of External Affairs, (202) 864–7150.

SUPPLEMENTARY INFORMATION:

Board Meeting Agenda

Open Session

1. Approval of the September 22, 2026, Board Meeting Minutes
2. Monthly Reports
   (a) Participant Report
   (b) Legislative Report
3. Quarterly Reports
   (c) Investment Review
   (d) Audit Status
   (e) Budget Review
4. Internal Audit Update
5. Participant Satisfaction Survey Report
6. Social Science Update
7. OEA Office Presentation

Closed Session

8. Information Covered under 5 U.S.C. 552b (c)(6), (c)(9)(B), and (c)(10).

Authority: 5 U.S.C. 552b (e)(1).

Dated: October 15, 2026.

Dharmesh Vashee,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2026–21269 Filed 10–16–26; 8:45 am]

BILLING CODE 6760–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0322; Docket No. 2026–0564; Sequence No. 1]

Information Collection; General Services Administration Acquisition Regulation; Prohibition on Certain Supply Chain Services or Equipment Under Lease Acquisitions and Commercial Solution Openings

AGENCY: Office of the Chief Acquisition Officer, General Services Administration (GSA).

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, GSA is extending a previously approved information collection regarding OMB Control Number 3090–0322, Prohibition on Certain Supply Chain Services or Equipment Under Lease Acquisitions and Commercial Solution Openings, without changes except for updated wage rates, until the information collection can be assessed and revised after the completion of the rulemaking related to the Revolutionary GSA Regulation (GSAR) Overhaul (RGO).

DATES: GSA will consider all comments received by December 18, 2026.

ADDRESSES: GSA invites interested persons to submit comments on this collection through *https://www.regulations.gov* and follow the instructions on the site. This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. If there are difficulties submitting comments, contact the GSA Regulatory Secretariat Division at *GSARegSec@gsa.gov.*

Instructions: All items submitted must cite OMB Control No. 3090–0322, Prohibition on Certain Supply Chain Services or Equipment Under Lease Acquisitions and Commercial Solution Openings. 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 *www.regulations.gov,* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Amy Lara, Procurement Analyst, General Services Acquisition Policy Division, at telephone 816–589–3783, or via email at *gsarpolicy@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and Any Associated Form(s)

OMB Control No. 3090–0322, Prohibition on Certain Supply Chain Services or Equipment Under Lease Acquisitions and Commercial Solution Openings.

B. Needs and Uses

There are two purposes. The first (''889'') supports implementation of Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232) under lease acquisitions and commercial solution openings. This section prohibits agencies from procuring, obtaining, extending or renewing a contract with contractors that will provide or use covered telecommunication equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system on or after August 13, 2020, unless an exception applies.

The second (''FASCSA Orders'') supports implementation of supply chain risk information sharing and exclusion or removal orders consistent with the Federal Acquisition Supply Chain Security Act of 2018 and a final rule issued by the Federal Acquisition Security Council. The implementation of supply chain risk information sharing and exclusion or removal orders FAR interim rule requires complying with exclusion or removal orders (''FASCSA Orders'') and sharing certain supply chain risk information with the Federal Acquisition Security Council (FASC) when applicable FASCSA orders are issued from one or a combination of the following FASCSA orders-issuing agencies: Department of Homeland Security (DHS), the Department of Defense (DoD), and/or the Office of the Director of National Intelligence (DNI). Only DHS may issue orders applicable to GSA (*i.e.,* civilian agencies).

For 889, the requirement is implemented in the Federal Acquisition Regulation (FAR) through the provision at FAR 52.204–24, Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment and the clause at FAR 52.204–25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

For FASCSA Orders, the requirement is implemented in the FAR through the provision at FAR 52.204–29, Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures and the clause at FAR 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition.

C. Annual Burden

1. FAR 52.204–24 for GSA Lease Acquisitions

Respondents: 3,100.
Responses per Respondent: 1.
Total Responses: 3,100.
Hours per Response: 1.5.
Total Burden Hours: 4,650.

2. FAR 52.204–25 for GSA Lease Acquisitions

Respondents: 62.
Responses per Respondent: 1.

Total Responses: 62.
Hours per Response: 1.5.
Total Burden Hours: 93.

3. FAR 52.204–29 for GSA Lease Acquisitions

Respondents: 186.
Responses per Respondent: 1.
Total Responses: 186.
Hours per Response: 2.
Total Burden Hours: 372.

4. FAR 52.204–30 for GSA Lease Acquisitions

Respondents: 124.
Responses per Respondent: 1.
Total Responses: 124.
Hours per Response: 2.
Total Burden Hours: 248.

Note: GSA solicits and awards so few CSO procurements (on average less than 5 per year), the burden is negligible and therefore not included in this estimate. *Obtaining Copies:* Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by emailing *GSARegSec@gsa.gov.* Please cite ''Information Collection 3090–0322'', in all correspondence.

Richard Speidel,
Deputy Chief Data Officer, General Services Administration.

[FR Doc. 2026–21255 Filed 10–16–26; 8:45 am]
BILLING CODE;P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1784]

Bulk Manufacturer of Controlled Substances Application: Scottsdale Research Institute

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Scottsdale Research Institute has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 18, 2026. Such persons may also file a written request for a hearing on the application on or before December 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on September 8, 2026, Scottsdale Research Institute, 12815 North Cave Creek Road, Phoenix, Arizona 85022, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Ibogaine	7260	I

The company plans to bulk manufacture the listed controlled substance for internal research purposes and to support clinical trials. No other activity for this drug code is authorized for this registration.

Justin Wood,
Deputy Assistant Administrator.

[FR Doc. 2026–21360 Filed 10–16–26; 8:45 am]
BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1788]

Bulk Manufacturer of Controlled Substances Application: Janssen Pharmaceuticals, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Janssen Pharmaceuticals, Inc. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 18, 2026. Such persons may also file a written request for a hearing on the application on or before December 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on September 9, 2026, Janssen Pharmaceuticals, Inc., 1440 Olympic Drive, Buildings 1 and 5 and 8 and 20, Athens, Georgia 30601–1645, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Methylphenidate	1724	II

The company plans to manufacture the listed controlled substance for the internal use intermediates for sale to its customers. No other activity for this drug code is authorized for this registration.

Justin Wood,
Deputy Assistant Administrator.

[FR Doc. 2026–21369 Filed 10–16–26; 8:45 am]
BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1781]

Importer of Controlled Substances Application: Groff Health Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Groff Health Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on, or objections to the issuance of the proposed registration on or before November 18, 2026. Such persons may also file a written request for a hearing on the application on or before November 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on August 7, 2026, Groff Health Inc., 2218 South Queen Street, York, Pennsylvania 17402, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Ibogaine	7260	I
3,4-Methylenedioxymethamphetamine	7405	I
Psilocybin	7437	I
Psilocyn	7438	I

The company plans to import bulk substances to support internal research, clinical trials, analytical purposes, and distribution to their customers. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Justin Wood,

Deputy Assistant Administrator.

[FR Doc. 2026–21355 Filed 10–16–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1783]

Bulk Manufacturer of Controlled Substances Application: National Center for Natural Products Research University of Mississippi/NCNPR

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: National Center for Natural Products Research University of Mississippi/NCNPR has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 18, 2026. Such persons may also file a written request for a hearing on the application on or before December 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on September 7, 2026, National Center for Natural Products Research University of Mississippi/NCNPR, University of Mississippi Coy Waller Research Center, 806 Hathorn Road, University, Mississippi 38677, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols	7370	I

The company plans to bulk manufacture the listed controlled substances for product development and reference standards. In reference to drug codes 7350 (Marihuana Extract), and 7370 (Tetrahydrocannabinols), the company plans to extract these controlled substances from produced 7360 (Marihuana). No other activities for these drug codes are authorized for this registration.

Justin Wood,

Deputy Assistant Administrator.

[FR Doc. 2026–21359 Filed 10–16–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1779]

Importer of Controlled Substances Application: Halo Pharmaceutical Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Halo Pharmaceutical Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 18, 2026. Such persons may also file a written request for a hearing on the application on or before November 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on September 4, 2026, Halo Pharmaceutical Inc., 30 North Jefferson Road, Whippany, New Jersey 07981–1030, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Psilocybin	7437	I

The company plans to import the listed controlled substance to support formulation development and use in clinical trials. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Justin Wood,

Deputy Assistant Administrator.

[FR Doc. 2026–21353 Filed 10–16–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1789]

Importer of Controlled Substances Application: Organic Standards Solutions International, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Organic Standards Solutions International, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 18, 2026. Such persons may also file a written request for a hearing on the application on or before November 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal Register** Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on October 2, 2026, Organic Standards Solutions International, LLC., 7290 Investment Drive, Unit B, North Charleston, South Carolina 29418–8305, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
3,4-Methylenedioxymethamphetamine	7405	I
Psilocybin	7437	I
Psilocyn	7438	I
1-[1-(2-Thienyl)Cyclohexyl]Piperidine	7470	I
Acetyl Fentanyl	9821	I
Cocaine	9041	II
Fentanyl	9801	II

The company plans to import the listed controlled substances to produce analytical reference standards for sale and distribution to its customers. Drug codes 7350 (Marihuana Extract) and 7360 (Marihuana) will be used for the manufacture of cannabidiol only. In reference to drug code 7370 (Tetrahydrocannabinols) the company plans to import a synthetic version of this controlled substance. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Justin Wood,

Deputy Assistant Administrator.

[FR Doc. 2026–21370 Filed 10–16–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 1785]

Bulk Manufacturer of Controlled Substances Application: Groff Health Inc

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Groff Health Inc has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 18, 2026. Such persons may also file a written request for a hearing on the application on or before December 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on September 3, 2026, Groff Health Inc, 2218 South Queen Street, York, Pennsylvania 17402–4631, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Ibogaine	7260	I
3,4-Methylenedioxy-methamphetamine.	7405	I
Psilocybin	7437	I
Psilocyn	7438	I

The company plans to bulk manufacture the listed controlled substances for internal use and for sale to its customers. No other activities for these drug codes are authorized for this registration.

Justin Wood,

Deputy Assistant Administrator.

[FR Doc. 2026–21368 Filed 10–16–26; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1782]

Importer of Controlled Substances Application: National Center for Natural Products Research

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: National Center for Natural Products Research has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on, or objections to the issuance of the proposed registration on or before November 18, 2026. Such persons may also file a written request for a hearing on the application on or before November 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA **Federal**

Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on September 7, 2026, National Center for Natural Products Research, 806 Hathorn Road, 135 Coy Waller Lab, University, Mississippi 38677, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to acquire new genetic materials with different cannabinoid profiles for research and manufacturing purposes. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Justin Wood,

Deputy Assistant Administrator.

[FR Doc. 2026–21358 Filed 10–16–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1780]

Importer of Controlled Substances Application: DMS Pharmaceutical Group

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: DMS Pharmaceutical Group has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 18, 2026. Such persons may also file a written request for a hearing on the application on or before November 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on September 4, 2026, DMS Pharmaceutical Group, 810 Busse Highway, Park Ridge, Illinois 60068, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Fentanyl	9801	II

The company plans to import the controlled substance for distribution to military combat units. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Justin Wood,

Deputy Assistant Administrator.

[FR Doc. 2026–21354 Filed 10–16–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1790]

Importer of Controlled Substances Application: Groff NA Hemplex LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Groff NA Hemplex LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before November 18, 2026. Such persons may also file a written request for a hearing on the application on or before November 18, 2026.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov*. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All

requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on September 23, 2026, Groff NA Hemplex, LLC, 2218 South Queen Street, York, Pennsylvania 17402, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to import listed controlled substances in bulk form to manufacture research grade material for clinical trial studies. Several types of Marihuana Extract compounds are listed under code 7350. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Justin Wood,

Deputy Assistant Administrator.

[FR Doc. 2026–21367 Filed 10–16–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Muhamad Aly Rifai, M.D.; Decision and Order

I. Introduction

On November 30, 2023, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Muhamad Aly Rifai, M.D. (Respondent). Request for Final Agency Action (RFAA), Exhibit (RFAAX) 3, at 1, 7. The OSC proposed the revocation of Respondent's DEA Certificate of Registration, No. BR7552272, in Easton, Pennsylvania. *Id.* at 3. The OSC alleged that Respondent's registration should be revoked because his ''continued registration is inconsistent with the public interest.'' *Id.* at 1 (citing 21 U.S.C. 823(g)(1)). The OSC also proposed the revocation of Respondent's registration, alleging that the ''falsification of patient medical records to conceal the unlawful prescribing of controlled substances may be considered by the Agency as conduct that threatens the public health or safety and grounds to revoke or deny a DEA Registration.'' *Id.* at 3.

A. Procedural Background

On December 28, 2023, Respondent filed a timely hearing request with the Office of the Administrative Law Judges (ALJs). *Id.* at 2; *see* RFAAX 25, at 17–19. A hearing on the merits was initially scheduled for April 29, 2024. RFAAX 5, at 5. After some lengthy procedural exchanges between the parties and the ALJ,[1] the matter was terminated because the ALJ found that Respondent ''desires delay, during which time he can continue to prescribe schedule II controlled substances despite very serious allegations against him.'' RFAAX 2, at 16. The ALJ then terminated the hearing proceedings on August 20, 2024, and concluded that the ''Respondent, in fact, does *not* desire a hearing before this tribunal.'' RFAAX 2, at 16. The ALJ did not find that Respondent was in default. RFAAX 2.

Thereafter, on September 5, 2024, the Government submitted a request for final agency action arguing that the Administrator may enter a default final revoking Respondent's registration. RFAAX 25, at 1, 4. On July 8, 2025, the Administrator denied the Government's request to find Respondent in default because Respondent ''continued to defend his case and contest the allegation on their merits.'' RFAAX 26, at 8; *see* RFAA, at 6. Instead, the Administrator found that the ALJ's Termination Order arose from her duties ''to take all necessary action to avoid delay, and to maintain order.'' RFAAX 26, at 2 (citing 21 CFR 1316.52). The Administrator then returned the matter to the Government for further action, including an opportunity to file a new RFAA that contains substantial record evidence supporting the revocation of Respondent's registration. RFAAX 26, at 8–9.

On August 25, 2025, the Government submitted another RFAA and requested that the Agency revoke Respondent's registration because his prescribing patterns were ''outside the usual course of professional practice and not for a legitimate medical purpose'' and Respondent falsified patient medical records. RFAA, at 18 (citing 21 CFR 1306.04(a) and multiple state laws).[2] The Government contended that these violations demonstrated that Respondent's continued registration is inconsistent with the public interest. RFAA, at 19 (citing 21 U.S.C. 824(a)(4), 823(g)(1)(B), (D)).[3]

After carefully reviewing the entire record and conducting the analysis as set forth in more detail below, the Agency grants the Government's RFAA and revokes Respondent's registration.

II. Law Applicable to Public Interest Determination

A. Legal Background on Public Interest Determinations

Congress enacted the Controlled Substances Act (CSA) ''to conquer drug abuse and control the legitimate and illegitimate traffic in controlled substances.'' *Gonzales* v. *Raich,* 545 U.S. 1, 12 (2005). A particular concern of Congress was ''the need to prevent the diversion of drugs from legitimate to illicit channels,'' and it ''devised a closed regulatory system making it unlawful to manufacture, distribute, dispense, or possess any controlled substance except in a manner authorized by the CSA.'' *Id.* at 12–13.

The CSA's requirements under this closed regulatory system include that ''[e]very person who dispenses, or who proposes to dispense, any controlled substance, shall obtain from the [DEA] a registration.'' 21 U.S.C. 822(a)(2); *see also Gonzales* v. *Raich,* 545 U.S. at 27–28. To protect the American people and ensure compliance with the CSA, Congress empowered the Agency[4] to deny, suspend, or revoke a registration if it would be inconsistent with the public interest. 21 U.S.C. 823(g)(1); 21

[1] The lengthy procedural history in this matter is set forth fully in the ALJ's August 20, 2024, Order Vacating Stay and Terminating Proceedings. RFAAX 2, at 1–17.

[2] The Agency need not adjudicate the criminal violations alleged in the OSC/ISO. *Ruan* v. *United States,* 597 U.S. 450 (2022) (decided in the context of criminal proceedings).

[3] The Government cited to 21 U.S.C. 823(f)(2), (4), which is not the current designation of the public interest factors. Effective December 2, 2022, the Medical Marijuana and Cannabidiol Research Expansion Act, Public Law 117–215, 136 Stat. 2257 (2022) (Marijuana Research Amendments or MRA), amended the Controlled Substances Act (CSA) and other statutes. Relevant to this matter, the MRA redesignated 21 U.S.C. 823(f), cited in the OSC, as 21 U.S.C. 823(g)(1). Accordingly, this Decision cites to the current designation, 21 U.S.C. 823(g)(1), and to the MRA-amended CSA throughout.

[4] The CSA delegates this power to the Attorney General, who has delegated it to the Administrator of the DEA (the Agency) by 28 CFR 0.100.

U.S.C. 824(a)(4); *Gonzales* v. *Oregon,* 546 U.S. 243, 251 (2006).

The Attorney General ''may deny, suspend, or revoke [a] registration if . . . the [registrant's] registration would be 'inconsistent with the public interest.' '' *Gonzales* v. *Oregon,* 546 U.S. at 251 (quoting 21 U.S.C. 824(a)(4)). The Attorney General's ''discretion in exercising [the authority to register and deregister practitioners] is spelled out in very broad terms.'' *Id.* at 292 (Scalia, J., dissenting); *see also Neumann's Pharmacy, L.L.C.* v. *Drug Enf't Admin.,* 167 F.4th 320, 323 (5th Cir. 2026) (''DEA unquestionably has broad authority to deregister pharmacies and substantial discretion to shape policy within statutory bounds.''). In executing this broad mandate, DEA must continuously balance the CSA's public interest goals of curbing the ''illegal . . . distribution[ ] and possession[,] and improper use of controlled substances[, which has] a substantial and detrimental effect on the health and general welfare of the American people,'' while ensuring that the public has access to medications that ''have a useful and legitimate medical purpose and are necessary to maintain the health and general welfare of the American people.'' 21 U.S.C. 801(1), (2); *see* Joanna R. Lampe, Cong. Rsch. Serv., R45948, The Controlled Substances Act (CSA): A Legal Overview for the 119th Congress (2025), *https://www.congress.gov/crs-product/R45948.*

In the case of a ''practitioner,'' which is defined in 21 U.S.C. 802(21) to include a ''physician,'' Congress directed the Attorney General to consider five factors in making the public interest determination. *Gonzales* v. *Oregon,* 546 U.S. at 251; 21 U.S.C. 823(g)(1)(A–E). The five factors are:

(A) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(B) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(C) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(D) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(E) Such other conduct which may threaten the public health and safety.

21 U.S.C. 823(g)(1)(A–E).

Just as the phrase ''inconsistent with the public interest'' is broad, the five factors that Congress directed DEA to consider in determining the public interest are similarly broad, suggesting that Congress intended for DEA to have discretion and flexibility to interpret this language as necessary to implement its critical mission to protect the public from drug abuse and diversion. *See Loper Bright Enters.* v. *Raimondo,* 603 U.S 369, 394–95 (2024) (noting that ''[i]n a case involving an agency . . . the statute's meaning may well be that the agency is authorized to exercise a degree of discretion,'' such as where the statute uses terms or phrases like ''appropriate or reasonable'' (internal citations omitted)). Indeed, courts have recognized the Agency's broad discretion to deny applications and deregister practitioners for a wide variety of conduct that the Agency has determined is inconsistent with the public interest. *See, e.g., Orusa* v. *Drug Enf't Admin.,* No. 22–3132, 2023 WL 3886403 (6th Cir. June 8, 2023) (physician issuing prescriptions outside the usual course of professional practice and beneath the standard of care); *St. Croix* v. *Drug Enf't Admin.,* No. 21–1116, 2022 WL 2092177 (D.C. Cir. June 10, 2022) (physician failing to maintain adequate records, prescribing controlled substances without a legitimate medical purposes, storing controlled substances at an unregistered location, failing to provide effective controls to guard against theft or diversion of these substances); *Suntree Pharmacy* v. *Drug Enf't Admin.,* No. 20–14626, 2022 WL 444357 (11th Cir. Feb. 14, 2022), cert. denied, 143 S. Ct. 305 (2022) (pharmacy filling prescriptions outside the usual course of practice).

These five public interest factors are considered in the disjunctive. *Gonzales* v. *Oregon,* 546 U.S. at 292–93 (Scalia, J., dissenting) (''It is well established that these factors are to be considered in the disjunctive'' (quoting *In re Arora,* 60 FR 4447, 4448 (1995))); *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). Each factor is weighed on a case-by-case basis. *David H. Gillis, M.D.,* 58 FR 37507, 37508 (1993); *see Morall* v. *Drug Enf't Admin.,* 412 F.3d 165, 181 (D.C. Cir. 2005) (describing the Agency's adjudicative process as ''applying a multi-factor test through case-by-case adjudication'' (quoting *LeMoyne-Owen Coll.* v. *N.L.R.B.,* 357 F.3d 55, 61 (D.C. Cir. 2004))). Any one factor, or combination of factors, may be decisive, *David H. Gillis, M.D.,* 58 FR at 37508, and the Agency ''may give each factor the weight . . . deem[ed] appropriate in determining whether a registration should be revoked or an application for registration denied.'' *Morall,* 412 F.3d. at 185 n.2 (Henderson, J., concurring) (quoting *Robert A. Smith, M.D.,* 70 FR 33207, 33208 (2007)); *see also Penick Corp.* v. *Drug Enf't Admin.,* 491 F.3d 483, 490 (D.C. Cir. 2007).

Moreover, while the Agency is required to consider each of the factors, it ''need not make explicit findings as to each one.'' *MacKay* v. *Drug Enf't Admin.,* 664 F.3d 808, 816 (10th Cir. 2011) (quoting *Volkman* v. *U. S. Drug Enf't Admin.,* 567 F.3d 215, 222 (6th Cir. 2009)); *Jones Total Health Care Pharmacy, LLC* v. *Drug Enf't Admin.,* 881 F.3d 823, 830 (11th Cir. 2018); *Hoxie* v. *Drug Enf't Admin.,* 419 F.3d 477, 482 (6th Cir. 2005). ''In short, . . . the Agency is not required to mechanically count up the factors and determine how many favor the Government and how many favor the registrant. Rather, it is an inquiry which focuses on protecting the public interest; what matters is the seriousness of the registrant's misconduct.'' *Jayam Krishna-Iyer, M.D.,* 74 FR 459, 462 (2009). Accordingly, as the Tenth Circuit has recognized, Agency decisions have explained that findings under a single factor can support the revocation of a registration. *MacKay,* 664 F.3d at 821.

The Government has the burden of proof in this proceeding. 21 CFR 1301.44(e).

B. Law Applicable to Falsified Medical Records

The OSC alleges that Respondent acted outside the public interest when he falsified the medical records of an undercover law enforcement officer (UC) purporting to seek medical treatment. RFAAX 3, at 3. The OSC notes that falsification of medical records to conceal the true nature of prescribing practices is conduct that may threaten the public health and safety. RFAAX 3, at 3; *see Jerry Neil Rand, M.D.,* 61 FR 28895, 28897 (1996) (finding that falsifying patient charts in which Respondent had prescribed controlled substances is inconsistent with the public interest).

Regarding recordkeeping, under Pennsylvania law, ''[a] physician shall maintain medical records for patients which accurately, legibly and completely reflect the evaluation and treatment of the patient'' and ''[t]he medical record shall contain information sufficient to clearly identify the patient, the person making the entry if the person is not the physician—such as a physician assistant or a certified registered nurse practitioner—the date of the medical record entry and patient complaints and symptoms.'' 49 Pa. Code § 16.95(a)–(b); *see* RFAAX 3, at 2–3. Moreover, Pennsylvania law provides that ''[t]he medical record shall also include diagnoses, the findings and results of pathologic or clinical laboratory examination, radiology

examination, medical and surgical treatment and other diagnostic, corrective or therapeutic procedures.'' *Id.* at § 16.95(d). Pennsylvania law also instructs practitioners to follow certain minimal standards when prescribing controlled substances, including recordkeeping: ''*[a]ccurate and complete medical records* must document the evaluation and care received by patients.'' 49 Pa. Code § 16.92(a)(4) (emphasis added); *see* RFAAX 3, at 2.[5]

C. Law Applicable to Improper Prescribing of Controlled Substances

The OSC also alleges that Respondent acted outside the public interest when he improperly issued controlled substance prescriptions to UC. RFAAX 3, at 3–5. According to the CSA's implementing regulations, a lawful prescription for controlled substances is one that is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a); *see Gonzales* v. *Oregon,* 546 U.S. at 274; *United States* v. *Hayes,* 595 F.2d 258 (5th Cir. 1979), *rehearing den.,* 598 F.2d 620 (5th Cir. 1979), cert. denied, 444 U.S. 866 (1979). Pennsylvania state law similarly requires that ''[a] prescription for a controlled substance must be issued for a legitimate medical purpose by a licensed practitioner in the usual course of professional practice.'' 28 Pa. Code § 25.52(a); *see* RFAAX 3, at 2.

Pennsylvania law also requires practitioners to take ''an initial medical history'' and conduct ''an initial physical examination'' prior to prescribing controlled substances, make ''[r]eevaluations of the patient's condition and efficacy of the controlled substance . . . consistent with the condition diagnosed, the controlled substance or substances involved, expected results and possible side effects,'' and counsel ''[t]he patient . . . regarding the condition diagnosed and the controlled substance prescribed, administered or dispensed.'' 49 Pa. Code § 16.92(a)(1)–(3); *see* RFAAX 3, at 2.

A practitioner in Pennsylvania may prescribe, administer, or dispense a controlled substance or other drug or device only under the following conditions: ''(i) in good faith in the course of his professional practice, (ii) within the scope of the patient relationship, and (iii) in accordance with treatment principles accepted by a responsible segment of the medical profession.'' 35 Pa. Const. Stat. § 780–111(d); *see* RFAAX 3, at 3.

III. Findings of Fact

Respondent is a Pennsylvania-licensed psychiatrist who prescribed dextroamphetamine-amphetamine, a Schedule II stimulant, to UC on three separate occasions. RFAA, at 7–8; RFAAX 2, at 1 n. 1; RFAAX 3, at 3–5.[6] Specifically, on May 17, 2021, Respondent prescribed 30 tablets of dextroamphetamine-amphetamine 5 mg and instructed that UC take one tablet two times per day for fifteen days. RFAAX 3, at 4. On June 11, 2021, Respondent issued UC a prescription for 60 tablets of dextroamphetamine-amphetamine 10 mg and instructed that UC take one tablet two times per day for thirty days. RFAAX 3, at 4. Finally, on August 9, 2021, Respondent issued to UC a prescription for 60 tablets of dextroamphetamine-amphetamine 15 mg to be taken two times per day for thirty days. RFAAX 3, at 5.

UC provided a declaration under penalty of perjury, pursuant to 28 U.S.C. 1746.[7] RFAAX 28, at 1–7.

A. Falsifying Medical Records

In September 2023, DEA subpoenaed Respondent for all medical patient records related to UC. RFAAX 31, at 1. Respondent provided the following documentation dated May 17, 2021: Patient Information Sheet; Patient Symptom Intake Form; History and Personal Data Questionnaire; Authorization for Release of Confidential Information; Patient Cancellation Policy; Acknowledgement; Notice of Privacy Practices; Patient Financial Responsibility for Healthcare Services; Medication Refill Policy; Patient Laboratory Screening; Disability and Related Paperwork Protocol; Patient Medication Risk; Psychiatric Evaluation; Consent to Contract to Participate in treatment using Stimulant Medication; Urine Drug Screen—12 Panel Integrated Test Cup; The Test of Variables Attention; Audit-C; Patient Health Questionnaire (PHQ–9); GAD–7 Anxiety; and Adult ADHD Self-Report Scale Symptom Checklist. RFAAX 32, at 1–38. Additionally, Respondent submitted the following documentation: Psychiatric Progress Notes indicating an in-person appointment on May 17, 2021; a video telemedicine follow-up on June 11, 2021; and a telehealth appointment on August 9, 2021; Urine Drug Screen—12 Panel Integrated Test Cup with results dated August 9, 2021; a letter dated August 9, 2021, to UC informing her that Respondent can no longer provide UC with psychiatric services because she has been approved for medical cannabis treatment; and a patient controlled substance report showing prescriptions for ''amphetamine salt combo'' issued by Respondent on May 17, 2021, June 11, 2021, and August 9, 2021. RFAAX 32, at 39–50; *see* RFAAX 35, at 1–3.

In her declaration under penalty of perjury pursuant to 28 U.S.C. 1746, which was signed and dated, UC attested that she did not produce or disclose any medical documentation from previous providers, diagnostic or testing results, or laboratory test results to Respondent. RFAAX 28, at 3. UC stated under penalty of perjury that she did not complete or orally answer questions to the following forms: Patient Symptom Intake Form, History and Personal Data Questionnaire, Patient Medical Risk, Consent and Contract to Participate in Treatment Using Stimulant Medication, Urine Drug Screen—12 Panel Integrated Test Cup dated May 17, 2021, Audit C, Patient Health Questionnaire (PHQ–9), GAD–7 Anxiety, and Adult ADHD Self-Report Scale (ASR-v1.1) Symptom Checklist. RFAAX 28, at 3–4.

UC clarified that she never provided a urine specimen during her psychiatric visit and evaluation on May 7, 2021. RFAAX 28, at 4. UC also attested that she never provided a urine specimen on August 9, 2021. RFAAX 28, at 6. Moreover, contrary to the contents of the psychiatric evaluation dated May 8, 2021, UC declared under penalty of perjury that she never stated that she needed help, had problems with low mood, low concentration or anxiety, that she had a history of antidepressants, that she was worried about harming her customers due to lack of focus, that she had a family history of siblings with depression or anxiety, that her maternal aunt committed suicide, she had a family history of alcoholism, that her sister had ADD, that her mom stated she was ''all hyper,'' that her family has a poor relationship, that she experienced physical and mental abuse by parents

[5] The OSC erroneously cites to 49 Pa. Code § 16.92(b) instead of (a). RFAAX 3, at 2.

[6] The parties stipulated, in part, to allegations 4, 5, and 6 as stated in the OSC, to the extent that the Respondent prescribed UC a specified quantity of the controlled substance on the identified date. RFAAX 5, at 2 n.1.

[7] 28 U.S.C. 1746 allows a written unsworn declaration in proper form as true under penalty of perjury to substitute for an affidavit. While the Federal Rules of Evidence (FRE) do not apply directly to DEA administrative hearings, it may be used for guidance, where they do not conflict with agency regulations. *In the Matter of Rosalind A. Cropper, M.D.,* 66 FR 41040, 41041. The Advisory Committee Notes on FRE 56(c)(4) state that a declaration can be used to support a motion as long as it is made under penalty of perjury and dated. *See* Fed. R. Civ. P. 56(c), advisory committee's note to 2010 amendment.

while growing up, or that she had sporadic cannabis use. RFAAX 28, at 4; *see* RFAAX 32, at 16–19; RFAAX 39, at 1–26; RFAAX 40, at 1–8; RFAAX 41, at 1–4.

UC stated that on June 11, 2021, she had telephone conversations with staff members at Respondent's practice but did not interact with Respondent. RFAAX 28, at 4; *see* RFAAX 40, at 1–8. However, Respondent's progress note shows that the appointment was with a ''secure video.'' RFAAX 32, at 41–42. UC also stated that on August 9, 2021, she spoke with a nurse practitioner via telephone and asked that her prescription for dextroamphetamine-amphetamine be increased in strength and refilled. RFAAX 28, at 5; *see* RFAAX 41, at 1–4. But Respondent's progress note shows that the appointment was via ''telehealth'' and ''Office Visit in person.'' RFAAX 32, at 43, 44.

Contrary to Respondent's progress notes, UC stated that she never expressed to Respondent that she struggled with ADHD symptoms, that she requested an increase in the strength of her prescription so that she would be able to focus on work, that she used cannabis periodically to alleviate anxiety or alcohol use, or that she possessed a medical marijuana card. RFAAX 28, at 6; *but see* RFAAX 32, 39–45. Notably, UC stated that Respondent had copied her signature from a form that she had filled out to the other medical records that she never completed, and the copy of the signature was done without her knowledge or consent. RFAAX 28, at 4.

Where Respondent's medical documents conflict with UC's statements, the Agency credits UC's statements, which have more weight than Respondent's forged and falsified medical documentation.[8] Here, the Agency finds substantial record evidence that Respondent falsified UC's medical records documenting telehealth examinations, in-person evaluations, diagnostic tests, and patient-doctor discussions that did not occur and falsified medical records that were not filled out or completed by UC. RFAAX 28, at 3–5; *see* RFAAX 32, at 2–4, 15–21, 22–29, 30–37, 46–47. In contrast, UC's declaration was signed and dated under penalty of perjury pursuant to 28 U.S.C. 1746. RFAAX 28, at 7; *see U.S. ex rel. Doe* v. *Heart Solution, P.C.,* 923 F.3d 308, 315 (3d Cir. 2019) (an unsworn statement pursuant to 28 U.S.C. 1746 may be considered on summary judgment). Significantly, there is no contrary evidence discrediting UC's signed declaration. *See Edge Pharmacy,* 81 FR 72092, 72101–72102 n. 23 (2016) (accepting a declaration pursuant to 28 U.S.C. 1746 as credible because it was signed and dated under the penalty of perjury).

Accordingly, based on UC's declaration pursuant to section 1746, which is signed and dated under the penalty of perjury, Agency finds substantial record evidence that Respondent's medical records for UC, including numerous diagnostic tests, were falsified.

B. Improper Prescribing

As mentioned above, UC was prescribed dextroamphetamine-amphetamine on three separate occasions. RFAAX 35, at 1–3; *see* RFAAX 28, at 1–2. Specifically, on May 17, 2021, UC paid $300 in cash for the first visit, at which time she was interviewed by ''students'' regarding her medical history. RFAAX 28, at 2; *see* RFAAX 39, at 1–26. At that time, UC indicated that she had been previously prescribed medication that contained dextroamphetamine-amphetamine and another drug to help her with sleeping but that she did not remember the name of her previous practitioner. RFAAX 28, at 2; *see* RFAAX 39, at 5–6. UC told the students that she did not know whether she had a history of attention-deficient/hyperactivity disorder (ADHD), and that she did not possess an identification card because it had been revoked due to a driving under the influence (DUI) arrest. RFAAX 28, at 2; *see* RFAAX 39, at 4–11. On that day, UC also interacted with Respondent and informed him that UC had been prescribed dextroamphetamine-amphetamine by another doctor two to three years prior, and that she was again seeking prescriptions of dextroamphetamine-amphetamine because it helps her ''g[e]t along better.'' RFAAX 28, at 2; RFAAX 39, at 16. She witnessed Respondent check the state prescription drug monitor program (PDMP) for prior prescription of dextroamphetamine-amphetamine, but he was not able to find a record of any controlled substance prescribed to UC in the past five years. RFAAX 28, at 2–3; *see* RFAAX 39, at 19. UC also explained to Respondent that she had been arrested for DUI, and Respondent then discussed the seriousness of alcoholism. RFAAX 28, at 3; RFAAX 39, at 23–24. Thereafter, without diagnosing or specifying the nature of UC's condition and without counseling UC regarding any condition, Respondent prescribed 30 tablets of dextroamphetamine-amphetamine 5mg to be taken two times per day for 15 days. RFAAX 28, at 3; *see* RFAAX 35, at 1.

Regarding the June 11, 2021, interaction, UC noted that she engaged in telephone conversations with staff members at the practice but not directly with Respondent. RFAAX 28, at 4; *see* RFAAX 40, at 1–8. UC communicated with one of the students working at the practice and informed her that she was taking two tablets once a day instead of one tablet twice a day. RFAAX 28, at 4; RFAAX 40, at 5. The only comment that UC made to the student was that the medication ''just did not last throughout the day.'' RFAAX 40, at 5; RFAAX 28, at 4. The student then informed UC that she would speak to Respondent and check if UC's prescription strength could be increased. RFAAX 28, at 4–5; RFAAX 40, at 6. The student then called back and informed UC that Respondent would increase UC's prescription strength to 10mg of dextroamphetamine-amphetamine two times per day for two weeks. RFAAX 28, at 5; RFAAX 40, at 7–8. Ultimately, without speaking to or reevaluating UC, Respondent prescribed 60 tablets of dextroamphetamine-amphetamine and increased the prescription strength to 10 mg to be taken two times per day for 30 days. RFAAX 28, at 5; RFAAX 35, at 2.

Regarding UC's third interaction with Respondent's office on August 9, 2021, UC spoke to a student working for Respondent about again increasing the strength of dextroamphetamine-amphetamine. RFAAX 28, at 5; *see* RFAAX 41, at 1–4. When the student inquired about the reason for the request to increase the prescription strength, UC responded that ''I just think it doesn't last long enough.'' RFAAX 41, at 2; RFAAX 28, at 5. The student called back and informed UC that Respondent, who did not speak to UC or reevaluate UC in person, was increasing the dextroamphetamine-amphetamine prescription to 15 mg for two times per day for 30 days. RFAAX 28, at 5; *see* RFAAX 41, at 3; RFAAX 35, at 3. The

[8] When comparing the documents that UC stated that she did not complete with the ones that she did, the signatures of the two sets of documents appear to be different. For example, UC completed the Authorization For Release of Confidential Information and the Patient Cancellations forms, and her signature shows a space between her first name and last name. RFAAX 32, at 6, 8. But on the forms that UC declared that she did not complete, such as the Patient Medication Risk form and the Consent and Contract to Participate in treatment using Stimulant Medication form, her signature is devoid of the space between the first and last name. RFAAX 32, at 15, 20; *see* RFAAX 28, at 3–4. In fact, UC attested in her declaration that Respondent had copied her signature from the Disability Related Paperwork Protocol form, which she had signed, to other forms that she never filled out. RFAAX 28, at 4; *see* RFAAX 32, at 14. In this case, when comparing the documents and reviewing the evidence of record, the Agency finds that UC's statement regarding her forged signature is true and correct.

student also mentioned to UC that Respondent had requested an in-office visit for the next appointment to perform a urine drug screen. RFAAX 28, at 5; RFAAX 41, at 3.

Supporting UC's statements regarding the prescriptions, the record shows that a DEA diversion investigator also provided a declaration under penalty of perjury pursuant to 28 U.S.C. 1746 that he generated a spreadsheet report from Pennsylvania PDMP, which is a state-run program that includes a computerized platform administered by the Pennsylvania Department of Health. RFAAX 29, at 2–3. The Pennsylvania PDMP shows that prescriptions for amphetamine salt combo in tablet forms were written and filled by Respondent on May 17, 2021, June 11, 2021, and August 9, 2021. RFAAX 34, 1–3; RFAAX 32, 48–50.

As previously mentioned, there was substantial evidence that UC never completed the above-mentioned medical documents or underwent diagnostic tests. Based on the transcript of UC's initial visit and two phone conversations and UC's signed and dated declaration, there is substantial record evidence that Respondent improperly prescribed controlled substances by failing to diagnose UC or counsel UC regarding the medical condition prior to issuing the three prescriptions.[9] Furthermore, the Agency finds substantial record evidence that Respondent prescribed controlled substances to UC on three separate occasions without providing an accurate and complete initial evaluation or any reevaluation.

IV. Discussion

While the Agency has considered all the public interest factors of 21 U.S.C. 823(g)(1), the Government's evidence in support of its *prima facie* case primarily implicates Factors B and D. RFAA, at 11–19. Evidence is considered under Factor B when it reflects experience dispensing controlled substances and under Factor D when it reflects compliance or non-compliance with laws related to controlled substances. *Kareem Hubbard, M.D.,* 87 FR 21156, 21162 (2022).[10]

[9] The August 9, 2021, prescription shows diagnoses of major depressive disorder and ADHD. RFAAX 35, at 3. However, the transcripts of one in-person visit and two phone conversations do not reflect Respondent's diagnoses of such disorders or any counseling regarding the conditions that were diagnosed. *See* RFAAX 39, at 1–26; RFAAX 40, at 1–8; RFAAX 41, at 1–4.

[10] Historically, the Agency has analyzed Factors B and D together. However here, the Agency will analyze Factors B and D separately to capture the conduct Congress intended the Agency to consider under Factor B that is not captured under Factor D. *See Kungys* v. *United States,* 485 U.S. 759, 778 (1988) (referencing the ''cardinal rule of statutory interpretation that no provision should be construed to be entirely redundant'').

A. Factor D: Compliance With Applicable State, Federal, or Local Laws Relating to Controlled Substances

Under Factor D, the Agency considers a registrant's ''[c]ompliance with applicable State, Federal, or local laws relating to controlled substances.'' 21 U.S.C. 823(g)(1)(D). In the current matter, the Government has alleged that Respondent violated Pennsylvania laws and federal law related to controlled substances. RFAAX 3, at 1–7. Specifically, the OSC alleges that Respondent did not comply with 49 Pa. Code § 16.92(a)(4) and 49 Pa. Code § 16.95(a)–(e) because he failed to maintain medical records that are accurate, legible, and complete, and thereby failed to meet minimum Pennsylvania standards involving the prescribing of controlled substances. RFAAX 3, at 2–5. The OSC also alleges that Respondent was not compliant with 21 CFR 1306.04(a) when he issued the prescription without a legitimate medical purpose. RFAAX 3, at 1.

1. False Medical Records

Specifically, the Agency finds that Respondent submitted multiple documentations that were not completed or filled out by UC. *See* RFAA, at 15–18. UC attested that she never filled out the Patient Symptom Intake Form, History and Personal Data Questionnaire, Patient Medication Risk, Consent and Contract to Participate in Treatment Using Stimulant Medication, Urine Drug Screen—12 Panel Integrated Test Cup dated May 17, 2021, Audit C, Patient Health Questionnaire (PHQ–9), GAD–7 Anxiety, and Adult ADHD Self-Report Scale Symptom Checklist. RFAAX 28, at 3–4. However, Respondent produced those documents pursuant to DEA's subpoena. *See* RFAXX 32, at 2–4, 15–21, 30–38. Crediting UC's attestation, it appears that Respondent submitted numerous falsified documents to give the appearance that he was in compliance with the law.

Not only were the relevant documents not completed by UC as they purported to be, but the contents of the documents are inaccurate. For example, UC stated that she never told Respondent that she had used cannabis to alleviate anxiety or lessen alcohol use, or that she possessed a medical marijuana card. RFAAX 28, at 6. The transcripts of UC's interaction with Respondent and his staff confirm UC's statement that she never told Respondent that she had used cannabis or possessed a marijuana card. *See* RFAAX 39, at 1–26; *see also* RFAAX 28, at 1–7. However, Respondent's records include an evaluation stating that ''[UC] admits to periodic cannabis use to help anxiety, less alcohol use. Reports Medical Marijuana Card. Could not find her name in the Medical Cannabis Registry.'' RFAAX 32, at 43. The records also include a letter indicating that Respondent had to terminate his ''professional relationship'' with UC because of her cannabis use. RFAAX 32, at 47. UC never received the purported patient termination letter or other notice that she was discharged as a patient. RFAAX 26, at 6.

Based on the entire record, including UC's credible declaration, the Respondent's falsification of medical records displays a clear violation of state law. Specifically, the Agency finds substantial record evidence that Respondent violated 49 Pa. Code § 16.92(a)(4) by failing to maintain medical records that were accurate and complete when prescribing controlled substances. *See* RFAAX 28, at 1–7; RFAAX 39, at 1–26; RFAAX 40, at 1–8; RFAAX 41, at 1–4. Similarly, the Agency finds substantial record evidence that Respondent violated 49 Pa. Code § 16.95(a) by failing to provide accurate, legible and complete records regarding the evaluation and treatment of UC. *See* RFAAX 28, 1–7. Therefore, the Agency finds that Respondent failed to comply with applicable state laws involving the recordkeeping of controlled substances.

2. Improper Prescribing

Moreover, as discussed above, the Agency found that Respondent prescribed dextroamphetamine-amphetamine on three separate occasions without performing an initial examination that included a diagnostic test or an objective evaluation, conducting a reevaluation when increasing the strength of the controlled substances, and counseling the patient regarding the diagnosed condition. *See* RFAAX 28, at 1–7; RFAAX 39, at 1–26; RFAAX 40, at 1–8; RFAAX 41, 1–4. For instance, UC never completed a form related to her medical history or her symptoms and did not undergo any diagnostic tests. RFAAX 28, at 3–6; *see* RFAAX 39, at 1–26; RFAAX 40, at 1–8; RFAAX 41, 1–4. Respondent did not reevaluate UC's condition when she requested that her prescription be refilled with a higher dosage. *See* RFAAX 40, at 1–8; RFAAX 41, at 1–4.

Additionally, Respondent never counseled UC regarding the condition diagnosed and the controlled substance

prescribed; instead, he merely stated, ''[h]opefully[,] you'll be able to uh focus and concentrate and work on your sobriety.'' RFAAX 39, at 23. As such, the Agency finds substantial record evidence that Respondent's prescribing practices violated Pennsylvania's minimum standards required to be carried out when prescribing controlled substances. 49 Pa. Code § 16.92(a)(1)–(3).

Furthermore, the Agency finds that Respondent's improper prescribing violated both federal and state law, namely 21 CFR 1306.04(a) and 28 Pa. Code § 25.52(a), when he prescribed controlled substances without a proper examination and diagnosis,[11] RFAAX 35, at 1–3, and falsified medical records in an attempt to conceal the unlawful prescribing practices. *See* RFAAX 32, at 21, 22–38, 46. Respondent seems to have falsified medical records and fabricated diagnostic test results and the urine test result because he knew that he lacked a legitimate medical purpose [12] for prescribing dextroamphetamine-amphetamine. *See Hunt,* 75 FR at 50003 (finding that falsifying medical records demonstrates a practitioner's knowledge or awareness of a lack of legitimate medical purpose when prescribing controlled substances).

Accordingly, because Respondent was not in compliance with state and federal laws relating to controlled substances, the Agency finds that Factor D weighs in favor of revoking Respondent's registration and, thus, finds Respondent's continued registration to be inconsistent with the public interest. *See John X. Qian,* 87 FR 8039, 8055 (2022) (''DEA's ability to assess whether controlled substances registrations are consistent with the public interest is predicated upon the ability to consider the evidence and rationale of the practitioner at the time that he prescribed a controlled substance—adequate documentation is critical to that assessment.'').

As Respondent's case was properly terminated by the ALJ, he has waived the opportunity to present evidence and, therefore, to rebut the Government's *prima facie* case.[13] *See* RFAAX 26, 1–9.[14] The Government's *prima facie* case was established by substantial record evidence. Accordingly, the Agency finds that there is substantial and uncontroverted record evidence supporting the revocation of Respondent's registration based on Factor D alone. 21 U.S.C. 823(g)(1)(D); *see John X. Qian,* 87 FR 8039, 8055 (revoking the respondent's registration, in part, because the Agency found that ''recordkeeping is not only important for compliance, but also for the safety of the patients'').

3. Factor B: The Applicant's Experience in Dispensing With Respect to Controlled Substances

As already discussed, the CSA gives the Attorney General authority to revoke a registration if he determines that the registrant ''has committed such acts as would render his registration . . . inconsistent with the public interest as determined under [section 823].'' 21 U.S.C. 824(a). One of the five factors that the Attorney General must consider in making this determination is the registrant's ''experience in dispensing . . . controlled substances.'' 21 U.S.C. 823(g)(1)(B) (Factor B). Neither the statute nor the implementing regulations define the term ''experience'' or places any limitations on the type of conduct that may be considered as ''experience'' under Factor B.[15]

Historically, the Agency's Factor B [16] analysis considered ''both the qualitative manner and quantitative volume of the [practitioner's] experience . . . as expressed through his patients and employees'' and concluded that the record must contain quantitative evidence regarding the practitioner's experience for the Agency to find that Factor B weighs against a practitioner. *E.g., Clair L. Pettinger,* 78 FR 61592, 61619 (2013). In 2015, the Agency abandoned this language, observing that the text of Factor B did not require DEA to consider the practitioner's ''quantity'' of prescribing. *See JM Pharmacy Group, Inc.,* 80 FR 28667, 28667–68 (2015); *see also Wesley Pope, M.D.,* 82 FR 14944, 14982 (2017). The Agency reviewed dictionary definitions of ''experience,'' including:

(1) The ''direct observation of or participation in events as a basis for knowledge,'' (2) ''the fact or state of having been affected by or gained knowledge through direct observation or participation,'' (3) ''practical knowledge, skill, or practice derived from direct observation of or participation in events or in a particular activity,'' and (4) ''the length of such participation.''

JM Pharmacy Group, 80 FR at 28667 n.2 (citing *Webster's Collegiate Dictionary* 409 (10th ed. 1998); *The Random House Dictionary of the English Language* 681 (2d ed. 1987)).

The word ''dispense'' means ''to deliver a controlled substance[ ] to an ultimate user or research subject by, or pursuant to the lawful order of a practitioner, including the prescribing or administering of a controlled substance and the packaging, labeling or compounding necessary to prepare the substance for such delivery.'' 21 U.S.C. 802(10). This definition encompasses, among other things, practitioners who prescribe controlled substances and pharmacies who fill controlled substance prescriptions. *Id.* The term ''controlled substance'' simply means ''a drug or other substance . . . included in schedule I, II, III, IV, or V . . . .'' 21 U.S.C. 802(6). Thus, the phrase ''experience in dispensing'' means the direct participation in the act of delivering, prescribing, dispensing, or administrating a controlled substance to an ultimate user.

The phrase ''experience in dispensing'' must be considered within the context of DEA's broad mandate under 21 U.S.C. 824(a) to deregister practitioners who ''ha[ve] committed such acts as would render [their] registration . . . inconsistent with the public interest.'' 21 U.S.C. 824(a)(4). In other words, in determining what type

[11] The Government typically establishes that a practitioner issued prescriptions without a legitimate medical purpose or outside the usual course of professional practice in violation of 21 CFR 1306.04(a) through, or with the support of, expert testimony. However, prior DEA decisions have found that the nature of the allegations and the evidence on the record can establish violations of Section 1306.04(a) without necessitating the support of expert opinion. *Zeljko Stjepanovic, M.D.,* 85 FR 80152, 80155–56 (2020) (citing DEA decisions that found that even without expert testimony, prescriptions can lack a legitimate medical purpose). For example, a prior DEA decision found that a physician lacked legitimate medical purpose based on statements made during undercover visits and falsification of patient chart. *Robert F. Hunt, D.O.,* 75 FR 49995, 50003 (2010).

[13] The Administrative Procedure Act (APA) provides that ''administrative law judges'' can ''preside at the taking of evidence.'' 5 U.S.C. 556(b)(3). Furthermore, 21 CFR 1316.52 provides that a ''presiding officer,'' such as this ALJ, has a ''duty to conduct a fair hearing, to take all necessary action to avoid delay, and to maintain order.'' *Id.*

[14] The Agency issued an interim order indicating that the ALJ had the authority to terminate the case.

[15] The only limitation discussed in the legislative history on DEA's authority under Factor B is that DEA should not ''construe[this factor] in any way to hinder registration of recent graduates of professional schools who may have no professional experience dispensing or conducting research with controlled substances.'' H.R. REP. NO. 98–835, pt. 1, at 14 (1984).

[16] Historically, the Agency referred to ''Factor B'' as ''Factor Two.'' Effective December 2, 2022, the Medical Marijuana and Cannabidiol Research Expansion Act, Public Law 117–215, 136 Stat. 2257 (2022) (Marijuana Research Amendments or MRA), amended the Controlled Substances Act (CSA) and other statutes. Relevant to this matter, the MRA redesignated the public interest factors outlined at 21 U.S.C. 823(f)(1–5), which the Agency referred to as Factors One through Five, as 21 U.S.C. 823(g)(1)(A–E), which the Agency now refers to as Factors A through E. Accordingly, this Decision cites to the current designation, 21 U.S.C. 823(g)(1)(B), ''Factor B.''

of conduct is relevant under Factor B, DEA's primary focus is to determine whether a registrant's ''experience in dispensing'' is ''inconsistent with the public interest'' or whether a registrant's dispensing constitutes ''acts'' that are inconsistent with the public interest. 21 U.S.C. 823(g)(1), 824(a)(4).

The word ''inconsistent'' is not defined in the CSA, but it is commonly defined as ''lacking consistency: such as (a) not compatible with another fact or claim, [and] (b) containing incompatible elements.'' *Inconsistent,* Merriam-Webster, *https://www.merriam-webster.com/dictionary/inconsistent* (last visited on the date of signature). ''Public interest'' is not explicitly defined in the CSA, but Congress identifies the primary ''public interest'' goals in the CSA's introductory section as ensuring access to controlled substances used for a ''legitimate medical purpose'' while protecting the public from the ''illegal . . . distribution . . . and improper use of controlled substances[, which] have a substantial and detrimental effect on the health and general welfare of the American people.'' 21 U.S.C. 801(1) & (2).

Considering these goals, DEA's Factor B analysis primarily concerns whether a registrant's ''experience in dispensing'' reflects illegal distribution or improper use of controlled substances that is inconsistent with the public interest. *Id.* In the context of a practitioner, this would require the Agency to evaluate whether he or she has dispensed controlled substances in a manner that is improper, illegal, or inconsistent with the public interest; for example, by issuing prescriptions without conducting a proper examination or developing a supported diagnosis; ignoring patient indications of abuse, diversion, or improper use; issuing a prescription in a manner that is inconsistent with state law or the state's standards of practice; or issuing prescriptions for controlled substances in a way that creates a risk of diversion.[17]

Of course, the Agency is not only concerned with acts of intentional diversion [18] but also with acts of ''[c]areless or negligent handling of controlled substances[, which] creates the opportunity for diversion and [can] justify the revocation of an existing registration . . . .'' *Samson K. Orusa, M.D.,* 87 FR 2986, 3018 (2022) (quoting *Paul J. Caragine, Jr.,* 63 FR 51592, 51602 (1998)); *Dewey C. MacKay, M.D.,* 75 FR 49956, 49974 n.35 (2010) (''Accordingly, under the public interest standard, DEA has authority to consider those prescribing practices of a physician, which, while not rising to the level of intentional or knowing misconduct, nonetheless create a substantial risk of diversion.''). Indeed, neither 21 U.S.C. 824(a) nor 21 U.S.C. 823(g) requires DEA to find that a registrant has intentionally diverted controlled substances. Ultimately, a registrant whose dispensing practices create an environment that encourages or is indifferent to the abuse or diversion of controlled substances is acting outside the public's interest.[19] As the opioid epidemic surges and other controlled substances, such as amphetamines, ketamine, and benzodiazepines, are increasingly abused, DEA must remain vigilant to protect the public against registrants who fail to employ the CSA's safeguards to ensure the health and general wellness of the American public.

Registrants ''may continue to introduce evidence as to . . . lawful . . . dispensing activities.'' [20] However, the Agency has found that ''evidence that a practitioner has treated thousands of patients does not negate a *prima facie* showing that the practitioner has committed acts inconsistent with the public interest.'' *Krishna-Iyer,* 74 FR at 463. Accordingly, the Agency has consistently rejected registrants' arguments that acts of unlawful prescribing were mitigated by years of lawful prescribing. *See, e.g., Syed-Jawed Akhtar-Zaidi,* 80 FR 42961, 42967 (2015), pet. for rev. denied, 841 F.3d 707, 713 (6th Cir. 2016) (rejecting the respondent's argument that he was denied a ''fair adjudication'' because the Government seized 400 patient files but only proved the illegality of a handful of prescriptions issued during undercover visits, and finding that ''the physician's prescribings to thousands of other patients do not . . . render her prescribings to the undercover officers any less unlawful, or any less acts which are inconsistent with the public interest'') (internal quotations and citations omitted).[21]

Here, as the Agency found above, Respondent repeatedly issued improper prescriptions for controlled substances to UC because he did not order or perform diagnostic tests in order to provide a proper diagnosis, counsel UC regarding her condition, or reevaluate UC prior to increasing the dosage of the prescriptions. The Agency finds that Respondent's repeated issuance of prescriptions without adhering to the minimum standards of Pennsylvania's medical practice reflects ''experience in dispensing . . . controlled substances'' that created an opportunity for the abuse or diversion of controlled substances and was outside the public interest. Respondent also failed to maintain accurate and complete records of controlled substances which created further opportunities for abuse and diversion. Moreover, as noticed in the OSC, falsification of medical records to conceal the true nature of prescribing practices is conduct which threatens the public health and safety. RFAAX 3, at 3. Such questionable prescribing

[17] Analysis of whether a prescription is illegally filled, distributed, prescribed, or possessed also fit within Factor D, ''Compliance with applicable State, Federal, or local laws relating to controlled substances.'' 21 U.S.C. 823(g)(1)(D).

[18] Only criminally unlawful conduct requires an act of intentional diversion such as proof that a physician ''used 'his authority to prescribe controlled substances . . . not for treatment of a patient, but for the purpose of assisting another in the maintenance of a drug habit' or some other illegitimate purposes, such as his own 'personal profit.' '' *United States* v. *McIver,* 470 F.3d 550, 559 (4th Cir. 2006) (quoted in *Laurence T. McKinney,* 73 FR 43260, 43266 (2008). *Compare* 21 U.S.C. 823 and 824, *with* 21 U.S.C. 841, 842, 843.

[19] Additional questionable conduct outside the public interest includes postdating prescriptions, issuing prescriptions despite concerns from other physicians or pharmacists, continuing to prescribe controlled substances to patients even after the practitioner had indicated that he would stop issuing them, ignoring signs that patients were abusing the controlled substances or were serious risk of doing so, ignoring the possibility that multiple accident and injuries reported by the patients could be drug-seeking behavior, and failing to maintain any patient file. *Caragine,* 63 FR at 51599–51600.

[20] *Randall L. Wolff, M.D.,* 77 FR 5106, 5153 (2012) (finding that evidence of lawful prescribing is ''entitled to some evidentiary weight only in cases where a practitioner credibly demonstrates an acceptance of responsibility and reform of past practices''); *see also Roberto Zayas, M.D.,* 82 FR 21410, 21422 n.27 (2017) (''[T]he Agency properly considers a [registrant's] evidence of a lengthy history of compliance after the Government makes out its prima facie case, as determining what sanction is necessary to protect the public interest is the ultimate purpose of these provisions.''). In other words, this evidence may be relevant to the Agency's sanctions analysis. ''[E]very registrant can undoubtedly point to an extensive body of legitimate prescribing over the course of [their] professional career.'' *Krishna-Iyer,* 74 FR at 463. Accordingly, except where the Agency has found in its decision that a prescription was issued outside the public interest or in violation of law, the Agency assumes that all controlled substances prescribed by a practitioner are prescribed for a legitimate medical purpose and in accordance with relevant laws. *See Dewey C. Mackay, M.D.,* 75 FR at 49977 (citing *Krishna-Iyer,* 74 FR at 463) (pointing out that a ''registration [to prescribe controlled substances] is limited to those who have authority to dispense controlled substances in the course of professional practice.'').

[21] In an unreported opinion, the Sixth Circuit affirmed DEA's conclusion that the respondent's acts of unlawful prescribing outweighed his years of work experience. *Orusa* v. *Drug Enf't Admin.,* 2023 WL 3886403 at *5 (''Orusa's credentials and years of work experience, which the agency acknowledged, do nothing to disturb the agency's detailed review of his prescribing history—the relevant ''experience in dispensing . . . controlled substances.'').

patterns reflected in the record are outside the public interest.

Moreover, Respondent failed to provide the Agency with any evidence related to its ''experience in dispensing'' that served the public's interest. Accordingly, the Agency finds that Factor B also weighs strongly against Respondent's continued registration.[22]

III. Sanction

Where, as here, the Government has met its *prima facie* burden of showing that Respondent's continued registration would be inconsistent with the public interest, the burden shifts to Respondent to show why he can be entrusted with a registration. *Morall,* 412 F.3d. at 174; *Jones Total Health Care Pharmacy,* 881 F.3d at 830; *Garrett Howard Smith, M.D.,* 83 FR 18882 (2018). The issue of trust is necessarily a fact-dependent determination based on the circumstances presented by the individual respondent. *Jeffrey Stein, M.D.,* 84 FR 46968, 46972 (2019); *see also Jones Total Health Care Pharmacy,* 881 F.3d at 833. Moreover, as past performance is the best predictor of future performance, DEA Administrators have required that a registrant who has committed acts inconsistent with the public interest must accept responsibility for those acts and demonstrate that it will not engage in future misconduct. *Jones Total Health Care Pharmacy,* 881 F.3d at 833; *ALRA Labs, Inc.* v. *Drug Enf't Admin.,* 54 F.3d 450, 452 (7th Cir. 1995). A registrant's acceptance of responsibility must be unequivocal. *Jones Total Health Care Pharmacy,* 881 F.3d at 830–31. In addition, a registrant's candor during the investigation and hearing has been an important factor in determining acceptance of responsibility and the appropriate sanction. *Id.* Further, the Agency has found that the egregiousness and extent of the misconduct are significant factors in determining the appropriate sanction. *Id.* at 834 n.4. The Agency has also considered the need to deter similar acts by the respondent and by the community of registrants. *Jeffrey Stein, M.D.,* 84 FR at 46972–73.

Regarding these matters, there is no record evidence that Respondent takes responsibility, let alone unequivocal responsibility, for the founded violations. Therefore, it is not reasonable to believe that Respondent's future controlled substance-related actions will comply with legal requirements. In fact, instead of admitting that Respondent failed to adhere to federal and state laws, he falsified medical records to conceal his unlawful prescribing practices. Accordingly, Respondent did not meet his burden of convincing the Agency that he can be entrusted with a registration.

Further, the interests of specific and general deterrence weigh in favor of revocation. Given the foundational nature of Respondent's noncompliance of state laws by failing to properly document UC's medical condition and treatment and Respondent's noncompliance of federal law by repeatedly issuing prescriptions without a legitimate medical purpose, a sanction less than revocation would send a message to the existing and prospective registrant community that compliance with the law is not essential to maintaining a registration.

Here, Respondent has made no representation regarding his future compliance with the CSA nor made any demonstration that he can be trusted with registration. On the other hand, the evidence submitted by the Government shows that Respondent cannot be entrusted with a registration; in particular, the falsification of medical records during the investigation shows a complete lack of candor of Respondent. *See Jones Total Health Care Pharmacy,* 881 F.3d at 830–31.

Accordingly, the Agency finds that the factors weigh in favor of sanction and will order revocation of Respondent's registration as contained in the Order below.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a) and 21 U.S.C. 823(g)(1), I hereby revoke DEA Certificate of Registration No. BR7552272, in Easton, Pennsylvania, issued to Muhamad Aly Rifai, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending application of Muhamad Aly Rifai, M.D, to renew or modify this registration, as well as any other pending application of Muhamad Aly Rifai, M.D., for additional registration in Pennsylvania. This Order is effective November 18, 2026.

Signing Authority

This document of the Drug Enforcement Administration was signed on October 5, 2026, by DEA Administrator Terrance C. Cole. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DEA. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Heather Achbach,

Federal Register Liaison Officer, Drug Enforcement Administration.

[FR Doc. 2026–21258 Filed 10–16–26; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On October 9, 2026, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Ohio in the lawsuit entitled *United States and State of Ohio* v. *Renergy, Inc., Dovertail Energy, LLC, and Emerald Bioenergy, LLC,* Civil Action No. 2:26–CV–01286.

The United States and the State of Ohio filed this action under the Clean Air Act. The complaint seeks injunctive relief and civil penalties for violations at Defendants' biogas facilities located at 1156 Herr Road in Fairborn, Ohio (Dovetail Facility) and at 2279 County Road 156 in Cardington, Ohio (Emerald Facility). The consent decree requires Defendants to perform injunctive relief and pay a $15,000 civil penalty, which is based on Defendants' demonstrated limited ability to pay a penalty.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Principal Deputy Assistant Attorney General, Energy and Natural Resources Division, and should refer to *United States and State of Ohio* v. *Renergy, Inc., Dovertail Energy, LLC, and Emerald Bioenergy, LLC,* D.J. Ref. No. 90–5–2–1–12791. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

[22] While the Agency has determined that Respondent's dispensing conduct is relevant to Factors B and D, to the extent that the found conduct does not fall within these factors, it would nevertheless constitute ''other conduct which may threaten the public health and safety.'' 21 U.S.C. 823(g)(1)(E). Respondent's repeated dispensing of controlled substances without a proper diagnosis of UC's condition and without complete and accurate documentation of UC's treatment, and Respondent's falsification of medical records may threaten the public health and safety by creating the risk that controlled substances may leave the CSA's closed distribution system and be abused or diverted.

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Principal Deputy Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* If you require assistance accessing the Proposed Consent Decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Thomas A. Benson,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2026–21263 Filed 10–16–26; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Prohibited Transaction Exemption 2026–09; Application Number L–12076]

Exemption for Certain Prohibited Transactions Involving the International Brotherhood of Electrical Workers Local Union No. 99 Joint Apprenticeship Training Fund (the Fund or the Applicant) Located in Cranston, Rhode Island

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This exemption permits the International Brotherhood of Electrical Workers Local Union No. 99 Joint Apprenticeship Training Fund (the Fund) to purchase certain improved real property located at 40 Western Industrial Drive, Cranston, Rhode Island (the Property) from Local Union 99 Realty Corporation (Realty Corp), an entity that is 100% owned and controlled by IBEW Local 99 (the Union), a party in interest with respect to the Fund. Absent an exemption, this transaction would violate the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (ERISA).

DATES: Exemption date: This final exemption will be in effect as of October 19, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Blessed Chuksorji-Keefe, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor, at *Chuksorji.Blessed@dol.gov.*

SUPPLEMENTARY INFORMATION:

Background: On June 3, 2026, the Department published a notice of proposed exemption in the **Federal Register** at 91 FR 33200 (Proposed Exemption). The Proposed Exemption involves the Fund's purchase of the Property from the Union in exchange for a cash payment equal to the lesser of $1,610,000 or the appraised fair market value of the Property updated on the date of the sale. The Fund has leased the Property since 2011 for use by the Local #99 Joint Apprenticeship Training Committee (JATC) Training Program.

Benefits of the Exemption: The Department is granting relief based, in part, on the Applicant's representations that the Fund will: (1) save approximately $45,000 per year in operating expenses as a result of the Purchase; (2) not be required to reimburse the Union for the approximately $900,000 in improvements the Union made to the Property to make it suitable for the JATC Training Program; and (3) not pay any closing costs in connection with the purchase, which could total as much as $52,500.

Comments: In the Proposed Exemption, the Department invited all interested persons to submit written comments and/or requests for a public hearing with respect to the Proposed Exemption. All comments and requests for a hearing were due to the Department by July 20, 2026. The Department did not receive any written comments or requests for a public hearing with respect to the Proposed Exemption.[1]

Based on the record, the Department has determined to grant the Proposed Exemption. In order to clarify the operative text, the Department has added a ''Definitions'' section and made several non-substantive edits. This exemption provides only the relief specified herein and does not provide relief from violations of any law other than the prohibited transaction provisions of ERISA. The Department makes the requisite findings under ERISA section 408(a) that the exemption is: (1) administratively feasible for the Department, (2) in the interest of the Fund and its participants and beneficiaries, and (3) protective of the rights of the participants and beneficiaries of the Fund, based on the Applicant's adherence to all the conditions and definitions of the exemption at all times. Accordingly, affected parties should be aware that the conditions and definitions incorporated in this exemption are, taken individually and as a whole, necessary for the Department to grant the relief requested by the Applicant.

The complete application file (L–12076) is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N–1515, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210, reachable by telephone at 1–866–444–3272. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, please refer to the Proposed Exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA section 408(a) does not relieve a fiduciary or other party in interest from certain other provisions of ERISA, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA section 404, which, among other things, require a fiduciary to discharge their duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with ERISA section 404(a)(1)(B);

(2) As required by ERISA section 408(a), the Department hereby finds that the exemption is (1) administratively feasible for the Department, (2) in the interests of the Fund and its participants and beneficiaries, and (3) protective of the rights of participants and beneficiaries of the Fund;

(3) The exemption is supplemental to, and not in derogation of, any other ERISA provisions, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of determining whether the transaction is in fact a prohibited transaction; and

(4) The availability of this exemption is subject to the express condition that the material facts and representations

[1] All information submitted by the Applicant to the Department in connection with this exemption is available through the Department's Public Disclosure Room, by referencing L–12076.

contained in the application accurately describe all material terms of the transactions that are the subject of the exemption and are true at all times.

Accordingly, after considering the entire record developed in connection with the Applicant's exemption application, the Department has determined to grant the following exemption under the authority of ERISA section 408(a) in accordance with the Department's exemption procedures regulation set forth in 29 CFR part 2570, subpart B.[2]

Exemption

Section I. Definitions

(a) ''Fund'' or ''Applicant'' means the International Brotherhood of Electrical Workers Local Union No. 99 Joint Apprenticeship Training Fund.

(b) ''Union'' means IBEW Local 99, a local chapter of the International Brotherhood of Electrical Workers.

(c) ''Realty Corp'' means Local Union 99 Realty Corporation, an entity 100% owned and controlled by the Union.

(d) ''Property'' means the one-story metal and masonry office building located at 40 Western Industrial Drive, Cranston, Rhode Island.

(e) ''Independent Fiduciary'' means Gallagher Fiduciary Advisors, LLC, the entity prudently appointed by the Fund's Board of Trustees to act as the independent fiduciary on behalf of the Fund in connection with the exemption.

(f) ''Independent Appraiser'' means Peter M. Scotti & Associates of Providence, Rhode Island.

(g) ''Purchase'' means the Fund's acquisition of the Property from Realty Corp for cash.

(h) ''Appraisal Report'' means the report prepared by the Independent Appraiser appraising the Property, detailing the appraiser's findings, methodologies, and conclusions regarding the value of the Property.

Section II. Covered Transactions

The restrictions of ERISA sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1), and 406(b)(2) do not apply to the Fund's purchase of the Property from Realty Corp, a party in interest with respect to the Fund, provided the conditions in Section III are met.

Section III. Conditions

(a) The Purchase is a one-time transaction for cash. In the event the Fund finances the Purchase, it will do so with an unrelated, third-party bank and on terms that the Independent Fiduciary determines in writing are prudent and in the interest of, and protective of the rights of, the Fund;

(b) The Fund pays the lesser of either: (1) $1,610,000; or (2) the fair market value of the Property as established in an Appraisal Report that is updated on the date of the Purchase;

(c) The terms and conditions of the Purchase are no less favorable to the Fund than the terms the Fund would receive under similar circumstances in an arm's length transaction with an unrelated party;

(d) The Fund pays no fees, costs, commissions, or other expenses, other than necessary and reasonable fees, to any party in interest in connection with the Purchase;

(e) The Purchase is not part of an agreement, arrangement or understanding designed to benefit the Union;

(f) The Independent Appraiser must not have entered into, and must not enter into, any agreement, arrangement, or understanding that includes any provision that: (1) provides for the direct or indirect indemnification or reimbursement of the Independent Appraiser by the Fund or any other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the Independent Appraiser's work; or (2) waives any rights, claims or remedies of the Fund or its participants and beneficiaries under ERISA or other Federal and state laws against the Independent Appraiser with respect to the Purchase;

(g) *The Independent Fiduciary, prudently hired by the Fund's Board of Trustees:*

(1) Represents the Fund's interests for all purposes with respect to the Purchase;

(2) Determines in writing that the Purchase is in the interest of, and protective of, the Fund and its participants and beneficiaries, based on the most current information and assumptions;

(3) Reviews and approves the terms and conditions of the Purchase and any related transactions and takes any action necessary to enforce the rights of the Fund in connection with such transactions;

(4) Reviews the Appraisal Report, confirms that the underlying methodology is reasonable and accurate, and confirms that the valuation of the Property was reasonably derived;

(5) Ensures that the Independent Appraiser renders an updated fair market valuation of the Property as of the date of the Purchase;

(6) Determines in writing whether it is prudent for the Fund to proceed with the Purchase, based on the most current information and assumptions;

(7) Prepares a final report certifying that every condition in the exemption has been met with a description of any steps taken or information verified in order to make such certifications. The report will be delivered to the Department at *e-OED@dol.gov* within 60 days of the date of closing of the Purchase;

(h) The Independent Fiduciary must not have entered into, and must not enter into, any agreement, arrangement, or understanding that includes any provision that: provides for the direct or indirect indemnification or reimbursement of the Independent Fiduciary by the Fund or other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the Independent Fiduciary's work; or waives any rights, claims, or remedies of the Fund under ERISA, state, or Federal law against the Independent Fiduciary with respect to the transaction that is the subject of the exemption;

(i) The Independent Fiduciary must not enter into any agreement or instrument in connection with its appointment as Independent Fiduciary that violates section 410 of ERISA or section 2509.75–4 of the Department's regulations;

(j) The Fund's Board of Trustees and the Independent Fiduciary maintain for a period of six (6) years from the date of the Purchase, in a manner that is convenient and accessible for audit and examination, the records necessary to enable the persons described in paragraph (k)(1) below to determine whether conditions of this exemption have been met, except that (i) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Fund's Board of Trustees and/or the Independent Fiduciary, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than the Fund's Board of Trustees or the Independent Fiduciary shall be subject to the civil penalty that may be assessed under ERISA section 502(i) if the records are not maintained, or are not available for examination as required by paragraph (k) below; and

(k)(1) Except as provided in section (2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of ERISA section 504, the records referred to in paragraph (j) above shall be unconditionally available at their

[2] The procedures governing the Applicant's exemption request are found at 29 CFR part 2570, subpart B (76 FR 66637, 66644, Oct. 27, 2011).

customary location during normal business hours to:

(i) any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) the Fund's Board of Trustees or any duly authorized representative of the Fund's Board of Trustees;

(iii) the Independent Fiduciary or any duly authorized representative of the Independent Fiduciary;

(iv) any participant or beneficiary of the Fund, or any duly authorized representative of such participant or beneficiary;

(2) Should any party refuse to disclose information to a person on the basis that such information is exempt from disclosure, such party shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information;

(l) The Union, the Fund's Board of Trustees, and/or the Independent Fiduciary must provide to the Department the records necessary to demonstrate that the conditions of this exemption, as amended, have been met, within 30 days from the date the Department requests such records; and

(m) All the material facts and representations made by the Applicant that are set forth in the Summary of Facts and Representations of the Proposed Exemption are true and accurate at all times. If there is any material change in a transaction covered by the exemption, or in a material fact or representation described by the Applicant in the application, the exemption will cease to apply as of the date of the change.

Exemption date: The exemption will be in effect as of the date of publication of this final exemption in the **Federal Register**.

Signed at Washington, DC, this 14th day of October, 2026.

Christopher Motta,

Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2026–21277 Filed 10–16–26; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of Labor-Management Standards

Proposed New Information Collection; OLMS Public Submission Portal

ACTION: Notice; request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), the Department of Labor (Department) is planning to submit an information collection request (ICR), concerning the Office of Labor-Management Standards (OLMS) Public Submission Portal, to the Office of Management and Budget (OMB) for review and approval. The Department is soliciting public comments on specific aspects of this ICR.

DATES: Consideration will be given to all written comments received by December 18, 2026.

ADDRESSES: A copy of this ICR with applicable supporting documentation, including a description of the likely respondents, proposed frequency of response, and estimated total burden, may be obtained free by contacting Andrew C. Hasty at (202) 693–0123 (this is not a toll-free number). For persons with a hearing or speech disability who need assistance using the telephone system, please dial 711 to access telecommunications relay services.

Electronic submission: You may submit comments and attachments electronically at *https://www.regulations.gov.*

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Andrew C. Hasty, Chief of the Division of Interpretations and Regulations, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5609, Washington, DC 20210, by telephone at (202) 693–0123 (this is not a toll-free number), 711 (TTY/TDD), or by email at *olms-public@dol.gov*.

SUPPLEMENTARY INFORMATION: In 1959, Congress enacted the Labor-Management Reporting and Disclosure Act (LMRDA), 29 U.S.C. 401 *et seq.* to establish requirements for private-sector labor organizations, including the disclosure of financial and other information; standards for unions democracy, such as the election of officers and the establishment of trusteeships; and financial safeguards. The LMRDA also established reporting and disclosure requirements for employers in the private sector and their labor relations consultants, *see* 29 U.S.C. 402(e), (m). Congress also extended LMRDA requirements to labor organizations composed of U.S. Postal Service employees.

Labor organizations that represent employees of the executive branch agencies of the Federal Government, the Library of Congress, the Government Printing Office, and certain employees of the U.S. Congress are subject to the standards of conduct requirements of the Civil Service Reform Act (CSRA), 5 U.S.C. 7120, the Foreign Service Act (FSA), 22 U.S.C. 4117, or the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1301. These latter Acts and the implementing regulations at 29 CFR 457.10–.20 provide that, in administering the standards of conduct, the Department will be guided by the interpretations and policies followed by the Department of Labor in applying provisions of the LMRDA. 29 CFR 458.1.

As part of the Department's responsibilities, LMRDA section 601(a) provides that the Secretary of Labor has the power to investigate any person who has violated or is about to violate most provisions of the LMRDA, and may enter places, inspect records and accounts, and question individuals to determine the facts of an investigation. 29 U.S.C. 521(a). In addition, LMRDA sections 304(a) and 402(b) require the Secretary of Labor to investigate complaints filed by members of a labor organization regarding violations of trusteeship or the election of officers. 29 U.S.C. 464, 482. The investigative and enforcement functions of the Secretary of Labor under the LMRDA and other relevant statutes have been delegated to the Office of Labor-Management Standards (OLMS). 77 FR 69376. Consistent with this delegation, the Department, through OLMS, accepts complaints, questions, and tips regarding the application and potential violations of the LMRDA and other relevant federal laws as part of conducting an investigation or potential enforcement action.

In May 2024, the Department's Office of Inspector General (OIG) issued a report to OLMS with recommendations on how to improve enforcement.[1] One of these recommendations concerned the development of an online system to intake, track, and monitor submissions from the public alleging violations of the employer and labor relations consultant reporting requirements. At that time, a member of the public

[1] *See https://www.oig.dol.gov/public/reports/oa/2024/09-24-002-16-001.pdf.*

attempting to submit a complaint, question, or tip to the Department regarding the LMRDA or other relevant federal law could do so solely via telephone or email, leading to potential confusion and inability to ensure their complaint was received and difficulty for OLMS to track the complaint. The OIG found that having an online complaint intake form is the best practice for receiving complaints and tips from the public concerning potential violations of the LMRDA's employer and consultant reporting requirements and recommended that OLMS create an online system through which it could receive such information from the public.

To fulfill the OIG recommendation, and to ensure that members of the public have a clear and efficient method to contact OLMS with complaints, tips, or questions, the Department proposes a new information collection entitled, ''OLMS Public Submission Portal.'' The OLMS Public Submission Portal would be an online complaint, question, and tip system wherein any member of the public could submit complaints, tips, and inquiries concerning any aspect of the laws enforced by OLMS, specifically, the ''Persuader Tip Submission, Union Officer Election Complaint or Inquiry, Embezzlement/Financial Misconduct, LM Report Inquiries, and Public Inquiry and Complaint Forms,'' for review by OLMS. These forms would gather information from all respondents including personal contact information, the nature of their issue, and any details OLMS may need to best address their concerns. In relevant cases, an individual would be able to submit the form anonymously if they did not wish to be identified. Upon submission of the form, the respondent would receive confirmation of their submission. OLMS staff would then document the information in a new database and use the information provided on the form to review the issue, contact the submitter when appropriate and when contact information is provided, and determine whether further investigation into the allegations or issues raised may be required. For complaints whose information does not support OLMS action, complainants would be advised and referred to an appropriate agency, if any, for further assistance.

The Department estimates that it will receive approximately 3,500 responses on the OLMS Public Submission Portal, which is based on the Department's current methods of collecting complaints via email. In addition, the Department estimates that approximately 5 percent of these responses will come from respondents who have already filed a form on the OLMS Public Submission Portal, leading to a total of 3,325 annual respondents. Finally, the Department estimates that, based on the length and relative non-complexity of the forms, each response will take approximately 10 minutes to complete. As a result, the Department estimates an annual burden hour total of 583.33 hours for this information collection.

The Department invites comments on how members of the public would use the OLMS Public Submission Portal and the associated burden estimates. Comments submitted in response to this notice will be summarized and/or included in the submission to OMB for approval of the information collection request; they will also become a matter of public record. Commenters are encouraged not to submit sensitive information (*e.g.,* confidential business information, personally identifiable information such as a social security number).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

The Department seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal.

Agency: DOL–OLMS.

Type of Review: New.

Title of Collection: OLMS Public Submission Portal.

OMB Control Number: 1245–0NEW.

Affected Public: Private Sector.

Total Estimated Number of Respondents: 3,325.

Frequency: Varies.

Total Estimated Number of Responses: 3,500.

Estimated Average Time per Response: 10 minutes.

Total Estimated Annual Time Burden: 595 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3506(c)(2)(A)).

Andrew C. Hasty,

Chief of the OLMS Division of Interpretations and Regulations.

[FR Doc. 2026–21345 Filed 10–16–26; 8:45 am]

BILLING CODE 4510–86–P

LEGAL SERVICES CORPORATION

Notice of Revisions to Performance Area One of the LSC Performance Criteria

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Services Corporation (LSC) announces revisions to Performance Area One of its Performance Criteria. In Performance Area One, LSC established the indicators that LSC will use to evaluate grant recipients' processes for identifying the most pressing and emerging legal needs in their service areas and determining how they will deliver legal services tailored to most effectively address those needs. LSC is adopting a new criterion assessing strategic planning in addition to revising the existing criteria examining grant recipients' conduct of needs assessments, implementation of strategies to address legal needs, and self-examination of their effectiveness in delivering legal services.

DATES: The revised Performance Area will become effective on January 1, 2027.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Deputy General Counsel, Legal Services Corporation, 1825 I Street NW, Suite 800, Washington, DC 20006, 202–295–1563, *performancearea1@lsc.gov.*

SUPPLEMENTARY INFORMATION: LSC is revising Performance Area One of its Performance Criteria for the first time since 2007. The revisions to Performance Area One reflect trends in the delivery of legal services, particularly with respect to the evolution in non-profit management, including the increased use of technology; the increasing prevalence of state access to justice commissions; and a changed legal aid funding landscape. While the detail in and number of Areas of Inquiry and Indicators have expanded through this Revision, LSC's intention for the Performance Criteria has not changed. The Criteria remain, as LSC stated in 2007, ''a useful framework for internal program self-evaluations, planning, and program development, as well as external peer reviews and expert assessments by other funding sources,

such as IOLTA programs and government agencies.'' Legal Services Corporation, Performance Criteria, p. 1 (March 2007).

LSC undertook the Revisions to Performance Area One for several reasons. First, nonprofit management has evolved greatly in the last two decades focusing on increased professionalism, revenue diversification, data-driven accountability, and enhanced board governance and leadership practices.

Additionally, in 2021, the American Bar Association adopted revisions to its Standards for the Provision of Civil Legal Aid (Standards). The 2006 Standards guided LSC's development of the 2007 Performance Criteria. Consequently, LSC determined that it was appropriate to review and revise the Performance Criteria to the extent that they complement the Standards.

In a similar vein, LSC was motivated to update Performance Area One to reflect the efficiencies developed by legal services providers and created by technology. The delivery of legal services has changed significantly since 2007, with case management systems becoming more sophisticated in terms of the data they can collect and aggregate; legal aid organizations and courts conducting more business through videoconferencing and providing more legal information via mobile apps; and the nascence of artificial intelligence in intake and case management. Technological changes have also affected the ways in which legal services organizations and their partners conduct needs assessments and engage in strategic planning. The revisions to Performance Area One take these changes into account and ask evaluators to consider whether, and to what extent, legal aid organizations are using these strategies in their planning and operations.

Finally, LSC wanted to improve the structure and utility of Performance Area One as an evaluation tool. Although LSC has introduced new Areas of Inquiry and Indicators, LSC is presenting all Areas and Indicators in simpler, clearer language. LSC has also reorganized and renamed the four Criteria within Performance Area One to better reflect the needs assessment, strategic planning, implementation, and evaluation cycle.

LSC published the revisions to Performance Area One for public comment in early October 2025. During the comment period, LSC received eleven unique comments from executive directors of LSC grantees, collectives of LSC grantees, and national legal organizations. These commenters raised several concerns centered around the idea that LSC was taking the Performance Criteria in a more prescriptive direction. First, they stated that the proposed language appeared to turn the Performance Criteria into another enforcement tool rather than guidance. Second, they expressed concern that LSC was emphasizing numbers of clients served rather than overall impact on the client population in a grantee's service area. Finally, they opined that it appeared LSC expected all grantees, regardless of size, funding level, or service area characteristics, to conform to the same rigid schedule and elements of needs assessment and strategic planning. LSC did not intend to change the evaluation-centered focus of Performance Area One or to require all grantees to focus only on serving as many individual clients as possible, regardless of the needs in their respective service areas. LSC appreciates the concerns raised by these commenters and has revised the introduction to Performance Area One, introductions to each of the Criteria, and the Areas of Inquiry and Indicators as needed to resolve those concerns.

LSC has published the revised Performance Area 1 on its website at *https://www.lsc.gov/our-impact/publications/other-publications-and-reports/lsc-performance-criteria.* LSC will begin using the revised Performance Area 1 on January 1, 2027. LSC recognizes that it may take time, guidance, and experience for all grantees to adjust to the revisions. LSC will, therefore, provide training and forums to discuss the implementation of the changes. When conducting program assessments, LSC staff will take the scope of the revisions and each program's capacity into consideration when making recommendations.

Overview of Changes

LSC revised Performance Area One to clarify and enhance existing guidance by presenting a more structured and integrated framework for legal aid organizations to consider in carrying out their work. The current version of the Performance Criteria describes core concepts in a more narrative format. The proposed revisions reorganize these concepts to more clearly reflect the relationship among needs assessment, strategic planning, priority setting, and evaluation. This reorganization is intended to help grantees understand how these activities may operate together as part of an ongoing process, while preserving flexibility and not prescribing a single required approach.

The proposed revisions also provide additional details to illustrate considerations that may inform an organization's approach. For example, under Criterion 1 (Needs Assessment), the proposed indicators describe a range of methods that organizations might use to identify the most pressing legal needs of their client communities, including consultation with community partners, review of available data, and use of information gathered during statewide assessments (see Proposed Indicators 1 and 2). The new indicators further describe ways in which organizations may consider the needs of different populations and the role that other service providers in the service area play in serving their shared client populations (see Proposed Indicators 3 and 4). These revisions are intended to provide greater clarity regarding the types of information that may be relevant to a comprehensive assessment, without requiring the use of any particular methodology.

Under Criterion 2 (Strategic Planning), the proposed revisions describe how organizations might use the results of a needs assessment to inform planning processes. For example, the proposed indicators ask questions about how the results of a grantee's needs assessment influence the grantee's development of a written strategic plan (see Proposed Indicator 1). Additional indicators describe considerations that may inform the planning process, such as stakeholder engagement, use of quantitative and qualitative data, and alignment with organizational capacity and resources (see Proposed Indicators 2 through 4). These provisions are intended to identify factors that grantees may consider when structuring their planning efforts.

The revisions to Criterion 3 (Priority Setting and Case Acceptance Policy) describe how organizations might translate planning decisions into operational practices. For example, the proposed indicators address the establishment of service priorities that reflect identified needs and strategic objectives, as well as the adoption of a written case acceptance policy to guide service delivery (see Proposed Indicators 1 and 3). The new indicators also describe alternative approaches that organizations may consider when full representation is not feasible, including referrals, collaboration with other providers, and the use of technology (see Proposed Indicator 4). These examples are intended to help organizations consider a range of options for delivering services within available resources.

Finally, under Criterion 4 (Evaluation), the revised indicators

describe approaches that grantees might use to assess the effectiveness of their work and make appropriate adjustments over time. These include evaluating the alignment of services with established priorities, using data and stakeholder input to inform decision-making, and maintaining flexibility to respond to changing conditions (see Proposed Indicators 1 and 2). The revisions also describe the role of ongoing review in supporting continuous improvement and responsiveness to emerging needs.

Overall, LSC intended the revisions to improve the clarity, organization, and usability of the Performance Criteria by providing more detailed lists of factors that grantees may find useful. LSC did not intend to establish new requirements, but rather to offer guidance that legal aid organizations may adapt based on their individual circumstances, including their size, capacity, and the needs of the communities they serve.

ChatGPT was used to draft this document. The generated content provided structural and content suggestions, which the author reviewed, adapted, and revised for LSC's specific needs and tone.

(Authority: 42 U.S.C. 2996g(e).)

October 14, 2026.

Stefanie Davis,

Deputy General Counsel, Legal Services Corporation.

[FR Doc. 2026–21254 Filed 10–16–26; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2027–003]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: We have submitted a request to the Office of Management and Budget (OMB) for renewal of the Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.'' This ICR expires in December 2026. As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, this generic ICR covers all of our requests for feedback on our services. We invite you to comment on the proposed information collections.

DATES: OMB must receive written comments on or before November 18, 2026.

ADDRESSES: Send any comments and recommendations on the proposed information collection in writing to *www.reginfo.gov/public/do/PRAMain.* You can 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: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Kristin Phillips, Paperwork Reduction Act Officer, by email at *kristin.phillips@nara.gov* or by telephone at 616–254–0405.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), we invite the public and other Federal agencies to comment on proposed information collections. We published a notice of proposed collection for this information collection on July 23, 2026 (91 FR 46487) and we received one comment. The comment was not applicable to the information collection NARA proposed for renewal because it is not relevant to the proposed information collection or the agency. As a result, we have not modified the proposed information collection based on this comment.We are therefore submitting the described information collection to OMB for approval.

If you have comments or suggestions, they should address one or more of the following points: (a) whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether this collection affects small businesses.

In this notice, we solicit comments concerning the following information collection:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 3095–0070.

Type of Review: Regular.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Governments.

Estimated Number of Respondents: 27,000.

Below we provide projected average estimates for the next three years:

Average expected annual number of activities: 26.

Average number of respondents per activity: 1,038.

Annual responses: 1.

Frequency of response: Once per request.

Average minutes per response: 10–30.

Burden hours: 13,500.

Abstract: This information collection activity provides a means to gather qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with NARA's commitment to improving service delivery. By qualitative feedback, we mean information that provides useful insights into customers' or stakeholders' perceptions and opinions, but not statistical surveys that yield quantitative results that can be generalized to the population of study. Qualitative feedback provides insights into perceptions, experiences, and expectations, provides an early warning of issues with service, or focuses attention on areas where communication, training, or changes in operations might improve delivery of products or services. Collecting this information allows for ongoing, collaborative, and actionable communications between NARA and its customers and stakeholders. It also allows us to contribute feedback directly to improving program management.

NARA collects feedback in areas of service delivery such as timeliness, appropriateness, accuracy of information, plain language, courtesy, efficiency, and resolution of issues with service delivery. We use customer feedback to plan efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on NARA's services will be unavailable.

NARA will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collection is voluntary;
- The collection is low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and is low-cost for both the respondents and the Federal Government;
- The collection is non-controversial and does not raise issues of concern to other Federal agencies;
- It is targeted to solicit opinions from respondents who have experience with the program or may have

experience with the program in the near future;

- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results, but do not fall under the current generic collection.

As a general matter, information collections under this generic collection request will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Current Actions: NPRC Survey of Customer Satisfaction, National Archives Catalog Feedback, Revolutionary War Pension File Transcription, National Outreach Program Initiative (NOPI), and Event Evaluations.

Gulam Shakir,

Executive for Information Services/CIO.

[FR Doc. 2026–21262 Filed 10–16–26; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of October 19, 26, and November 2, 9, 16, 23, 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 October 19, 2026

Thursday, October 22, 2026

1:00 p.m. Joint Meeting of the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission (Public Meeting) (Contact: Wesley Held: 301–287–3591)

Additional Information: The meeting will be held in the Commissioners' Hearing Room, 11555 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/.*

3:30 p.m. Joint Meeting of the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission (Closed Ex. 1)

Week of October 26, 2026—Tentative

There are no meetings scheduled for the week of October 26, 2026.

Week of November 2, 2026—Tentative

There are no meetings scheduled for the week of November 2, 2026.

Week of November 9, 2026—Tentative

There are no meetings scheduled for the week of November 9, 2026.

Week of November 16, 2026—Tentative

There are no meetings scheduled for the week of November 16, 2026.

Week of November 23, 2026—Tentative

There are no meetings scheduled for the week of November 23, 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: October 15, 2026.

For the Nuclear Regulatory Commission.

Monika G. Coflin,

Technical Coordinator, Office of the Secretary.

[FR Doc. 2026–21399 Filed 10–15–26; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Agency Information Collection Request: 3206–0218, Death Benefit Payment Rollover, RI 94–7

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services offers the general public and other Federal agencies the opportunity to comment on the reinstatement of an expired information collection request (ICR), Death Benefit Payment Rollover, RI 94–7.

DATES: Comments are encouraged and will be accepted until December 18, 2026.

ADDRESSES: You may submit comments on the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. The general policy for comments and other submissions from members of the public is to make these submissions

available for public viewing at *https://www.regulations.gov* as they are received and without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 6500–AS, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to: *RSPublicationsTeam@opm.gov.*

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act, as amended (44 U.S.C. chapter 35), OPM is soliciting comments for this collection (OMB No. 3206–0218). OPM is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Suggest ways to enhance the quality, utility, and clarity of the information to be collected; and

4. Suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 94–7 provides Federal Employees Retirement System (FERS) surviving spouses and former spouses with the means to elect payment of FERS rollover-eligible benefits directly or to an Individual Retirement Arrangement (IRA), eligible employer plan, or Thrift Savings Plan (TSP) account.

Analysis

Agency: Office of Personnel Management, Retirement Services.

Title: Death Benefit Payment Rollover.

OMB Number: 3206–0218.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 3,444.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 3,444.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–21374 Filed 10–16–26; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Agency Information Collection Request: Tribal Federal Employees Health Benefits (FEHB) Program Tribal Employer Application (3206–NEW)

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public the opportunity to comment on an information collection request (ICR): Tribal Federal Employee Health Benefits (FEHB) Program Tribal Employer Application, OMB Control Number (3206–NEW). As required by the Paperwork Reduction Act, OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until December 18, 2026. This process is conducted in accordance with 5 CFR 1320.8(d)(1).

ADDRESSES: You may submit comments on the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* as they are received and without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Healthcare and Insurance, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415, Attention: Cameron Stokes, via phone at 202–936–2847, or via electronic mail to *Tribalprograms@opm.gov.*

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act, as amended, 44 U.S.C. Chapter 35, OPM is soliciting comments for this collection. OPM is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Background

OPM is collecting information from tribal employers applying to participate in the FEHB Program under 25 U.S.C. 1647b and subpart N of 5 CFR part 890. OPM defines ''tribal employer'' in 5 CFR 890.1402 to include an Indian tribe or tribal organization carrying out at least one program under the Indian Self–Determination and Education Assistance Act or the Tribally Controlled Schools Act; or an urban Indian organization carrying out at least one program under title V of the Indian Health Care Improvement Act. A tribal employer must be entitled to purchase coverage, rights, and benefits under the FEHB Program for their tribal employees. Once a tribal employer elects to participate in the FEHB Program in compliance with 5 CFR 890.1404, a tribal employee who is considered a common law employee and meets FEHB requirements for the type of employment (*e.g.,* full-time, seasonal) will become eligible to enroll in FEHB pursuant to 5 CFR 890.1405.

This collection consists of information identifying the tribal employer and its representatives for FEHB purposes, key tribal personnel, billing unit and bank account information, and a tribal employer profile. Collection of this information is necessary to ensure the validity of a program application and to facilitate enrollment in the FEHB Program. The information is not published.

Analysis

Agency: Office of Personnel Management.

Title: Federal Employees Health Benefit (FEHB) Program Tribal Employer Application.

OMB Number: 3206–NEW.

Frequency: Once.

Affected Public: Tribal employers (tribes, tribal organizations, tribally controlled schools, and urban Indian organizations) eligible to participate in FEHB.

Number of Respondents: 75.

Estimated Time per Respondent: 135 minutes or 2.25 hours.

Total Burden Hours: 168.75.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–21375 Filed 10–16–26; 8:45 am]

BILLING CODE 6325–64–P

OFFICE OF PERSONNEL MANAGEMENT

Agency Information Collection Request: 3206–NEW, Annuitant Verification Form, RI 20–129

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services offers the general public and other Federal agencies the opportunity to comment on a new information collection request (ICR), Annuitant Verification Form, RI 20–129.

DATES: Comments are encouraged and will be accepted until December 18, 2026.

ADDRESSES: You may submit comments using the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 6500–AS, Washington, DC 20415, Attention: Cyrus S. Benson, or sent by email to *RSPublicationsTeam@opm.gov* or eFax to *202-315-3288@eFaxsend.com.*

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act, as amended (44 U.S.C. chapter 35), OPM is soliciting comments for this new collection (OMB No. 3206–NEW). The Office of Personnel Management is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Suggest ways to enhance the quality, utility, and clarity of the information to be collected; and

4. Suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

OPM receives requests to change contact information by various means of communication that do not provide sufficient opportunity to OPM to verify the identity of the individual initiating the request, such as when a caller is unable to provide a correct response to identification questions. OPM has created Form RI 20–129 to verify the identity of an annuitant who has requested changes to contact information. The verification will determine whether the individual is provided access to the annuitant's account.

Analysis

Agency: Office of Personnel Management, Retirement Services.

Title: Annuitant Verification Form.

OMB Number: 3206–NEW.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 750.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 188.

Office of Personnel Management.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–21378 Filed 10–16–26; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Agency Information Collection Request: FEHB Protection Act Portal, OMB Control Number (3206–NEW)

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a new information collection request (ICR): FEHB Protection Act Portal (FPA Portal).

DATES: Comments are encouraged and will be accepted until December 18, 2026. This process is conducted in accordance with 5 CFR 1320.8(d)(1).

ADDRESSES: You may submit comments on the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ellen Linehan, 202–936–1006.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995, as amended, OPM is soliciting comments for a new collection of information. OPM is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Suggests ways to enhance the quality, utility, and clarity of the information to be collected; and

4. Suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Background

The FPA Portal is an enrollee notification and eligibility verification system that will support the OPM requirement under the Federal Employees Health Benefits (FEHB) Protection Act of 2025 (Sec. 90101, Pub. L. 119–21, 139 Stat. 362) to conduct a comprehensive audit regarding family members who are covered in the FEHB Program. It will provide a secure and consistent process to ensure that only eligible individuals are enrolled in the FEHB Program. This will strengthen enrollment integrity and ensure ineligible family members are not participating in the FEHB Program. The FPA Portal will involve enrollees whose family member's eligibility has not yet been verified, OPM personnel, and a contracted vendor. Employing agencies, payroll offices, and participating health insurance carriers will be incorporated in subsequent phases. Enrollees whose family member's eligibility has not been verified will receive FPA Portal generated emails and mailed notices. These notices will direct enrollees to securely sign in to the FPA Portal enabling them to provide documentation to allow verification of the eligibility of their family members.

The FPA Portal will send status updates and reminders when a response or additional action is required. The enrollee will use online forms and document-upload features within the FPA Portal to enter requested information and submit supporting eligibility documents. The documents required depend on the family member's relationship to the enrollee and include records used to establish a spouse's or child's eligibility. The list of these records can be found in the FEHB Handbook at *https://www.opm.gov/healthcare-insurance/healthcare/reference-materials/reference/family-members/.* The FPA Portal will use automated document-verification capabilities to review the submitted information and documentation and determine whether the submission is sufficient to support an eligibility decision. If a case cannot be resolved through the automated review process, it will be referred to the contracted vendor and OPM. The results of that review will be returned to the FPA Portal for continued processing.

Analysis

Agency: Office of Personnel Management.

Title: FEHB Protection Act Portal.

OMB Number: 3206–NEW.

Frequency: Annually.

Affected Public: Eligible individuals or household members.

Number of Respondents: ~2.7 million.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 1.4 million hours.

Alexys Stanley,

Federal Register Liaison.

[FR Doc. 2026–21380 Filed 10–16–26; 8:45 am]

BILLING CODE 6325–64–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2027–4 and K2027–4]

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.

DATES: *Comments are due:* October 20, 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. Public Proceeding(s)
III. Summary Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to Competitive negotiated service agreement(s). The request(s) may propose the addition of a negotiated service agreement from the Competitive product list or the modification of an existing product currently appearing on the Competitive product list.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

Section II identifies the docket number(s) associated with each Postal Service request, if any, that will be reviewed in a public proceeding as defined by 39 CFR 3010.101(p), the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each such request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 and 39 CFR 3000.114 (Public Representative). The Public Representative does not represent any individual person, entity or particular point of view, and, when Commission attorneys are appointed, no attorney-client relationship is established. Section II also establishes comment deadline(s) pertaining to each such request.

The Commission invites comments on whether the Postal Service's request(s) identified in Section II, if any, are consistent with the policies of title 39. Applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3041. Comment deadline(s) for each such request, if any, appear in Section II.

Section III identifies the docket number(s) associated with each Postal Service request, if any, to add a standardized distinct product to the Competitive product list or to amend a standardized distinct product, the title of each such request, the request's acceptance date, and the authority cited by the Postal Service for each request. Standardized distinct products are negotiated service agreements that are variations of one or more Competitive products, and for which financial models, minimum rates, and classification criteria have undergone advance Commission review. *See* 39 CFR 3041.110(n); 39 CFR 3041.205(a). Such requests are reviewed in summary proceedings pursuant to 39 CFR 3041.325(c)(2) and 39 CFR 3041.505(f)(1). Pursuant to 39 CFR 3041.405(c)–(d), the Commission does not appoint a Public Representative or request public comment in proceedings to review such requests.

II. Public Proceeding(s)

1. *Docket No(s).:* MC2027–4 and K2027–4; *Filing Title:* USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 128 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* October 8, 2026; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 39 CFR 3041.310; *Public Representative:* Maxine Bradley; *Comments Due:* October 20, 2026.

III. Summary Proceeding(s)

None. *See* Section II for public proceedings.

This Notice will be published in the **Federal Register**.

Danielle LeFlore,

Legal Assistant.

[FR Doc. 2026–21274 Filed 10–16–26; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. MC2026–387; Order No. 9766]

Competitive Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is recognizing a recent filing by the Postal Service of filing a motion for an extension of time to respond to

[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).

Chairman's Information Request No. 1, and extension of time for comments. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Response to Chairman Information Request No. 1 due:* October 21, 2026; *Comments are due:* October 26, 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:

Table of Contents

I. Introduction
II. Background
III. Commission Analysis
IV. Ordering Paragraphs

I. Introduction

On October 13, 2026, the Postal Service filed a motion for extension of time to submit its response to Chairman's Information Request No. 1 (CHIR No.1), seeking to extend the current deadline of October 14, 2026, to October 21, 2026.[1] For the reasons discussed below, the Commission grants the Motion. In addition, the Commission extends the deadline for comments from October 16, 2026, to October 26, 2026.

II. Background

On September 16, 2026, 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, effective January 1, 2027.[2] In addition, the Postal Service also requests to transfer the Inbound 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, effective January 1, 2027. Request at 1–2, 4.

On September 17, 2026, the Commission established the instant docket, appointed a Public Representative, and set October 16, 2026 as the deadline for comments.[3] On October 7, 2026, CHIR No. 1 was issued.[4] The deadline for responding to CHIR No. 1 is October 14, 2026. CHIR No. 1 at 1.

On October 13, 2026, the Postal Service filed the Motion. The Postal Service states that it is preparing its response to CHIR No. 1 but needs additional time to finalize its response. Motion at 1. The Postal Service requests an extension of 7 days until October 21, 2026 to submit its response to CHIR No. 1. *Id.* The Postal Service notes that it would not object if any interested party requests a brief extension of the comment deadline or seeks to file supplement comments. *Id.,* n.2.

III. Commission Analysis

The proposed effective date for the proposed classification changes is January 1, 2027. Request at 3, 4. Therefore, extending the deadline for the Postal Service to respond to CHIR No. 1 by 7 calendar days would not have any adverse impact on the overall procedural schedule of this docket, nor would it have any adverse impact on other participants. Accordingly, the Commission grants the Motion and extends the deadline for responding to CHIR No. 1 to October 21, 2026. 39 CFR 3010.162(c).

In addition, the Commission extends the deadline set in Order No. 9732 for comments from October 16, 2026 to October 26, 2026, so that interested participants will have sufficient time to review the Postal Service's response to CHIR No. 1 and consider it in preparing their comments.

IV. Ordering Paragraphs

It is ordered:

1. The United States Postal Service Motion for Extension of Time to File Response to Chairman's Information Request No. 1, filed October 13, 2026, is granted.

2. The response to Chairman's Information Request No. 1 is due October 21, 2026.

3. Comments are due October 26, 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. 2026–21238 Filed 10–16–26; 8:45 am]

BILLING CODE 7710–FW–P

[1] United States Postal Service Motion for Extension of Time to File Response to Chairman's Information Request No. 1, October 13, 2026, at 1 (Motion).

[2] 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).

[3] Notice and Order Concerning Removal of Competitive International Registered Mail from the Competitive Product List and Accompanying Classification Changes, and 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, September 17, 2026, at 5 (Order No. 9732).

[4] Chairman's Information Request No. 1, October 7, 2026 (CHIR No. 1).

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Notice of creation of new system of records.

SUMMARY: The United States Postal Service (USPS) is proposing to create one Customer Privacy Act Systems of Records, USPS 830.100, Customer Call Center. The creation of this System of Records will centralize USPS' call center operations to support enhanced agent analytics and facilitate improved customer service operations.

DATES: These revisions will become effective without further notice on November 18, 2026, unless, in response to comments received on or before that date result in a contrary determination.

ADDRESSES: Comments may be submitted via email to the Privacy and Records Management Office, United States Postal Service Headquarters (*uspsprivacyfedregnotice@usps.gov*). Arrangements to view copies of any written comments received, to facilitate public inspection, will be made upon request.

FOR FURTHER INFORMATION CONTACT: Janine Castorina, Chief Privacy and Records Management Officer, Privacy and Records Management Office, 202–268–2000 or *uspsprivacyfedregnotice@usps.gov.*

SUPPLEMENTARY INFORMATION: This notice is in accordance with the Privacy Act requirement that agencies publish their systems of records in the **Federal Register** when there is a revision, change, or addition, or when the agency establishes a new system of records. The Postal Service is proposing to create one new system of records (SOR).

I. Background

This notice is in accordance with the Privacy Act requirement that agencies

publish their systems of records in the **Federal Register** when there is a revision, change, or addition, or when the agency establishes a new system of records.

II. Rationale for Changes to USPS Privacy Act Systems of Records

The United States Postal Service works tirelessly to bind the nation together, reaching every address and providing numerous locations to interact with the public. Given the scale of this presence, the Postal Service requires significant infrastructure to handle customer service issues that may arise from both its public interactions as well as those impacting Postal Service employees.

To that end, the Postal Service utilizes enhanced call center processes and analytics to ensure efficient, prompt, reliable resources to assist customers at every touchpoint. These analytics and processes provide a platform for documenting customer service matters, which can then be used to further train Postal Service customer service agents, creating a continuous improvement process to better serve the American public.

To support this process, the Postal Service will create this SOR to formalize call center operations and provide a means for integrating new and existing features to the call center ecosystem to better serve the American people.

III. Description of the Modified Systems of Records

Pursuant to 5 U.S.C. 552a(e)(11), interested persons are invited to submit written data, views, or arguments on this proposal. A report of the proposed revisions to this SOR has been sent to Congress and to the Office of Management and Budget for their evaluations. The Postal Service does not expect that this modified system of records will have any adverse effect on individual privacy rights. Accordingly, for the reasons stated above, the Postal Service proposes revisions included in this system of records presented in its entirety as follows:

SYSTEM NAME AND NUMBER:

USPS 830.100, Customer Call Center.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

USPS Customer Experience, Headquarters and Headquarters Field Units; Integrated Business Solutions Services Centers; the National Customer Support Center (NCSC); districts, Post Offices, contractor sites; and detached mailing units at customer sites.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Customer and Marketing Officer and Executive Vice President, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

Chief Information Officer and Executive Vice President, United States Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 403, and *404.*

PURPOSE(S) OF THE SYSTEM:

1. To improve efficiency in the customer service process by providing coaching opportunities based on call center metric data.

2. To provide performance-related data based on call center metric data.

3. To handle customer service inquiries, complaints, and other inbound matters handled by USPS.

4. To provide a dashboard to supervisors to monitor call center activity and call center agent performance and to provide upskilling and performance improvement opportunities.

5. To utilize Artificial Intelligence to support call center operations and provide customer support, and to evaluate customer interactions to perform Quality Assurance audits to ensure sufficient and accurate levels of customer service delivery.

6. To query related customer service systems to identify possible customer issues to provide proactive support.

7. To provide retail post office customers the ability to communicate with USPS through web-based phone and text functionality.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who call into a USPS customer service location, USPS call center employees and agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Employee and Agent records: Information relating to Call Center Employees and Agents, including: Name, Social Security Number, Employee Identification Number, ACE ID, phone number(s), work contact information, duty location, call center location.

2. Customer Call Center Customer records: Information relating to data submitted by customers related to their call, including: USPS Employee or Contractor Name, Work Address, Work Phone, Work Email Address, USPS Employee ID Number (EIN), USPS Employee Title, ACE ID, Finance Number, Personal Email Address, Customer Name, Customer Address, Customer Phone, Customer Email Address, Facility Name, Facility Address, Facility Information (Area, District, Finance Number), Business Partner or Supplier Name, Business or Supplier Address, Phone, Email Address, Business Customer Name, Business Customer Address, Business Customer Phone, Business Customer Email Address, Tax Identification Number, Truncated Credit Card Number, Inbound Call Center volume, Customer Social Media Information, Security Questions and Answers.

3. IT Service Desk Customer records: USPS Employee or Contractor Name, Address, Work Phone, Work Email Address, Employee ID Number (EIN), USPS Employee Title, ACE ID, Finance Number, Occupation Code, Facility Name, Facility Address, Facility Phone, Facility Email Address or Distribution List, Facility Database ID, Facility Information Facility Photographs, IP Address, Publicly Available USPS Documents, Other Account Number, Building Layouts, Business Partner or Supplier Name, Business or Supplier Address, Business or Supplier Phone, Business or Supplier Email Address, Publicly Available Information from Business Partners, USPS Account Number, Individual Photographs, Customer IP Address, Information compiled for law enforcement purposes, Communications Protected by Legal Privileges, Call volume.

4. Employee Support Call Center records: USPS Employee, Contractor, or Applicant Name, Address, USPS Employee ID Number (EIN), Finance Number, Occupation Code, USPS Personnel Records, Personal Email Address, Birth Date, Age, Gender, Race/National Origin, Marital Status, Partial or Full Social Security Number, Bank Routing and Account Numbers, Employee Medical Information, Change of Address, Occupation or Employee Title, Job Description, USPS Applicant Information.

5. Call Center Reporting Records: Agent name, Voice Alerting Number, Callback Interacting Number, Callback Waiting Number, Message Interacting Number, Message Waiting Number, Email Interacting Number, Email Waiting Number, Waiting Number, Interacting Number, Alerting Number, Connected Number, Outbound Number, Outbound Attempted Number, Outbound Connected Number, Agents Alerting Number, Agents Interacting Number, Agents Waiting Number, Busy Agents Number, Voice Interacting Number, Voice Waiting Number.

6. Web-based retail phone records: Records relating to retail-customer initiated talk and text inquiries,

questions, and services including: Caller name, caller phone, text message contents, transcribed voicemails, call logs, MMS Media, SMS Media, and customer email address.

RECORD SOURCE CATEGORIES:

Employees; employees' supervisor or manager; customers; and other systems of records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Standard routine uses 1. through 11. apply.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Automated database, computer storage media, digital files, and paper files.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Customer Call Center records are retrieved by Interaction ID.

Web-based retail phone records are retrieved by phone number and name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

1. Customer Call Center records are retained for 6 months.

2. Web-based retail phone records are retained for 10 years.

Records existing on paper are destroyed by burning, pulping, or shredding. Records existing on computer storage media are destroyed according to the applicable USPS media sanitization practice.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Paper records, computers, and computer storage media are located in controlled-access areas under supervision of program personnel. Access to these areas is limited to authorized personnel, who must be identified with a badge.

Access to records is limited to individuals whose official duties require such access. Contractors and licensees are subject to contract controls and unannounced on-site audits and inspections.

Computers are protected by mechanical locks, card key systems, or other physical access control methods.

The use of computer systems is regulated with installed security software, computer logon identifications, and operating system controls including access controls, terminal and transaction logging, and file management software.

RECORD ACCESS PROCEDURES:

Requests for access must be made in accordance with the Notification Procedure below and USPS Privacy Act regulations regarding access to records and verification of identity under 39 CFR 266.5.

CONTESTING RECORD PROCEDURES:

See Notification Procedures below and Record Access Procedures above.

NOTIFICATION PROCEDURES:

Customers wanting to know if information about them is maintained in this system of records must address inquiries to the system manager in writing. Inquiries should include name, address, and other identifying information.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: NONE.

HISTORY:

None.

Daria Schildkraut,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2026–21265 Filed 10–16–26; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106664; File No. SR–BOX–2026–20]

Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule for Trading on the BOX Options Market LLC Facility To Amend Section V. Manual Transaction Fees of the Fee Schedule To Increase QOO and FOO Order Fees in Non-Penny Interval Classes and To Increase the Floor Broker Enhanced Rebate in Non-Penny Interval Classes

October 14, 2026.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 30, 2026, BOX Exchange LLC (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 Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule on the BOX Options Market LLC (''BOX'') options facility. The Exchange proposes to increase QOO and FOO Order Fees in Non-Penny Interval classes and to increase the Floor Broker enhanced rebate in Non-Penny Interval classes in Section V. Manual Transaction Fees of the Fee Schedule. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on October 1, 2026. The text of the proposed rule change is available from the principal office of the Exchange, and also on the Exchange's internet website at *https://rules.boxexchange.com/rulefilings.*

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 Section V. Manual Transaction Fees of the Fee Schedule to: (1) increase Market Maker Qualified Open Outcry (''QOO'') and FLEX Open Outcry (''FOO'') Order fees in Non-Penny Interval classes from $0.50 to $1.00; and (2) increase the Floor Broker enhanced rebate in Non-Penny Interval classes from $0.20 to $0.25.

Background of Fees and Rebates for Transactions on the Trading Floor

The Exchange assesses fees (and/or provides rebates) for transactions on the Trading Floor based on account type.[5] For Public Customers the Exchange does

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Fee Schedule Section V.A.

not currently assess a per contract fee (or provide a rebate) for QOO and FOO[6] Orders in all Penny Interval Classes and Non-Penny Interval Classes. The Exchange assesses a $0.10 per contract fee for QOO and FOO orders in Penny Interval Classes and Non-Penny Interval Classes, for the Professional Customer account type. The Exchange assesses a $0.25 per contract fee for QOO and FOO orders in Penny Interval Classes and Non-Penny Interval Classes, for the Broker Dealer account type. The Exchange does not assess a fee (or provide a rebate) for QOO and FOO orders in Penny Interval Classes and Non-Penny Interval Classes, for the Broker Dealer facilitating a Public Customer account type. The Exchange assesses the Market Maker account type a fee of $0.50 per contract for QOO and FOO orders in Penny Interval Classes and Non-Penny Interval Classes.

The Exchange provides Floor Brokers a rebate of $0.10 per contract for all Broker Dealer and Market Maker QOO and FOO Orders presented on the Trading Floor and $0.05 per contract rebate for all Professional Customer QOO and FOO Orders presented on the Trading Floor.[7] The rebate does not apply to Public Customer executions, executions subject to the Strategy QOO Order Fee Cap and Rebate & Strategy FOO Order Fee Cap and Rebate, or Broker Dealer executions where the Broker Dealer is facilitating a Public Customer. Floor Brokers that submit QOO and FOO Orders receive a $0.20 per contract enhanced rebate for executions that trade with a Floor Market Maker, in lieu of the $0.10 and $0.05 per contract rebates described above. The enhanced rebate does not apply to Public Customer executions, executions subject to the Strategy QOO Order Fee Cap and Rebate & Strategy FOO Order Fee Cap and Rebate, or Broker Dealer executions where the Broker Dealer is facilitating a Public Customer.

Proposal To Increase QOO and FOO Order Fees in Non-Penny Interval Classes for Market Makers

The Exchange proposes to amend the QOO and FOO Order fees in Section V.A. of the Fee Schedule to increase the fee assessed to Market Maker account types in Non-Penny Interval Classes. Currently, the Exchange assesses Market Makers a fee of $0.50 per contract for QOO and FOO Orders in Non-Penny Interval Classes. The Exchange now proposes to assess Market Makers a fee of $1.00 per contract for QOO and FOO Orders in Non-Penny Interval Classes. The purpose of this change is for business and competitive reasons. The Exchange believes that even with the proposed increased fee, the Exchange's transaction fees for Market Maker account types will remain competitive with the fees assessed by other equity options exchanges that offer trading floors for transactions by their market makers in non-penny classes when trading against all other account types.[8]

Proposal To Increase the Enhanced Floor Broker Rebate for QOO and FOO Orders in Non-Penny Interval Classes

Next, the Exchange proposes to amend Section V.C. (QOO and FOO Order Rebate) of the Fee Schedule to increase the per contract enhanced Floor Broker rebate in Non-Penny Interval Classes. Currently, the Exchange provides a Floor Broker enhanced rebate of $0.20 per contract for QOO and FOO Orders for executions that trade with a Floor Market Maker in Penny Interval and Non-Penny Interval Classes. The Exchange now proposes to increase the Floor Broker enhanced rebate to $0.25 per contract for QOO and FOO Orders for executions that trade with a Floor Market Maker in Non-Penny Interval Classes. The Exchange notes that the enhanced rebate does not apply to Public Customer executions, executions subject to Section V.D (Strategy QOO Order Fee Cap and Rebate & Strategy FOO Order Fee Cap and Rebate), or Broker Dealer executions where the Broker Dealer is facilitating a Public Customer. The purpose of this change is for business and competitive reasons.[9] The Exchange believes this change may encourage additional Floor Broker liquidity in Non-Penny Interval Classes. Additional liquidity in Non-Penny Interval Classes may benefit all market participants because it will attract additional liquidity to BOX by providing more trading opportunities. Further, additional liquidity helps contribute to a robust trading environment on the BOX Trading Floor.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes the proposal to amend the Market Maker account type to increase the fee to $1.00 per contract for QOO and FOO Order transactions in Non-Penny Interval Classes is reasonable, equitably allocated, and not unfairly discriminatory because, even with the proposed increase, the Exchange believes the proposed fee will not discourage Floor Market Maker order flow. The Exchange notes that even with the proposed increase to the Floor Market Maker fee for transactions in Non-Penny Interval Classes proposed herein, the Exchange's proposed fee of $1.00 per contract for the Market Maker account type in Non-Penny Interval Classes remains competitive with the fee charged by other equity options exchanges to their floor market makers for transactions in non-penny classes.[11]

The Exchange believes that increasing fees for QOO and FOO Order transactions by Market Makers, but not for other market participants, represents an equitable, non-discriminatory allocation of fees because the proposal is based on the type of business transacted by Floor Market Makers on BOX, and Floor Market Makers are not obligated to engage in transactions on the Trading Floor. Rather, Floor Market Makers trade for their own accounts and benefit from having access to interact with orders that are made available in open outcry on the Trading Floor.

The Exchange believes the proposal to increase the Floor Broker enhanced rebate to $0.25 per contract for QOO and FOO Order transactions in Non-Penny Interval Classes is reasonable, equitably allocated and not unfairly discriminatory because the Exchange believes this change may encourage additional Floor Broker liquidity in Non-Penny Interval Classes. The Exchange believes additional liquidity in Non-Penny Interval Classes, to the extent the proposed change accomplishes this goal, may benefit all

[6] *See* Rules 7600 and 7605.

[7] *See* Fee Schedule Section V.C.

[8] *See* Nasdaq PHLX LLC (''PHLX'') Rules, Options 7: Pricing Schedule, Section 4 (assessing PHLX market makers a fee of $1.00 per contract for floor transactions in non-penny symbols); NYSE American LLC (''NYSE American'') Options Fee Schedule, Section I.A. (assessing NYSE American market makers a fee of $0.90 per contract for manual transactions in non-penny classes); NYSE Arca, Inc. (''NYSE Arca'') Options Fees and Charges, Transaction Fee for Manual Executions—Per Contract (assessing NYSE Arca market makers a fee of $0.90 per contract for manual transactions in non-penny classes); MIAX Sapphire, LLC (''Sapphire'') Fee Schedule Section 1)c)i) (assessing Sapphire Floor Market Makers a fee of $0.94 per contract for QFO and cQFO transactions in non-penny classes).

[9] *See* Sapphire Fee Schedule Section 1)c)i) (providing $0.25 Floor Broker Breakup Credit for Non-Penny Classes). The Exchange notes that BOX refers to this incentive as an enhanced rebate while Sapphire refers to it as a breakup credit.

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] *See supra* note 8.

Floor Participants because it will attract additional liquidity to BOX by providing more trading opportunities. Further, additional liquidity helps contribute to a robust trading environment on the BOX Trading Floor.

The Exchange believes the proposed increased Floor Broker enhanced rebate in Non-Penny Interval Classes is equitable and not unfairly discriminatory because it will apply equally to all Floor Brokers who submit orders in Non-Penny Interval Classes on the Trading Floor and have those orders trade with a Floor Market Maker. The Exchange believes the Floor Broker enhanced rebate is consistent with Section 6(b)(4) of the Act [12] because it will continue to encourage market participants to execute orders on the Trading Floor. The Exchange believes that the Floor Broker enhanced rebate could continue to improve liquidity on BOX to the benefit of all market participants. The Exchange notes that providing enhanced rebates to certain market participants is not new or novel. BOX currently provides Floor Broker enhanced rebates in the Fee Schedule.[13] Additionally, Sapphire provides a Floor Broker Breakup Credit of $0.25 for QFO and cQFO transactions in Non-Penny Classes.[14]

In addition, the proposal is also consistent with Section 6(b)(5) of the Act [15] because it perfects the mechanisms of a free and open market and a national market system and protects investors and the public interest because it applies equally to all eligible Floor Broker QOO and FOO Orders and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes it is equitable to apply the proposed enhanced rebate only to Floor Brokers and not Floor Market Makers. Floor Market Makers represent their own interest on the Trading Floor and, therefore, the Exchange believes these market participants may not need a similar incentive. Additionally, Floor Market Makers may choose to conduct their business on a trading floor or in an electronic market, unlike Floor Brokers, who have a business model that is naturally tied to the physical trading space. The Exchange believes the proposed rule change is equitable because the proposed rebate is based on the amount and type of business transacted on BOX, and Floor Brokers may elect to earn the proposed enhanced rebate if they choose. The Exchange also believes that providing the proposed rebate to Floor Brokers is equitable because it is intended to support Floor Brokers' role in facilitating the execution of open outcry orders, a function which benefits all market participants on the Trading Floor.

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.

Intermarket Competition

The proposal does not impose an undue burden on intermarket competition. The Exchange believes its proposal remains competitive with other options exchanges that charge similar fees and provide rebates and this proposal will offer market participants with another choice of where to transact options.[16] The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges. Because competitors are free to modify their own fees or rebates in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee and rebate changes in this market may impose any burden on competition is extremely limited. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees and rebates in a manner designed to continue to incentivize participants on the Trading Floor to direct trading interest to BOX, to provide liquidity and to attract additional order flow. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

Intra-Market Competition

The proposal does not impose an undue burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders. The proposed changes are designed to attract additional order flow to the Trading Floor.

The Exchange believes that the proposed fee assessed to Floor Market Maker orders in Non-Penny Interval Classes and the proposed enhanced Floor Broker rebate in Non-Penny Interval Classes would encourage Floor Broker open outcry order flow and would not disincentivize Floor Market Maker activity on the Trading Floor. The Exchange does not believe that Floor Market Makers will be discouraged from transacting on the Trading Floor, as Floor Market Makers trade for their own accounts and benefit from having access to interact with orders that are made available in open outcry on the Trading Floor. The Exchange also believes that Floor Market Maker fees relative to other market participants do not impose an undue burden on competition because Floor Market Makers are not obligated to engage in transactions on the Trading Floor. To the extent that there is an additional competitive burden on Floor Market Makers, the Exchange believes that any such burden would be appropriate because Floor Brokers serve an important function in facilitating the execution of orders and price discovery for all market participants. Further, to the extent this proposal is successful, it will increase trading opportunities for Floor Market Makers because Floor Market Makers trade for their own accounts and benefit from having the opportunity to interact with orders that are made available in open outcry on the Trading Floor. Greater liquidity benefits all market participants on BOX and increased order flow would increase opportunities for execution of other trading interest. The proposed modifications would apply and be available to all similarly-situated market participants that execute open outcry orders on the Trading Floor, and, accordingly, the proposed changes would not impose a disparate burden on competition among market participants on BOX.

[12] 15 U.S.C. 78f(b)(4).

[13] *See* Fee Schedule Section V.C.

[14] *See supra* note 9.

[15] 15 U.S.C. 78f(b)(5).

[16] *See supra* notes 8 and 9.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [17] and Rule 19b–4(f)(2) thereunder,[18] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–BOX–2026–20 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–BOX–2026–20. 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–BOX–2026–20 and should be submitted on or before November 9, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–21245 Filed 10–16–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106665; File No. SR–NASDAQ–2026–087]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Rules at Options 7, Section 2

October 14, 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 October 1, 2026, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend The Nasdaq Options Market LLC (''NOM'') Rules at Options 7, Section 2 (Nasdaq Options Market—Fees and Rebates).

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rulefilings*, and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make a change to NOM's Pricing Schedule at Options 7, Section 2(1).

Under Options 7, Section 2(1), the Exchange currently pays Customers,[3] Professionals,[4] Broker-Dealers,[5] Firms,[6] Non-NOM Market Makers,[7] and NOM Market Makers [8] a rebate to add liquidity in Penny Symbols, on a per contract basis. This rebate is paid according to the following schedule:

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[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 240.19b–4(f)(2).

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Customer'' applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of broker or dealer or for the account of a ''Professional'' (as that term is defined in Options 1, Section 1(a)(48)). *See* Options 7, Section 1(a).

[4] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Options 1, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants. *See* Options 7, Section 1(a).

[5] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. *See* Options 7, Section 1(a).

[6] The term ''Firm'' applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC. *See* Options 7, Section 1(a).

[7] The term ''Non-NOM Market Maker'' is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM. *See* Options 7, Section 1(a).

[8] The term ''NOM Market Maker'' is a Participant that has registered as a Market Maker on NOM pursuant to Options 2, Section 1, and must also remain in good standing pursuant to Options 2, Section 9. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security. *See* Options 7, Section 1(a). The term ''Options Participant'' or ''Participant'' means a firm, or organization that is registered with the Exchange pursuant to Options 2A of the NOM Rules for purposes of participating in options trading on NOM as a ''Nasdaq Options Order Entry Firm'' or ''Nasdaq Options Market Maker''. *See* Options 1, Section 1(a)(40).

	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5	Tier 6
Customer	($0.20)	($0.25)	($0.43)	($0.44)	($0.45)	($0.49)
Professional	(0.20)	(0.25)	(0.43)	(0.44)	(0.45)	(0.47)
Broker-Dealer	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)
Firm	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)
Non-NOM Market Maker	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)	(0.10)
NOM Market Maker	(0.20)	(0.25)	(0.30)	(0.32)	(0.45)	(0.45)

Currently, the NOM Market Maker rebate to add liquidity in Penny Symbols is paid per the highest tier achieved below:

Tier 1	Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols of up to 0.10% of total industry customer equity and ETF option average daily volume (''ADV'') contracts per day in a month.
Tier 2	Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.10% of total industry customer equity and ETF option ADV contracts per day in a month.
Tier 3	Participant: (a) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.20% of total industry customer equity and ETF option ADV contracts per day in a month; or (b)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.15% of total industry customer equity and ETF option ADV contracts per day in a month, (2) transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent (i) 0.50% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market or (ii) 50 million shares or more ADV which adds liquidity in the same month on The Nasdaq Stock Market, and (3) executes 1.5 million shares or more ADV in the same month utilizing the M–ELO order type on The Nasdaq Stock Market.
Tier 4	Participant adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols of above 0.60% of total industry customer equity and ETF option ADV contracts per day in a month.
Tier 5	Participant: (a) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.85% of total industry customer equity and ETF option ADV contracts per day in a month; or (b) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols of above 0.40% of total industry customer equity and ETF option ADV contracts per day in a month and transacts in all securities through one or more of its Nasdaq Market Center MPIDs that represent 0.40% or more of Consolidated Volume (''CV'') which adds liquidity in the same month on The Nasdaq Stock Market.
Tier 6	Participant: (a)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 0.95% of total industry customer equity and ETF option ADV contracts per day in a month, (2) executes Total Volume of 250,000 or more contracts per day in a month, of which 30,000 or more contracts per day in a month must be removing liquidity, and (3) adds Firm, Broker-Dealer and Non-NOM Market Maker liquidity in Non-Penny Symbols of 10,000 or more contracts per day in a month; or (b)(1) adds NOM Market Maker liquidity in Penny Symbols and/or Non-Penny Symbols above 1.40% of total industry customer equity and ETF option ADV contracts per day in a month, and (2) executes Total Volume of 250,000 or more contracts per day in a month, of which 15,000 or more contracts per day in a month must be removing liquidity.

The Exchange proposes to lower by $0.01, across all six tiers, the rebate it pays to NOM Market Makers to add liquidity in Penny Symbols. Therefore, as it pertains to NOM Market Makers, the schedule of these rebates will be as follows:

	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5	Tier 6
NOM Market Maker	($0.19)	($0.24)	($0.29)	($0.31)	($0.44)	($0.44)

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [11]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [12] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[13] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [14]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[12] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[13] *See NetCoalition,* at 534–535.

[14] *Id.* at 537.

monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [15] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange's proposed change to Options 7 is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for options transaction services that constrain its pricing determinations in that market. Within this environment, the Exchange must continually adjust the fees and rebates set forth in its Pricing Schedule to remain competitive with the other national securities exchanges to which market participants may direct their options order flow.

The Exchange's proposal to reduce the rebate paid to NOM Market Makers to add liquidity in Penny Symbols by $0.01 per contract across each of the six existing tiers is reasonable because it represents a modest recalibration of the Exchange's Pricing Schedule that reflects the Exchange's ongoing efforts to balance the incentives it offers to NOM Market Makers against the costs and business considerations attendant to operating an options exchange in a highly competitive market. Even after the proposed reduction, NOM Market Makers will continue to receive meaningful rebates for adding liquidity in Penny Symbols, ranging from ($0.19) per contract at Tier 1 to ($0.44) per contract at Tier 6, and NOM Market Makers will retain the ability to increase the rebate they receive by adding greater volumes of qualifying liquidity in Penny Symbols on the Exchange. The Exchange believes that the amended rebates will remain competitive with rebates offered on other options exchanges for adding market maker liquidity in penny-quoted classes, and will continue to incentivize NOM Market Makers to direct liquidity-providing order flow to the Exchange.

The proposed amended rebates to add liquidity in Penny Symbols are equitable and not unfairly discriminatory because the Exchange would uniformly apply the amended schedule of rebates to any NOM Market Maker that meets the criteria for these rebates. The proposal does not create any new distinction between NOM Market Makers and other market participants, nor between one NOM Market Maker and another; it merely reduces, by a uniform $0.01 per contract, the rebate paid at each of the six tiers. The criteria that a NOM Market Maker must satisfy to qualify for each tier remain unchanged, so a NOM Market Maker that qualifies for a particular tier today will continue to qualify for the same tier under the amended schedule. Furthermore, the amended schedule of rebates is equitable and not unfairly discriminatory because it remains designed to attract order flow to the Exchange by rewarding NOM Market Makers that contribute liquidity in Penny Symbols. All members and member organizations would benefit from the opportunity to interact with the liquidity that these rebates continue to incentivize.

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.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The Exchange's proposed amendments to the rebates paid to NOM Market Makers for adding liquidity in Penny Symbols would not impose an undue burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act, because the Exchange would uniformly apply the new schedule of rebates to all NOM Market Makers. Every NOM Market Maker will continue to be eligible to earn the amended rebates on identical terms at each of the six tiers, and each NOM Market Maker's tier assignment will continue to be determined solely by its own level of qualifying activity on the Exchange. The proposal does not modify the qualifying criteria for any tier, nor does it alter the rebates paid to Customers, Professionals, Broker-Dealers, Firms, or Non-NOM Market Makers. Also, the revised schedule of rebates paid to NOM Market Makers for adding liquidity in Penny Symbols is part of the Exchange's overall effort to remain competitive with other options venues and to continue to attract order flow to the Exchange. All members and member organizations would benefit from the opportunity to interact with the liquidity that these rebates continue to incentivize.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[16]

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–NASDAQ–2026–087 on the subject line.

[15] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782–83 (Dec. 9, 2008) (File No. SR–NYSEArca–2006–21)).

[16] 15 U.S.C. 78s(b)(3)(A)(ii).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NASDAQ–2026–087. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NASDAQ–2026–087 and should be submitted on or before November 9, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–21246 Filed 10–16–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106663; File No. SR–24X–2026–26]

Self-Regulatory Organizations; 24X National Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Warrant Performance Incentive Program

October 14, 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 October 1, 2026, 24X National Exchange LLC (''24X'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make certain amendments to its warrant performance incentive program. The proposed rule change is available on the Exchange's website at *https://equities.24exchange.com/regulation* 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

The Exchange adopted a warrant performance incentive program (''Program'') to allow Members of the Exchange who participate in the Program (''Participants'') [3] to earn the right to purchase Non-Voting Common Units [4] of 24X US Holdings LLC (''24X US Holdco''), the Exchange's parent company.[5] As described in the Warrant Program Release, each Member of the Exchange may become a Participant in the Program by prepaying $500,000 in Exchange fees (''Prepayment Fee'') and satisfying the Program eligibility requirements.[6] Upon joining the Program, each Participant will receive a warrant that vests based on the Participant's achievement of certain minimum trading volumes (''Target Volume'') [7] on the Exchange during each designated pre-determined period in which the Program is in effect (''Measurement Period'') [8] and the Exchange's achievement of a minimum market share during such Measurement Periods (''24X Minimum Overall Market Share'').[9] When the warrants vest, Participants will have the right to exercise the warrants to purchase a certain number of 24X US Holdco Non-Voting Common Units.

The Exchange has determined to revise the Program to make additional Non-Voting Common Units available to be purchased by Participants starting in the first Measurement Period of 2027 (''Additional Equity''), under different terms than those applicable to the Non-Voting Common Units currently available to be purchased through the Program (''Original Equity''). Specifically, the right to purchase Additional Equity would extend through two additional Measurement Periods in 2028, would be subject to a reduced Prepayment Fee, and would be based on maker volume only instead of total trading volume.

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A recent amendment to the Program also allows Sponsored Participants to be joint Participants in the Program together with a Sponsoring Member of the Exchange. *See* Securities Exchange Act Rel No. 105481 (May 13, 2026), 91 FR 28695 (May 18, 2026) (SR–24X–2026–16). For purposes of this proposed rule change, ''Participant'' collectively refers to both Members of the Exchange who are Participants of the Program and Sponsored Participants of the Exchange who jointly participate in the Program together with a Sponsoring Member of the Exchange.

[4] 24X notes that it filed a proposed rule change for immediate effectiveness to amend the Second Amended and Restated Limited Liability Company Agreement of 24X US Holdings LLC, as amended (''24X US Holdco LLC Agreement'') to accommodate aspects of the proposal that affected the 24X US Holdco LLC Agreement. The changes to the 24X Holdco LLC Agreement included amendments to authorize the issuance of Non-Voting Common Units as well as the implementation of the liquidity program related to the Program. Securities Exchange Act Rel. No. 104098 (Sept. 26, 2025), 90 FR 47029 (Sept. 30, 2025) (SR–24X–2025–11).

[5] Securities Exchange Act. Rel. No. 104018 (Sept. 23, 2025), 90 FR 46437 (Sept. 26, 2025) (SR–24X–2025–04) (''Warrant Program Release''). The Exchange later amended certain dates in the Program. Securities Exchange Act Rel. No. 104257 (Nov. 25, 2025), 90 FR 55207 (Dec. 1, 2025) (SR–24X–2025–12) (''Amended Warrant Program Release''). These two releases are collectively referred to as the ''Warrant Program Releases.''

[6] *See* Warrant Program Release at 46437–46438.

[7] As discussed in more detail in the Warrant Program Release, the ''Target Volume'' is 5% of the average daily trading volume on the Exchange, where the daily trading volume is calculated based on total aggregated average daily volume traded over each Measurement Period.

[8] As discussed in more detail in the Warrant Program Releases, the ''Measurement Period'' for Year 1 (2025) is October 14, 2025 through December 31, 2025; the Measurement Periods for Year 2 (2026) are (1) January 1–March 31, 2026, (2) April 1–June 30, 2026, (3) July 1–September 30, 2026, and (4) October 1—December 31, 2026; and the Measurement Periods for Year 3 (2027) are (1) January 1–March 31, 2027, (2) April 1–June 30, 2027, (3) July 1–September 30, 2027 and (4) October 1–December 31, 2027.

[9] As discussed in more detail in the Warrant Program Release, the ''24X Minimum Overall Market Share'' is defined as follows: (1) for each Measurement Period of Year 2, the 24X Minimum Overall Market Share is 0.50% of the Consolidated Average Daily Volume (''CADV'') for all NMS Stocks eligible for trading on 24X; and (2) for each Measurement Period of Year 3, the 24X Minimum Overall Market Share is 1.00% of the CADV for all NMS Stocks eligible for trading on 24X.

The Exchange also proposes to make two additional changes to the terms of the Program that would apply to the right to purchase both the Original Equity and the Additional Equity. Specifically, as described below, the Exchange proposes to eliminate the 24X Minimum Overall Market Share threshold requirement and exclude certain dates from the calculation of Target Volume in each Measurement Period. All other aspects of the Program would remain the same as described in the Warrant Program Releases.

The Exchange proposes to implement the rule change on October 1, 2026. None of the proposed changes would be applied retroactively.

a. Proposed Changes With Respect to Additional Equity Only

i. Description and Timing of Additional Equity

The Original Equity consists of 1,098,040 Non-Voting Common Units representing 10% of the outstanding total Units on a fully diluted basis of 24X US Holdco as of September 29, 2025. The Original Equity may be purchased by Participants upon the exercise of warrants that vest in accordance with the Program based on trading that occurs during the Program Period, which begins on and including October 14, 2025 and ends on and including December 31, 2027.[10] The Original Equity is allocated among the Measurement Periods for each of the three years of the Program as follows: [11]

Measurement period	Non-voting common units	Percentage of outstanding total units on a fully diluted basis of 24X US Holdco as of September 29, 2025 (%)
October 14, 2025–December 31, 2025	219,608	2.00
January 1, 2026–March 31, 2026	82,353	0.75
April 1, 2026–June 30, 2026	82,353	0.75
July 1, 2026–September 30, 2026	82,353	0.75
October 1, 2026–December 31, 2026	82,353	0.75
January 1, 2027–March 31, 2027	137,255	1.25
April 1, 2027–June 30, 2027	137,255	1.25
July 1, 2027–September 30, 2027	137,255	1.25
October 1, 2027–December 31, 2027	137,255	1.25

The Exchange proposes to also make the Additional Equity available for purchase by Participants upon the exercise of warrants that vest in accordance with the Program based on trading that occurs during the last four Measurement Periods of the existing Program (from and including January 1, 2027 through and including December 31, 2027) and also during two additional Measurement Periods that would begin on and including January 1, 2028 and end on and including June 30, 2028. The Additional Equity would consist of 2,759,103 Non-Voting Common Units representing 22.25% of the outstanding total Units on a fully diluted basis of 24X US Holdco as of September 29, 2025. The Additional Equity would be allocated among the above-mentioned Measurement Periods as follows:

Measurement period	Non-voting common units	Percentage of outstanding total units on a fully diluted basis of 24X US Holdco as of September 29, 2025 (%)
January 1, 2027–March 31, 2027	1,023,038	8.25
April 1, 2027–June 30, 2027	310,012	2.50
July 1, 2027–September 30, 2027	310,012	2.50
October 1, 2027–December 31, 2027	310,012	2.50
January 1, 2028–March 31, 2028	310,012	2.50
April 1, 2028–June 30, 2028	496,017	4.00

The following table describes the overall number and allocation of Non-Voting Common Units that would be available for purchase by Participants in accordance with the proposed revised Program:

[10] *See* Warrant Program Release at 46438–46439.

[11] *See id.*

Measurement period	Original equity non-voting common units	Additional equity non-voting common units	Combined original equity and additional equity non-voting common units	Combined percentage of outstanding total units on a fully diluted basis of 24X US Holdco as of September 29, 2025 (%)
October 14, 2025–December 31, 2025	219,608		219,608	2.00
January 1, 2026–March 31, 2026	82,353		82,353	0.75
April 1, 2026–June 30, 2026	82,353		82,353	0.75
July 1, 2026–September 30, 2026	82,353		82,353	0.75
October 1, 2026–December 31, 2026	82,353		82,353	0.75
January 1, 2027–March 31, 2027	137,255	1,023,038	1,160,293	9.50
April 1, 2027–June 30, 2027	137,255	310,012	447,267	3.75
July 1, 2027–September 30, 2027	137,255	310,012	447,267	3.75
October 1, 2027–December 31, 2027	137,255	310,012	447,267	3.75
January 1, 2028–March 31, 2028		310,012	310,012	2.50
April 1, 2028–June 30, 2028		496,017	496,017	4.00
Total	1,098,040	2,759,103	3,857,143	32.25

As described below, the Exchange proposes that depending on which Prepayment Fee they elect to pay, Participants of the Program may become eligible to earn either (i) the right to purchase both Original Equity and Additional Equity or (ii) the right to purchase Additional Equity only.

ii. Prepayment Fee

The Exchange proposes that current Participants of the Program who have already paid the $500,000 Prepayment Fee will be automatically eligible to earn the right to purchase Additional Equity for any Measurement Period in which the Program thresholds are met, as long as those Participants continue to meet the other Program eligibility requirements. The Exchange also proposes that any Participant who joins the Program after the proposed rule change goes into effect can either (i) prepay $500,000 in Exchange fees to become eligible to earn the right to purchase both Original Equity and Additional Equity, or (ii) prepay a reduced amount of $250,000 in Exchange fees to become eligible to earn the right to purchase Additional Equity only. The Prepayment Fee must be tendered by the first day of each quarter of the Program Period to participate in the Program as of such quarter until April 1, 2028.

The following are examples of the timing of participation in the Program:

- If Participant A joined the Program by tendering the $500,000 Prepayment Fee and executing the required documentation on October 14, 2025 (the date trading commenced on the Exchange), then Participant A's trading starting on October 14, 2025 would be counted toward the Target Volume for Year 1 and thereafter until the end of the Program Period. Participant A would be eligible to earn the right to purchase both Original Equity and Additional Equity for the entire Program Period.
- If Participant B joined the Program by tendering the $500,000 Prepayment Fee and executing the required documentation on October 22, 2026, then Participant B's trading starting on January 1, 2027 would be counted toward the Target Volume for the first quarter of Year 3 (*i.e.,* the first Measurement Period for Year 3) and thereafter until the end of the Program Period. Participant B would be eligible to earn the right to purchase both Original Equity and Additional Equity starting with the Measurement Period that begins on January 1, 2027 throughout the end of the Program Period.
- If Participant C joined the Program by tendering the $250,000 Prepayment Fee and executing the required documentation on October 22, 2026, then Participant C's trading starting on January 1, 2027 would be counted toward the Target Volume for the first quarter of Year 3 (*i.e.,* the first Measurement Period for Year 3) and thereafter until the end of the Program Period. Participant C would be eligible to earn the right to purchase Additional Equity only starting with the Measurement Period that begins on January 1, 2027 throughout the end of the Program Period.
- If Participant D joined the Program by tendering the $500,000 Prepayment Fee and executing the required documentation on October 1, 2027, then Participant D's trading starting on October 1, 2027 would be counted toward the Target Volume for the fourth quarter of Year 3 (*i.e.,* the last Measurement Period in Year 3) and the first quarter of Year 4 (*i.e.,* the only Measurement Period in Year 4). Participant D would be eligible to earn both the right to purchase Original Equity for the last Measurement Period in Year 3 and the right to purchase Additional Equity for the last Measurement Period in Year 3 and the only two Measurement Periods in Year 4. No Member may become a Participant that is eligible to earn Original Equity after October 1, 2027.
- If Participant E joined the Program by tendering the $250,000 Prepayment Fee and executing the required documentation on April 1, 2028, then Participant E's trading starting on April 1, 2028 would be counted toward the Target Volume for the second quarter of Year 4 (*i.e.,* the second Measurement Period in Year 4). Participant E would be eligible to earn the right to purchase Additional Equity for the second Measurement Period in Year 4. No Member may become a Participant after April 1, 2028.

All other terms regarding the Prepayment Fee would remain unchanged as described in the Warrant Program Releases.

iii. Target Volume Calculation

As described in the Warrant Program Release, the Target Volume that Participants must meet in order for their warrants to vest is 5% of the average daily trading volume on the Exchange, where the daily trading volume is calculated based on total aggregated average daily volume traded over each Measurement Period.[12] The Exchange proposes that with respect to Additional Equity only, Target Volume for each

[12] *See* Warrant Program Release at 46439.

Measurement Period will be calculated based solely on Participants' maker volume (*i.e.,* trading volume which adds liquidity to the Exchange). Target Volume will continue to be calculated based on total trading volume with respect to Original Equity.

Pursuant to the Program requirements, the Non-Voting Common Units subject to the Program would be allocated among Participants who have met or outperformed the Target Volume during each Measurement Period on a pro rata basis based on volume contributions to the 24X market. As described in the Warrant Program Release, the volumes for each Participant are calculated for each of the Measurement Periods,[13] and the Non-Voting Common Units indicated are allocated among Participants after the end of each Measurement Period. With respect to Additional Equity only, the Exchange proposes to add two Measurement Periods during the first and second quarters of Year 4. Therefore, the Non-Voting Common Units that would be available to be purchased for the first Measurement Period of Year 4 in accordance with the Program will be allocated among Participants that meet the Target Volume on or before April 5, 2028 and after March 31, 2028, based on trading during the first Measurement Period of Year 4, which is the quarterly period from January 1, 2028 through March 31, 2028. The Non-Voting Common Units that would be available to be purchased for the second Measurement Period of Year 4 in accordance with the Program will be allocated among Participants that meet the Target Volume on or before July 5, 2028 and after June 30, 2028, based on trading during the second Measurement Period of Year 4, which is the quarterly period from April 1, 2028 through June 30, 2028. All other terms regarding Target Volume would remain unchanged as described in the Warrant Program Releases.

b. Proposed Changes With Respect to Both Original Equity and Additional Equity

i. Elimination of 24X Minimum Overall Market Share Threshold

As described in the Warrant Program Releases, the 24X Minimum Overall Market Share is a designated target percentage of the CADV for all NMS Stocks eligible for trading on 24X for each relevant Measurement Period.[14] The CADV is calculated based on the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the relevant Measurement Period.

In order to incentivize participation in the Program and bring greater volume and liquidity to the Exchange, the Exchange proposes to eliminate the 24X Minimum Overall Market Share requirement with respect to Original Equity, and to not implement a 24X Minimum Overall Market Share requirement with respect to Additional Equity. Elimination of the requirement would make Program outcomes more predictable for Participants because Exchange market share depends on the trading activity of all Members and on changes in overall U.S. equity market volume, rather than the individual actions of each Participant. By allowing Participants to determine whether their warrants will vest solely by choosing to meet the Target Volume and not having to rely on other factors outside their control, the proposed revised Program would both attract more new Participants and encourage existing Participants to increase the amount of liquidity they contribute to the Exchange. The Exchange also notes that another national securities exchange offers a warrant program that does not include an exchange market share threshold as a warrant vesting condition.[15]

ii. Exclusion of Dates

With respect to both Original Equity and Additional Equity, the Exchange also proposes to exclude the following dates from the calculation of the Target Volume that Participants must meet in each Measurement Period in order for their warrants to vest:

Date	Description
November 30, 2026	MSCI Index Rebalance.
December 11, 2026	Russell Index Reconstitution.
December 18, 2026	S&P 500, S&P MidCap 400, and S&P SmallCap 600 Quarterly Rebalances.
February 28, 2027	MSCI Index Rebalance.
March 19, 2027	S&P 500, S&P MidCap 400, and S&P SmallCap 600 Quarterly Rebalances.
May 27, 2027	MSCI Index Rebalance.
June 18, 2027	S&P 500, S&P MidCap 400, and S&P SmallCap 600 Quarterly Rebalances.
June 25, 2027	Russell Index Reconstitution.
August 31, 2027	MSCI Index Rebalance.
September 17, 2027	S&P 500, S&P MidCap 400, and S&P SmallCap 600 Quarterly Rebalances.
November 30, 2027	MSCI Index Rebalance.
December 10, 2027	Russell Index Reconstitution.
December 17, 2027	S&P 500, S&P MidCap 400, and S&P SmallCap 600 Quarterly Rebalances.
February 29, 2028	MSCI Index Rebalance.
March 17, 2028	S&P 500, S&P MidCap 400, and S&P SmallCap 600 Quarterly Rebalances.
May 31, 2028	MSCI Index Rebalance.
June 16, 2028	S&P 500, S&P MidCap 400, and S&P SmallCap 600 Quarterly Rebalances.
June 23, 2028	Russell Index Reconstitution.

On equivalent rebalance and reconstitution dates in the past, a significant percentage of consolidated trading volume has occurred during the closing auctions on the primary listing exchanges. Because these auction executions were not available to the Exchange or Program Participants, they artificially increased consolidated market volume while providing no realistic opportunity for Participants to increase trading volume on 24X. The Exchange therefore proposes to exclude the above dates from the calculation of Target Volume given that their inclusion would create a diluting effect that would make it more difficult for

[13] The volume for the Exchange is also calculated for each of the Measurement Periods.

[14] *See* Warrant Program Release at 46439.

[15] *See* Securities Exchange Act Rel. No. 105090 (Mar. 26, 2026), 91 FR 16044 (Mar. 31, 2026) (SR–TXSE–2026–003).

Participants to achieve Target Volume through ordinary trading activity.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [16] in general, and furthers the objectives of Section 6(b)(5) of the Exchange Act [17] in particular, in that it is 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 facilitating transactions in securities, to remove impediments to and perfect the mechanisms 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) of the Exchange Act [18] 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 Exchange Act,[19] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

The Exchange believes that the proposed changes to the Program are consistent with the Act. Making the Additional Equity available for purchase through the Program at a reduced Prepayment Fee and based on maker volume only would both encourage additional Participant enrollment in the Program, and encourage Participants to provide additional volume and liquidity to the Exchange. The Exchange believes that an increase in volume and liquidity would benefit all market participants by providing more trading opportunities and tighter spreads, even to those market participants that do not participate in the Program, thereby perfecting the mechanism for a free and open market and national market system.

Moreover, the elimination of the 24X Minimum Overall Market Share requirement and exclusion of certain dates from the calculation of Target Volume with respect to both Original Equity and Additional Equity would make it more likely that Participants' warrants would vest in any given Measurement Period. As described above, elimination of the 24X Minimum Overall Market Share requirement would allow Participants to have more control over whether their warrants vest in any given Measurement Period,[20] and exclusion of certain dates from the calculation of Target Volume would remove a potential diluting effect that otherwise would hamper Participants' ability to achieve Target Volume through ordinary trading activity. These incentives would promote the long-term interests of the Exchange by attracting new Participants and encouraging existing Participants to contribute to the growth and success of the Exchange via actively providing liquidity on the 24X market, and to provide additional investment and funding which could be used for the regulation and operation of the Exchange. The Exchange believes that the additional funds provided as a result of these changes would enable the Exchange to have greater capacity to carry out the purposes of the Act and to comply with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange, which, in turn, would protect investors and the public interest.

The Exchange believes that the proposed changes are equitable and not unfairly discriminatory because all Participants may earn the right to purchase both Original Equity and Additional Equity on the same terms and conditions. The additional Measurement Period, Prepayment Fee schedule, and Target Volume modification with respect to Additional Equity are objective and the same for all Participants. Likewise, the elimination of the 24X Minimum Overall Market Share requirement and exclusion of certain dates from the calculation of Target Volume with respect to both Additional Equity and Original Equity are based on objective standards and would have the same effect for all Participants.

A Participant's total equity ownership of 24X US Holdco Units, including any purchased through the exercise of vested warrants via the Program, shall be subject to the ownership limitations of the 24X US Holdco LLC Agreement.[21] Accordingly, a Participant will not be able to exercise warrants for Non-Voting Common Units to the extent that such exercise would violate such ownership limitations.

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 Exchange Act. The Exchange believes that the Program as amended by this proposed rule change would increase both intermarket and intramarket competition by incentivizing Participants to add liquidity to the Exchange, which will enhance the quality of quoting and increase the volume of securities traded on the Exchange. To the extent that there is an additional competitive burden on non-Participants, the Exchange believes that such burden is appropriate because the Program should incentivize Participants to add liquidity to the Exchange and thus enhance the volume of securities traded on the Exchange. To the extent that this purpose is achieved, the Exchange believes that all of the Exchange's market participants would benefit from the improved market liquidity.

Given the robust competition for volume among equities markets, implementing a program to attract liquidity addition like the one proposed in this filing is consistent with the abovementioned goals of the Exchange Act. This is especially true for the smaller exchange markets, such as 24X, which are competing for volume with much larger exchanges that dominate the equities trading industry. As a new exchange, 24X will likely continue to have a nominal percentage of the average daily trading volume in equities in the near term, so it is unlikely that the Program could cause any competitive harm to the equities market or to market participants. Rather, the Program is a modest attempt to attract order volume away from larger competitors by adopting an innovative pricing strategy. The Exchange notes that if the Program results in a modest percentage increase in the average daily trading volume on 24X, while such percentage would represent a large volume increase for 24X, it would represent a minimal reduction in volume of its larger competitors in the industry. The Exchange believes that the Program will help further competition, because market participants will have yet another option in determining where to post liquidity if they factor the benefits of 24X equity participation into the determination.

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(5).

[18] *See id.*

[19] 15 U.S.C. 78f(b)(4).

[20] The proposed removal of the 24X Minimum Overall Market Share requirement is also consistent with the structure of the warrant program of another national securities exchange. *See supra* n. 15.

[21] *See, e.g.,* Section III of the 24X US Holdco LLC Agreement.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [22] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder,[23] because it establishes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [24] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–24X–2026–26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–24X–2026–26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–24X–2026–26 and should be submitted on or before November 9, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–21244 Filed 10–16–26; 8:45 am]

BILLING CODE 8011–01–P

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(2).

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–106666; File No. SR–PHLX–2026–61]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the PHLX Pricing Schedule at Options 7, Section 4 (Multiply Listed Options Fees)

October 14, 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 October 1, 2026, Nasdaq PHLX LLC (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the PHLX Pricing Schedule at Options 7, Section 4 (Multiply Listed Options Fees).

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.

[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

PHLX proposes to amend its Pricing Schedule at Options 7, Section 4 (Multiply Listed Options Fees).

Options 7, Section 4 (Multiply Listed Options Fees)

Currently, the Exchange offers a Floor Transaction (Open Outcry) [3] Floor Broker Incentive Program (''Program''). Under the Program, the following transactions are not considered qualifying volume: (1) dividend, merger, short stock interest, reversal and conversion, jelly roll, and box spread strategy executions as defined in Options 7, Section 4; (2) Firm [4] Floor Options Transactions for members executing facilitation orders [5] pursuant to Options 8, Section 30 when such members are trading in their own proprietary account (including Cabinet Options Transaction Charges); and (3) Customer [6]-to-Customer transactions.

Currently, rebates are paid on qualifying volume at each threshold level based on the below schedule. Floor QCC Orders, as defined in Options 8, Section 30(e), and electronic QCC

[3] The term ''floor transaction'' is a transaction that is effected in open outcry on the Exchange's Trading Floor. *See* Options 7, Section 1(c).

[4] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC. *See* Options 7, Section 1(c).

[5] A facilitation order is a paired order entered into the Facilitation Mechanism as described in Options 3, Section 11(b). *See* Options 3, Section 7(w).

[6] The term ''Customer'' applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of a broker or dealer or for the account of a ''Professional'' (as that term is defined in Options 1, Section 1(b)(45)). *See* Options 7, Section 1(c).

Orders,[7] as defined in Options 3, Section 12, are considered qualifying volume but are not paid rebates based on the below schedule, rather Floor QCC Orders and electronic QCC Orders are paid the QCC Rebates noted in Options 7, Section 4. A Floor Broker is paid a $0.20 per contract rebate for open outcry floor executions that are contra a Lead Market Maker [8] or Market Maker,[9] in lieu of any Floor Broker Incentive Program rebate.

The current tiered of rebates under this program is as follows:

	Qualifying contracts	Per contract rebate (customer on one side)	Per contract rebate (non-customer on both sides)
Tier 1	0–500,000	$0.04	$0.10
Tier 2	500,001–5,000,000	0.07	0.18
Tier 3	5,000,001–10,000,000	0.09	0.18
Tier 4	Greater than 10,000,000	0.10	0.20

Currently, this tiered schedule of rebates is followed by five examples (labeled Example 1 through Example 5) that illustrate how the program works. Finally, rebates under this program are currently capped at $2,000,000 per member or member organization in a given month.

First Change

The Exchange proposes to increase the Tier 1 Per Contract Rebate (when there is a Customer on one side) from $0.04 to $0.07. This change will bring this Tier 1 rebate to the same level as the Tier 2 rebate.

Second Change

The Exchange proposes to increase the Tier 1 Per Contract Rebate (when there are Non-Customers on both sides) from $0.10 to $0.18. This change will bring this Tier 1 rebate to the same level as the Tier 2 rebate.[10]

Third Change

The Exchange proposes to make several changes to Examples 2,[11] 3, and 4 to reflect the new rebate levels.

Fourth Change

The Exchange proposes to make a change to Example 4 to correct an oversight from a prior filing,[12] that had decreased the Tier 4 rebate (when there are Non-Customers on both sides) from $0.22 to $0.20, but had not adjusted its corresponding example. This is not a substantive change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[14] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [16] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[17] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [18]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [19] Although the court and the SEC were discussing the cash equities markets, the Exchange believes

[7] A Qualified Contingent Cross (''QCC'') Order is comprised of an originating order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Supplementary Material .01 below, coupled with a contra-side order or orders totaling an equal number of contracts. *See* Options 3, Section 7(j).

[8] The term ''Lead Market Maker'' applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. *See* Options 7, Section 1(c).

[9] The term ''Market Maker'' is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. The term ''Streaming Quote Trader'' or ''SQT'' is defined in Options 1, Section 1(b)(55) as a Market Maker who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. The term ''Remote Streaming Quote Trader'' or ''RSQT'' is defined in Options 1, Section 1(b)(49) as a Market Maker that is a member affiliated with an RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A Remote Streaming Quote Trader Organization or ''RSQTO,'' which may also be referred to as a Remote Market Making Organization (''RMO''), is a member organization in good standing that satisfies the RSQTO readiness requirements in Options 2, Section 1(a). *See* Options 7, Section 1(c).

[10] Even though the effect of the First and Second Changes is that the new rebate amounts for Tier 1 will be identical to the current (and continuing) rebate amounts for Tier 2, at this moment the Exchange is choosing not to formally collapse these tiers, as it may want to differentiate these tiers again in the future.

[11] The Exchange is also replacing, in Example 2, two colons (''::'') with semicolons ('';''). This is simply a typographical clean up.

[12] *See* Securities Exchange Act Release No. 105913 (July 14, 2026), 91 FR 44933 (July 17, 2026) (File No. SR–PHLX–2026–44).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[16] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[17] *See NetCoalition,* at 534–535.

[18] *Id.* at 537.

[19] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (Dec. 2, 2008), 73 FR 74770, 74782–83 (Dec. 9, 2008) (SR–NYSEArca–2006–21)).

that these views apply with equal force to the options markets.

First Change

The Exchange believes that its proposal to increase the Tier 1 Per Contract Rebate for qualifying volume with a Customer on one side from $0.04 to $0.07 is reasonable. As discussed above, this change is designed to increase the amount of the rebate available to Floor Brokers at the entry-level tier of the Floor Broker Incentive Program, thereby providing a stronger incentive for Floor Brokers to direct qualifying open outcry order flow with a Customer on one side to the Exchange. The Exchange believes that the proposed increase will make the Floor Broker Incentive Program more attractive at the entry level and will encourage additional Floor Brokers to participate in the Program. Increased participation in the Program will bring additional Customer order flow to the Exchange, which benefits all market participants by providing more trading opportunities and deeper liquidity, particularly for open outcry executions on the Exchange's Trading Floor. The proposed Tier 1 rebate of $0.07 per contract is reasonable because it is the same per contract rebate that the Exchange currently pays for qualifying volume with a Customer on one side at the Tier 2 volume level. The proposed change is therefore consistent with the rebate levels that the Exchange has previously determined to be reasonable under this same Program.

The Exchange further believes that the proposed increase in the Tier 1 Per Contract Rebate for qualifying volume with a Customer on one side is equitable and not unfairly discriminatory because the proposed rebate will apply uniformly to all Floor Brokers that satisfy the Tier 1 volume threshold under the Floor Broker Incentive Program. Any Floor Broker is able to qualify for the Tier 1 rebate by satisfying the objective, transparent volume threshold of up to 500,000 qualifying contracts, and all qualifying Floor Brokers will receive the same $0.07 per contract rebate on qualifying volume with a Customer on one side within that threshold. The Exchange believes it is equitable and not unfairly discriminatory to offer this rebate in respect of qualifying volume with a Customer on one side because Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Second Change

The Exchange believes that its proposal to increase the Tier 1 Per Contract Rebate for qualifying volume with Non-Customers on both sides from $0.10 to $0.18 is reasonable. As discussed above, this change is designed to increase the amount of the rebate available to Floor Brokers at the entry-level tier of the Floor Broker Incentive Program in respect of open outcry executions with Non-Customers on both sides, thereby providing a stronger incentive for Floor Brokers to direct such qualifying volume to the Exchange. The Exchange believes that the proposed increase will make the Program more attractive at the entry level and will encourage additional Floor Brokers to participate in the Program. Increased participation in the Program will bring additional order flow to the Exchange, which benefits all market participants by providing more trading opportunities and deeper liquidity, particularly for open outcry executions on the Exchange's Trading Floor. The proposed Tier 1 rebate of $0.18 per contract is reasonable because it is the same per contract rebate that the Exchange currently pays for qualifying volume with Non-Customers on both sides at the Tier 2 volume level (and, indeed, at the Tier 3 volume level). The proposed change is therefore consistent with the rebate levels that the Exchange has previously determined to be reasonable under this same Program.

The Exchange further believes that the proposed increase in the Tier 1 Per Contract Rebate for qualifying volume with Non-Customers on both sides is equitable and not unfairly discriminatory because the proposed rebate will apply uniformly to all Floor Brokers that satisfy the Tier 1 volume threshold under the Floor Broker Incentive Program. Any Floor Broker is able to qualify for the Tier 1 rebate by satisfying the objective, transparent volume threshold of up to 500,000 qualifying contracts, and all qualifying Floor Brokers will receive the same $0.18 per contract rebate on qualifying volume with Non-Customers on both sides within that threshold. The Exchange believes it is equitable and not unfairly discriminatory to offer this rebate in respect of qualifying volume with Non-Customers on both sides because such open outcry activity supports the price discovery and liquidity provision functions of the Exchange's Trading Floor, which benefits all market participants.

Third Change

The Exchange believes that its proposal to make conforming changes to Examples 2, 3, and 4 to reflect the new Tier 1 rebate levels is consistent with the Act. This change is non-substantive and is designed to ensure that the illustrative examples that accompany the tiered rebate schedule accurately reflect the operation of the Floor Broker Incentive Program under the increased Tier 1 rebates proposed in the First and Second Changes. The Exchange believes that making these conforming changes to the examples will make the Pricing Schedule easier to read and will remove any potential confusion that could arise from having the examples reflect outdated rebate amounts. This change protects investors and the public interest by ensuring that the illustrative examples in the Pricing Schedule are accurate and consistent with the tiered rebate schedule as modified by this filing.

The Exchange further believes that the proposed changes to Examples 2, 3, and 4 are equitable and not unfairly discriminatory because they are non-substantive and do not alter the fees or rebates available to any Floor Broker or category of Floor Brokers. The updated examples will apply uniformly to all Floor Brokers and will continue to illustrate the operation of the Program in the same manner for all similarly situated market participants.

Fourth Change

The Exchange believes that its proposal to correct Example 4 to reflect the currently applicable Tier 4 Per Contract Rebate of $0.20 per contract for qualifying volume with Non-Customers on both sides is consistent with the Act. As discussed above, this change is non-substantive and is designed to correct an oversight from a prior filing that had decreased the Tier 4 rebate (when there are Non-Customers on both sides) but had not simultaneously adjusted the corresponding figures in Example 4. The Exchange believes that correcting the example will make the Pricing Schedule easier to read and will eliminate any potential confusion that could arise from having the example reflect a rebate amount that is no longer in effect. This change protects investors and the public interest by ensuring that the illustrative examples in the Pricing Schedule are accurate and consistent with the tiered rebate schedule that is currently in effect.

The Exchange further believes that the proposed correction to Example 4 is equitable and not unfairly discriminatory because it is non-

substantive and does not alter the fees or rebates available to any Floor Broker or category of Floor Brokers. The corrected example will apply uniformly to all Floor Brokers and will continue to illustrate the operation of the Program in the same manner for all similarly situated market participants.

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.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes its proposal remains competitive with other options markets and will offer market participants another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The Exchange does not believe that the proposed rule change would impose any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act.

First Change

The Exchange does not believe that its proposal to increase the Tier 1 Per Contract Rebate for qualifying volume with a Customer on one side from $0.04 to $0.07 will impose any undue burden on intra-market competition. The proposed increased rebate will apply uniformly to all similarly situated market participants: any Floor Broker that satisfies the Tier 1 volume threshold under the Floor Broker Incentive Program will receive the same $0.07 per contract rebate on qualifying volume with a Customer on one side within that threshold. Any Floor Broker is able to qualify for the Tier 1 rebate by satisfying the objective, transparent volume threshold. The Exchange further believes that providing this rebate for qualifying volume with a Customer on one side does not impose an undue burden on intra-market competition because Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The proposed change is designed to enhance, rather than restrict, competition among Floor Brokers for open outcry Customer order flow by increasing the amount of the entry-level rebate available under the Program. To the extent Floor Brokers regard the proposed Tier 1 rebate as insufficient, they may readily direct their order flow to any of the other options exchanges that support open outcry executions.

Second Change

The Exchange does not believe that its proposal to increase the Tier 1 Per Contract Rebate for qualifying volume with Non-Customers on both sides from $0.10 to $0.18 will impose any undue burden on intra-market competition. The proposed increased rebate will apply uniformly to all similarly situated market participants: any Floor Broker that satisfies the Tier 1 volume threshold under the Floor Broker Incentive Program will receive the same $0.18 per contract rebate on qualifying volume with Non-Customers on both sides within that threshold. Any Floor Broker is able to qualify for the Tier 1 rebate by satisfying the objective, transparent volume threshold. The Exchange further believes that providing this rebate for qualifying volume with Non-Customers on both sides does not impose an undue burden on intra-market competition because open outcry activity on the Exchange's Trading Floor supports the price discovery and liquidity provision functions of the Trading Floor, which benefits all market participants. The proposed change is designed to enhance, rather than restrict, competition among Floor Brokers for open outcry order flow with Non-Customers on both sides by increasing the amount of the entry-level rebate available under the Program. To the extent Floor Brokers regard the proposed Tier 1 rebate as insufficient, they may readily direct their order flow to any of the other options exchanges that support open outcry executions.

Third Change

The Exchange does not believe that its proposal to make conforming changes to Examples 2, 3, and 4 will impose any burden on competition. As discussed above, this change is non-substantive and is intended to conform the illustrative examples in the Pricing Schedule to the increased Tier 1 rebates proposed in the First and Second Changes. Because the proposed change does not alter the fees or rebates available to any Floor Broker or category of Floor Brokers, and merely conforms the illustrative examples in the Pricing Schedule to the tiered rebate schedule as modified by this filing, it does not impose any burden on either intra-market or inter-market competition.

Fourth Change

The Exchange does not believe that its proposal to correct Example 4 will impose any burden on competition. As discussed above, this change is non-substantive and is intended to correct an oversight from a prior filing that had adjusted the Tier 4 Per Contract Rebate for qualifying volume with Non-Customers on both sides but had not simultaneously updated the corresponding figures in Example 4. Because the proposed change does not alter the fees or rebates available to any Floor Broker or category of Floor Brokers, and merely conforms the illustrative example to the tiered rebate schedule that is currently in effect, it does not impose any burden on either intra-market or inter-market competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[20]

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

[20] 15 U.S.C. 78s(b)(3)(A)(ii).

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–2026–61 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–2026–61. 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–2026–61 and should be submitted on or before November 9, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2026–21247 Filed 10–16–26; 8:45 am]

BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21965; ARIZONA Disaster Number AZ–20028 Declaration of Economic Injury]

Administrative Declaration of an Economic Injury Disaster for the State of Arizona

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of an Economic Injury Disaster Loan (EIDL) declaration for the state of Arizona dated October 13, 2026.

Incident: Flash Flooding at Grand Canyon National Park.

DATES: Issued on October 13, 2026.

Incident Period: August 29, 2026 through September 3, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: July 13, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Milton Murphy, Office of Disaster Recovery, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the Administrator's EIDL declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary County: Coconino.

Contiguous Counties:

Arizona: Gila, Mohave, Navajo, Yavapai.

Utah: Kane, San Juan.

The Interest Rates are:

	Percent
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for economic injury is 219650.

The states which received an EIDL declaration are Arizona and Utah.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery.

[FR Doc. 2026–21257 Filed 10–16–26; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21966 and #21967; COLORADO Disaster Number CO–20032]

Administrative Declaration of a Disaster for the State of Colorado

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is notice of an Administrative declaration of a disaster for the state of Colorado dated October 14, 2026.

Incident: Aspen Acres Fire.

DATES: Issued on October 14, 2026.

Incident Period: June 29, 2026 and continuing.

Physical Loan Application Deadline Date: December 14, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: July 14, 2027.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Shaquille Lewis, Office of Disaster Recovery, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given as a result of the Administrator's disaster declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or in person at other locally announced locations. For further assistance please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Custer, Pueblo.

Contiguous Counties:

Colorado: Crowley, El Paso, Fremont, Huerfano, Las Animas, Lincoln, Otero, Saguache.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.750
Homeowners without Credit Available Elsewhere	2.875
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Private Non-Profit Organizations with Credit Available Elsewhere	3.625
Private Non-Profit Organizations without Credit Available Elsewhere	3.625
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Private Non-Profit Organizations without Credit Available Elsewhere	3.625

The number assigned to this disaster for physical damage is 219665 and for economic injury is 219670.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings.

Associate Administrator, Office of Disaster Recovery.

[FR Doc. 2026–21256 Filed 10–16–26; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 13147]

Department of State Performance Review Board Members

SUMMARY: The Department of State (DOS) announces the persons who will serve on the Senior Executive Service 2026 Performance Review Board.

DATES: This appointment is effective October 1, 2026.

FOR FURTHER INFORMATION CONTACT: Margarita Pickett, Chief, Executive Resources and Performance Management Division, Bureau of Human Resources, Office of Civil Service Talent Management, Department of State. Phone: 202–255–5504; email: *PickettM2@state.gov*.

SUPPLEMENTARY INFORMATION: This action is being taken in accordance with Title 5, U.S.C., section 4314 (c) (4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The membership of the Department of State Performance Review Board is as follows:

Basil Parker, NC SES, Chair
Wesley (Wes) Brooks, NC SES
Jose Cunningham, NC SES
Rudolf (Rudy) Strom, NC SES
Alternate: Joel Borkert, NC SES
Alternate: Austin Sprenger, NC SES
Elizabeth (Beth) O'Connor, Career
Matthew Pierce, Career
Elissa Pitterle, Career
Eric Stein, Career
William (Bill) Stephens, Career
Lesley Ziman, Career
Alternate: Sharon James, Career
Alternate: Deborah Schnieder, Career

Marcos Correa,

Acting Director, Bureau of Human Resources, Office of Civil Service Talent Management, U.S. Department of State.

[FR Doc. 2026–21304 Filed 10–16–26; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2026–1156]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by December 15, 2026.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 1156 by any of the following methods: *website:* For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Melissa Maiefski, *melissa.maiefski@dot.gov,* (402) 326–7960, Office of Competitive Grants and Workforce Programs, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Great American Digital Corridors (GADC) Program.

Background: The Federal Highway Administration (FHWA), in partnership with the Office of the Assistant Secretary for Research and Technology, administers the Fiscal Year (FY) 2026 Great American Digital Corridors (GADC) Program Cooperative Agreement. The GADC Program was authorized under Section 11101(c)(1)(D) of the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58) to carry out the Intelligent Transportation Systems Program pursuant to Title 23, United States Code (U.S.C.) §§ 512–518.

The purpose of the GADC Program is to support States and eligible entities in advancing the deployment of digital infrastructure along the Federal-aid highway system, including the Interstate System. The program's goals include modernizing the digital infrastructure of the Federal-aid highway system, including the Interstate System, to improve safety and efficiency, reduce congestion, and optimize freight movement. Digital infrastructure supports the modernization of transportation systems by enabling the exchange of precise, accurate, and reliable digital feeds of work zones, lane closures, and other dynamic, real-time operational conditions. By using digital infrastructure to bridge the gap between physical infrastructure and digital intelligence, infrastructure owner-operators can improve safety, efficiency, security, and mobility for transportation workers and all road users.

The program provides competitive cost-reimbursable cooperative agreements to eligible entities, including States, local and Tribal governments, transit agencies, public toll authorities, Metropolitan Planning Organizations (MPOs), other political subdivisions of a State or local government, private entities, nonprofit organizations, and

academic institutions may apply as an eligible entity and lead administration of the project, provided they apply as part of consortium with one or more other eligible entities, and consortiums of eligible entities. The Federal share for GADC projects is 100 percent, requiring no non-Federal match. The FHWA announced the availability of up to $20 million for fiscal year 2026 funding to support these digital infrastructure improvements.

Respondents: The NOFO announcing up to $20 million of Fiscal Year (FY) 2026, funding for GADC cooperative agreement will be available for eligible respondents entities, including States, local and Tribal governments, transit agencies, public toll authorities, Metropolitan Planning Organizations (MPOs), other political subdivisions of a State or local government, private entities, nonprofit organizations, and academic institutions may apply as an eligible entity and lead administration of the project, provided they apply as part of consortium with one or more other eligible entities, and consortiums of eligible entities. FHWA is expecting approximately 20 applicants to apply for the GADC cooperative agreement.

Frequency: NOFOs and cooperative agreement solicitations may be published annually by FHWA but, are subject to the availability of funds in appropriations or, any legislation signed into law authorizing funds.

Estimated Average Burden per Response: 10 hours per respondent per applicant.

Estimated Total Annual Burden Hours: It is expected that the respondents will complete approximately 20 applications for the program, for an estimated total of 200 annual burden hours (10hrs × 20 = 200hrs).

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: October 14, 2026.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2026–21237 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2026–0958]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Older Novice Driver Study

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for approval of a new information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. The National Highway Traffic Safety Administration (NHTSA) proposes to conduct a new information collection, Older Novice Driver Study. This study aims to examine the driving performance and behavior of younger (less than age 17) and older (ages 18 to 20) novice drivers during their first year of unsupervised driving to inform the feasibility of developing Graduated Driver Licensing (GDL) provisions that apply to older novice drivers. This study will also examine the driving performance and behavior of novices who are consistently at higher- or lower-risk during this period to inform the development of other behavioral countermeasures like training, education, and messaging. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on May 26, 2026. NHTSA did not receive any comments on the proposed information collection.

DATES: Comments must be submitted on or before November 18, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at *www.reginfo.gov/public/do/PRAMain.* To find this particular information collection, select ''Currently under Review—Open for Public Comment'' or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Christine Watson, Ph.D., Office of Behavioral Safety Research (NPD–320), *Christine.Watson@dot.gov,* phone: (771) 241–3120, National Highway Traffic Safety Administration, W46–492, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted OMB.

Title: Older Novice Driver Study.

OMB Control Number: New.

Form Numbers: NHTSA Forms 2228, 2229, 2230, 2231, 2232, 2233, and 2234.

Type of Request: Request for approval of a new information collection.

Type of Review Requested: Regular.

Requested Expiration Date of Approval: Three years from date of approval.

Summary of the Collection of Information:

The National Highway Traffic Safety Administration (NHTSA) is seeking approval for a one-time voluntary information collection from older (ages 18 to 20) and younger (younger than age 17) novice drivers to investigate their driving performance and behavior during the first 12 months of independent (unsupervised) driving after licensure in a State(s) that does not apply GDL laws to novices 18 and older. Naturalistic driving data for each participant will be collected for 12 months following licensure using a smartphone-based data acquisition system (DAS) or using both the smartphone-based system and another, more comprehensive DAS installed in participant's personal vehicles. The smartphone-based DAS will use Global Positioning System (GPS) and accelerometer inputs to collect information related to velocity,

acceleration, and driver exposure. The vehicle DAS includes video cameras and sensors; data will also be collected from the vehicle data bus. In addition, at the beginning, at the end, and up to four times throughout the study, participants will complete questionnaires about demographic, psychological, or other individual characteristics, such as attitudes and beliefs about traffic safety, that prior research indicates is associated with increased risk of crashes or risky driving. Finally, participant-provided driver license numbers will be linked to State databases to obtain crash and citation information (number, type, and date) for the 12-month study period.

While the naturalistic data collection does not create a burden to participants, study tasks with associated burden include a 2-minute screening questionnaire and a 10-minute informed consent briefing for potential participants (and their parent/guardian, if under 18). At the beginning of the study, all enrolled participants will complete a baseline questionnaire and hazard perception test and have the smartphone DAS installed (30 minutes); a subgroup will also have the vehicle DAS installed (an additional 240 minutes). During the naturalistic driving data collection period, participants will complete a study questionnaire on their smartphones up to four times (84 minutes). Finally, at the end of the study, all participants will complete a final questionnaire and have the smartphone app uninstalled from their phones (two minutes); the subgroup with the vehicle DAS will also have it uninstalled (an additional 240 minutes).

The total expected annual burden for this collection is 2,574 hours, with an estimated opportunity cost of $110,378. The total annual cost burden is $0. Prior to conducting the study, the research team will obtain review and approval of this data collection from an Institutional Review Board (IRB) that meets all Federal requirements in 45 CFR 46, is registered with the Office for Human Research Protections, and has a Federalwide Assurance. NHTSA will use the results of this study to produce a technical report containing summary descriptive and inferential statistics. The technical report will be shared with State Highway Safety Offices, local governments, policymakers, researchers, educators, advocates, and others who may wish to use the results of this study to support their work on novice and teen driver safety.

Description of the Need for the Information and Proposed Use of the Information:

NHTSA's mission is to save lives, prevent injuries and reduce health care and other economic costs from motor vehicle crashes. To further this mission, NHTSA conducts research as a foundation for the development of motor vehicle standards and traffic safety programs. Because of their increased risk, novice drivers are an area of focus for NHTSA's behavioral safety efforts. State GDL laws have been successful at reducing crashes of younger novices, but an increasing number of young people are delaying licensure until they are 18 or older, when they are typically exempt from GDL provisions. Little is currently known about the driving performance and behavior of novices ages 18–20, but some research indicates older novices may be at higher risk than their teen counterparts.

This study aims to examine the driving performance and behavior of younger and older novice drivers during their first year of unsupervised driving to inform the feasibility of developing GDL provisions that apply to older novice drivers. This study will also examine the driving performance and behavior of novices who are consistently at higher- or lower-risk during this period to inform the development of other behavioral countermeasures like training, education, and messaging. Finally, this study employs the use of smartphone telematics for the collection of naturalistic driving data from all participants, with the goal of removing barriers to participation and recruiting a study sample that is more representative of the older and younger novice driver populations. Because a subgroup of participants will also have naturalistic driving data collected from a vehicle DAS, this study will provide methodological information about the correspondence of driving performance and behavior data collected with the two methods.

60-Day Notice

A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on May 26, 2026 (91 FR 30780). No comments were received regarding the information collection.

Affected Public: Newly-licensed drivers in one or more States, either less than 17 years old or between 18 and 20 years old.

Estimated Number of Respondents: The study anticipates screening up to 3,337 potential participants annually. Of this group, an estimated 1,001 potential participants annually (plus an estimated 501 parents/guardians for potential participants younger than 18) will undergo the informed consent briefing. Finally, of this group, about 834 respondents are expected to consent and enroll in the study annually.

Frequency: This study is a one-time data collection.

Estimated Total Annual Burden Hours

A screening questionnaire to identify respondents who are eligible for the study will be administered in person or over the telephone. We estimate that 2,336 respondents annually will complete the screening questionnaire but will not be eligible or interested in participating in the study. For this group (''Screened, Ineligible''), completing the screening questionnaire (two minutes) has an estimated annual burden of 78 hours (Table 1).

We estimate that 30% of those who complete the screening questionnaire will be eligible and interested in participating in the study. These respondents will then complete the informed consent briefing. In this briefing, a member of the research team will share an overview of the study, explain the consent form, and answer any of the potential participant's questions. However, we estimate that about 17% of respondents who undergo the informed consent briefing will ultimately decline to participate in the study (167 respondents annually). For this group (''Eligible, Not Enrolled''), completing the screening questionnaire (two minutes) and informed consent briefing (10 minutes) has an estimated annual burden of 33 hours (Table 1). In addition, about half of all respondents who complete the informed consent briefing are expected to be younger than 18. For these respondents, a parent or guardian must also complete the informed consent briefing. We estimate that about 501 parent/guardians will complete the informed consent briefing (10 minutes) annually, for an estimated annual burden of 84 hours (Table 1).

Finally, we anticipate enrolling 834 respondents in the study annually. Of these 834 respondents, 759 respondents will be assigned to smartphone DAS group and will only have naturalistic driving data collected via smartphone telematics. The remaining 75 respondents will be assigned to the vehicle DAS group and will additionally have driving data collected via in-vehicle equipment.

TABLE 1—ANNUAL BURDEN ESTIMATES

Information collection	NHTSA Form No.	Burden per response (minutes)	Annual number of respondents	Hourly opportunity cost	Opportunity cost per response	Total annual opportunity cost	Total annual burden (hours)
Screened, Ineligible	2228	2	2,336	$42.88	$1.43	$3,341	78
Eligible, Not Enrolled	2228, 2229	12	167	42.88	8.58	1,433	33
Parent/Guardian Consent (if under 18)	2229	10	501	42.88	7.15	3,579	84
Eligible, Enrolled—Smartphone DAS Only	2228, 2229, 2230, 2232, 2233	128	759	42.88	91.48	69,434	1,619
Eligible, Enrolled—Smartphone & Vehicle DASs.	2228, 2229, 2231, 2232, 2234	608	75	42.88	434.54	32,591	760
Annual Total			3,838			110,378	2,574

TABLE 2—BURDEN BY FORM

NHTSA Form No.	Form name	Burden (minutes)
2228	Screening Questionnaire	2
2229	Informed Consent Briefing	10
2230	Baseline Questionnaire—Smartphone DAS Only	30
	Baseline questionnaire	15
	Hazard perception test	10
	Smartphone DAS installation	5
2231	Baseline Questionnaire—Smartphone & Vehicle DASs	270
	Baseline questionnaire	15
	Hazard perception test	10
	Smartphone DAS installation	5
	Vehicle DAS installation	240
2232	Study Period Questionnaire (up to 4 times)	84
2233	Final Questionnaire—Smartphone DAS Only	2
	Final questionnaire	1
	Smartphone DAS uninstallation	1
2234	Final Questionnaire—Smartphone & Vehicle DASs	242
	Final questionnaire	1
	Smartphone DAS uninstallation	1
	Vehicle DAS uninstallation	240

All respondents enrolled in the study will complete the screening questionnaire (two minutes), the informed consent briefing (10 minutes), and all other study activities. These study activities include (Table 2):

- Completing a baseline questionnaire (15 minutes), a hazard perception test to measure the respondent's ability to correctly identify driving hazards in static images (10 minutes), having the app that will collect naturalistic driving data installed on their smartphone (five minutes), and, for the vehicle DAS group, having the in-vehicle data collection equipment installed in their personal vehicles (240 minutes). These baseline activities have an estimated total burden of 30 minutes for the smartphone DAS group and 270 minutes for the vehicle DAS group.
- Completing a study period questionnaire up to four times during the 12-month study period (up to 84 minutes). This questionnaire asks participants to self-report a variety of information that prior research indicates is associated with increased risk of crashes or risky driving, including mindfulness, anxiety, depression, parental involvement, sense of purpose, neighborhood collective efficacy, perceived community support, safety attitudes and behaviors, sensation seeking personality, and sleep quality.
- Completing a final questionnaire that asks participants about any crashes or citations they experienced during the study period (one minute), having the data collection app uninstalled from their smartphones (one minute), and, for the vehicle DAS group only, having the in-vehicle data collection equipment uninstalled from their vehicles (240 minutes). These final study activities have an estimated total burden of two minutes for the smartphone DAS group and 242 minutes for the vehicle DAS group.

Overall, we estimate that for the 759 annual respondents in the smartphone DAS group, the burden per response is 128 minutes, for a total annual burden of 1,619 hours. For the 75 annual respondents in the vehicle DAS group, the burden per response is 608 minutes, for a total annual burden of 760 hours.

The total hour burden for all respondents is 2,574 hours annually (Table 1). A summary of the number of study participants expected to complete each stage of the study (*i.e.,* screening, informed consent, and enrollment) is shown in Table 3.

Estimated Total Annual Burden Cost: $0.

The subset of participants (n = 225) who will have both the smartphone DAS and vehicle DAS installed will need to travel to and from a study location where the vehicle DAS equipment installation will occur. While at the study location, these participants will also have the smartphone DAS installed and complete the baseline questionnaire and hazard perception test. Then, at the end of the study, this subgroup of participants will again travel to and from the study location to have the DASs uninstalled and complete the final questionnaire. NHTSA estimates that each of the 225 participants will travel less than 10 miles one-way to the study location (20 miles round trip), for a total of 40 miles for the two days. Using the IRS standard mileage rate of $0.725 per mile, each participant is expected to incur no more than $29 in transportation costs. Therefore, NHTSA estimates that the total costs to the respondents enrolled in the study will be no more than $2,175 annually ($6,525 total). The costs

associated with this travel are minimal and are expected to be offset by the compensation that will be provided to participants (*i.e.,* $220 for the smartphone DAS group and $340 for the vehicle DAS group).

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Angie Wang,

Acting Associate Administrator, Research and Program Development.

[FR Doc. 2026–21264 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Actions on Special Permits

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

ACTION: Notice of actions on special permit applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has granted or denied the application described herein.

DATES: Comments must be received on or before November 18, 2026.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Director, Office of Hazardous Materials Safety Special Permits Program, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Copies of the applications are available for inspection in the Records Center, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 5, 2026.

Donald P. Burger,

Director, Special Permits Program.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
Special Permits Data—Granted			
15166–M	Papillon Airways, Inc	172.101(j)	To modify the special permit to authorize the transportation of an additional hazardous material.
20396–M	Hexagon Digital Wave LLC	180.205(g)	To modify the special permit to authorize additional packagings.
21088–M	LogBATT GmbH	173.24(g), 173.185(f)	To modify the special permit to authorize additional packagings.
21354–M	Resonac America, Inc	171.23(a)(1), 171.23(a)(3)	To modify the special permit to authorize the export of used-return cylinders that are not considered residual material and to remove the import cylinder quantity limitation.
22087–M	Zipline International Inc	173.24, 173.24a, 173.27(c), 173.27(f)(2), 173.167, 173.185(c).	To modify the special permit to authorize business to business deliveries.
22247–N	Sky Lease I, Inc	172.101(j), 172.203(a), 172.301(c), 173.27(b)(2), 175.30(a)(1).	To authorize two flights transporting certain Class 1 explosives that are forbidden in Column (9B) of the 49 CFR 172.101 Hazardous Materials Table for cargo-only aircraft.
22286–N	Energy Security Agency, Inc.	173.185(f)(3)	To authorize the transportation in commerce of certain damaged, defective, or recalled lithium ion cells and batteries and lithium metal cells and batteries in alternative packaging.
22330–N	Blue Origin, LLC	173.232(g)(3), 173.301(f)(1), 173.302(a)(1).	To authorize the transportation in commerce of filled non-DOT specification cylinders that are not fitted with a pressure relief device when contained in the Blue Ring spacecraft.
22337–N	Baron Aviation Services, Inc.	175.75(c), 175.75(d), 175.501(a)	To authorize the transportation in commerce of hazardous materials with relief from the air carrier quantity limitations and cargo location requirements under 49 CFR 175.75(c) and (d).
22347–N	AUDI Aktiengesellschaft	172.101(j)	To authorize the transportation in commerce of lithium ion batteries exceeding 35 kg aboard cargo-only aircraft.

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
22394–N	ENF (Kyle) Technology, LLC.	172.302(c), 173.32(a)(1), 180.605(b)(1), 180.605(b)(5), 180.605(f).	To authorize the one-time, one-way transportation in commerce of one UN portable tank containing UN2672, ammonia solution.
Special Permits Data—Denied			
20425–M	Composite Advanced Technologies, LLC.	173.302(a)	To modify the special permit to increase the maximum water capacity to 12,000L and maximum length to 512 inches.
22260–N	Trinity Industries, Inc	172.203(a), 173.244(a)(2), 173.314(c)	To authorize the stenciling of existing DOT 105J600W tank cars as DOT 105H600W and to authorize their continued use in the transportation of Toxic Inhalation Hazard materials.
22305–N	Iwatani Corporation of America.	173.306(a)(1)	To authorize the transportation in commerce of DOT 2P receptacles containing butane, with capacities exceeding 4 fluid ounces, as limited quantities by motor vehicle.
22371–N	Glenn Air, Inc	172.101(j), 173.27, 173.242, 175.310(c)	To authorize the transportation in commerce of certain Class 3 hazardous materials contained in a fuel tank via cargo-only aircraft.
22383–N	ABB AG	172.101(j)	To authorize the transportation in commerce of lithium ion batteries that exceed 35 kg net weight aboard cargo-only aircraft.
Special Permits Data—Withdrawn			
20288–M	Department of Defense (Military Surface Deployment & Distribution Command).	175.10(a)(18(ii)	To modify the special permit to authorize lithium batteries with a higher watt-hour (Wh) rating.
21023–M	Tire Seal, Inc	173.304(d)	To modify the special permit to authorize additional inside metal containers.
22154–N	Hugen Brandbeveiliging En Adviesbureau B.V.	172.203(a), 172.301(c), 173.302a(b), 180.205(a).	To authorize the use of ultrasonic examination in lieu of internal visual inspections and hydrostatic requalification on DOT specification cylinders.
22401–N	Pyrotechnic Specialties, Inc.	172.320, 173.56(b)	To authorize the one-time, one-way transportation in commerce of unapproved explosives wetted with water, vegetable oil, mineral oil, or No.2 fuel oil, as specified in EX2009100183.
22407–N	Anhui Clean Energy Co., Ltd.	173.301(f), 173.335, 180.205, 180.209(a), 180.213.	To authorize the manufacture, mark, sale, and use of a non-DOT specification, fully-wrapped fiber reinforced composite cylinder with a non-load sharing plastic or metal liner conforming to the ISO 11119–3 standard.
22413–N	US Ballistic Laboratories Corporation.	172.101(j), 173.27(b)(2), 173.27(b)(3), 175.30(a)(1).	To authorize the transportation in commerce of Class 1 explosives which are forbidden, or exceeds the quantity limitation authorized via cargo aircraft only.

[FR Doc. 2026–21308 Filed 10–16–26; 8:45 am]
BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for Modification to Special Permits

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

ACTION: List of applications for modification of special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before November 3, 2026.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comment(s) is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Director, Office of Hazardous Materials Safety Special Permits Program, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: (1) Motor vehicle, (2) Rail freight, (3) Cargo vessel, (4) Cargo aircraft only, (5) Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC or at *http://regulations.gov.*

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 5, 2026.

Donald P. Burger,

Director, Special Permits Program.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
14158–M	HyAxiom, Inc	176.83(b), 176.83(c)(2)(ii)	To modify the special permit to update the hazardous material descriptions. (mode 3).
20549–M	Cellblock FCS, LLC	172.102(c)(1), 172.200, 172.300, 172.400, 172.500, 172.600, 172.700, 173.159a(c)(2), 173.185(c), 173.185(c)(1)(iii), 173.185(c)(1)(iv).	To modify the special permit to provide relief to the shipping paper requirements for modes other than cargo vessel. (modes 1, 2, 3).
21222–M	IPG Defense Corporation	172.101(j)	To modify the special permit to add lithium ion batteries contained in equipment. (mode 4).
21229–M	Mercedes-Benz U.S. International, Inc.	172.101(j), 173.185(b)(6)	To modify the special permit to add additional battery types. (mode 4).
22042–M	Jaguar Land Rover Limited.	172.101(j), 173.185(b)(6)	To modify the special permit to authorize additional packaging. (modes 1, 4).
22253–M	MacDonald, Dettwiler and Associates Ltd.	173.301(f), 173.302a(a)(1)	To modify the special permit to add an additional cylinder design. (mode 1).
22275–M	Anduril Industries, Inc	172.101(j), 173.185(a)(1)	To modify the special permit to authorize two additional battery types. (mode 4).
22321–M	GE Healthcare Manufacturing LLC.	172.101(j)(1), 172.301, 173.232(g)(3)	To modify the special permit to increase the net quantity of helium, refrigerated liquid contained in each article from 214kg to 250kg. (mode 4).

[FR Doc. 2026–21307 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Hazardous Materials: Notice of Applications for New Special Permits

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

ACTION: List of applications for special permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations, notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein.

DATES: Comments must be received on or before November 18, 2026.

ADDRESSES: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Donald Burger, Director, Office of Hazardous Materials Safety Special Permits Program, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC 20590–0001, (202) 366–4535.

SUPPLEMENTARY INFORMATION: Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: (1) Motor vehicle, (2) Rail freight, (3) Cargo vessel, (4) Cargo aircraft only, (5) Passenger-carrying aircraft.

Copies of the applications are available for inspection in the Records Center, East Building, PHH–6, 1200 New Jersey Avenue Southeast, Washington, DC.

This notice of receipt of applications for special permit is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on October 5, 2026.

Donald P. Burger,

Director, Special Permits Program.

SPECIAL PERMITS DATA

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
22398–N	Raytheon Company	173.302(a)	To authorize the transportation in commerce of certain non-DOT specification containers containing compressed argon. (modes 1, 2, 3, 4, 5)
22399–N	Electronic Recyclers International Inc.	172.102(c)(1), 172.200, 172.300, 172.400, 172.500, 172.600, 172.700, 173.159a(c)(2), 173.185(c), 173.185(c)(1)(iii), 173.185(c)(1)(iv), 173.185(c)(1)(v), 173.185(c)(3).	To authorize the manufacture, mark, sale and use of UN specification packagings containing lithium ion cells and batteries including those contained in equipment for disposal or recycling. (modes 1, 2)

SPECIAL PERMITS DATA—Continued

Application No.	Applicant	Regulation(s) affected	Nature of the special permits thereof
22400–N	Jiangus Huanqiu Can Manufacturing Co. Ltd.	173.304(d)	To authorize the manufacture, mark, sale, and use of non-DOT specification, non-refillable containers conforming with all regulations applicable to a DOT specification 2Q container for the transportation in commerce of hazardous materials. (modes 1, 2, 3)
22402–N	Raytheon Company	173.302(a)(1)	To authorize the transportation in commerce of certain composite fiberglass wrapped stainless steel high-pressure cylinders containing compressed argon. (modes 1, 3, 4, 5)
22404–N	BIC Corporation	173.308(c)(1), 173.308(d)(1), 173.308(d)(2).	To authorize the transportation in commerce of lighters without a test report identifier on the shipping paper and packaging. (mode 4)
22406–N	Korean Air Lines Co., Ltd	172.101(j)(1), 173.27(b)(2), 175.30(a)(1)	To authorize the one-time movement of certain Division 1.1 and 1.2 explosives, which are forbidden for transportation aboard cargo-only aircraft. (mode 4)
22408–N	South 8 Technologies, Inc	173.301	To authorize the transportation in commerce of non-DOT specification cylinders containing Division 2.1 hazardous materials. (mode 4)
22412–N	American Lithium Energy Corp.	173.185(a), 173.185(e)	To authorize the transportation in commerce of prototype lithium ion battery packs which have not been tested in accordance with the UN Manual of Tests and Criteria, Section III, Subsection 38.3. (mode 4)
22414–N	Techknowserv Corporation	180.205(g)	To authorize the transportation in commerce of certain composite overwrapped pressure vessels requalified by Modal Acoustic Emission (MAE) in lieu of hydrostatic requalification (modes 1, 2, 3, 4, 5)
22419–N	Bygone Aviation LLC	175.700(b)(2)(ii), 175.702	To authorize the transportation in commerce of radioactive materials aboard cargo-only aircraft that exceed the combined transport index and where the separation distance cannot be met. (mode 4)

[FR Doc. 2026–21306 Filed 10–16–26; 8:45 am]
BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No.: DOT–OST–2026–3598]

DOT Advisory Committee on Human Trafficking

AGENCY: Office of the Secretary of Transportation (OST), U.S. Department of Transportation (DOT).

ACTION: Notice of public meetings.

SUMMARY: The Office of the Secretary of Transportation (OST) announces the DOT Advisory Committee on Human Trafficking's public meetings in 2026 and 2027. This notice announces the dates, times, and locations of the virtual meetings, which will be open to the public. The purpose of the ACHT is to advise the Secretary of Transportation on countering human trafficking in the transportation sector.

DATES: *The meetings will be held as follows:*

- *Meeting 1*: November 4, 2026, from 9:00 a.m. to 5:00 p.m. EST
- *Meeting 2:* December 10, 2026, from 9:00 a.m. to 5:00 p.m. EST
- *Meeting 3:* January 28, 2027, from 9:00 a.m. to 5:00 p.m. EST
- *Meeting 4:* May 20, 2027, from 9:00 a.m. to 5:00 p.m. EDT
- *Meeting 5:* June 17, 2027, from 9:00 a.m. to 5:00 p.m. EDT
- *Meeting 6:* July 8, 2027, from 9:00 a.m. to 12:00 p.m. EDT

The exact start and end times are subject to change; please monitor *https://www.transportation.gov/stop-human-trafficking/acht* for the latest information.

ADDRESSES: The ACHT will meet virtually. The public may join the meetings virtually, with information available at *https://www.transportation.gov/stop-human-trafficking/acht.*

FOR FURTHER INFORMATION CONTACT: The ACHT's Designated Federal Officer, Maha Alkhateeb, Senior Counter-Trafficking Advisor, Office of International Transportation and Trade, Office of the Secretary, at *trafficking@dot.gov* or (202) 366–4398.

SUPPLEMENTARY INFORMATION:

Background

The ACHT makes triennial recommendations to the Secretary of Transportation on countering human trafficking in the transportation sector. The ACHT was originally established as a statutory committee on October 3, 2018, pursuant to section 5(a) of the 2018 Combating Human Trafficking in Commercial Vehicles Act (Pub. L. 115–99). The ACHT was reestablished as a continuing committee on July 29, 2022, in accordance with section 23020 of the Infrastructure Investment and Jobs Act (Pub. L. 117–58), which requires the Secretary of Transportation, acting through the ACHT and in coordination with the Attorney General, to submit a triennial counter-trafficking report with recommendations for countering human trafficking, an assessment of best practices by transportation stakeholders, and human trafficking violations involving commercial motor vehicles.

Agenda

At the meetings, the proposed agendas will cover the Call to Order, Administrative and Committee Business, Panels and Briefings, and Committee Deliberations. The agendas are subject to change.

Public Participation

The meetings will be open to the public through a virtual meeting. Registration for the meetings can be found here: *https://www.transportation.gov/stop-human-trafficking/acht.*

Members of the public may submit comments to the Committee in advance, as well as any requests for an electronic meeting accommodation consistent with the relevant sections of the Rehabilitation Act, as amended, 29 U.S.C. 794, by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than 7 days prior to each meeting.

All advance submissions will be reviewed by the Designated Federal Officer. If approved, advance submissions shall be circulated to the Committee members for review prior to the meeting. All advance submissions will become part of the official record of the meeting.

Issued in Washington, DC, on October 13, 2026.

Daniel J. Edwards,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 2026–21273 Filed 10–16–26; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, 10(a)(2), that a meeting will be held at the United States Treasury Department, 15th Street and Pennsylvania Avenue NW, Washington, DC on November 3, 2026, at 10:45 a.m., of the following debt management advisory committee:

Treasury Borrowing Advisory Committee

At this meeting, the Treasury is seeking advice from the Committee on topics related to the economy, financial markets, Treasury financing, and debt management. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, 10(d) and Public Law 103–202, § 202(c)(1)(B) (31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to Public Law 103–202, § 202(c)(1)(B).

Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decisions on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Fred Pietrangeli, Director for Office of Debt Management (202) 622–1876.

Dated: October 15, 2026.

Frederick E. Pietrangeli,

Director for Office of Debt Management.

[FR Doc. 2026–21270 Filed 10–16–26; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Section 45J Credit for Production of Electricity From Advanced Nuclear Power Facilities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury will submit the following information collection requests 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. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before November 18, 2026 to be assured of consideration.

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: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

Title: Section 45J Credit for Production of Electricity from Advanced Nuclear Power Facilities.

OMB Control Number: 1545–2000.

Type of Request: Extension without change of a currently approved collection.

Description: This notice provides a process for certain taxpayers to obtain an allocation of the unutilized national megawatt capacity limitation (NMCL) under § 45J of the Internal Revenue Code. The notice describes how certain taxpayers may transfer the credit. This information will be used to determine the portion of the unutilized NMCL to which a taxpayer is entitled and the potential credit amount. The likely respondents are corporations and partnerships.

Form: None.

Affected Public: Business or other for-profit organizations and state, local or tribal governments.

Estimated Number of Respondents: 80.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 80.

Estimated Time per Response: 5 hrs., 4 min.

Estimated Total Annual Burden Hours: 406.

Authority: 44 U.S.C. 3501 *et seq.*

Juliana L. Pearson,

Treasury PRA Clearance Officer.

[FR Doc. 2026–21373 Filed 10–16–26; 8:45 am]

BILLING CODE 4831–GV–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0883]

Agency Information Collection Activity: Per Diem to States for Care of Eligible Veterans in State Homes

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Health Administration (VHA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before December 18, 2026.

ADDRESSES: Comments must be submitted through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Program-specific information: Rebecca Mimnall, 202–695–9434, *vhacopra@va.gov.*

VA PRA information: Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VHA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VHA's functions, including whether the information will have practical utility; (2) the accuracy of VHA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Per Diem to States for Care of Eligible Veterans in State Homes (VA Forms 10–0143, 10–0143A, 10–0144, 10–0144A, 10–0460, and 10–3567).

OMB Control Number: 2900–0883. https://www.reginfo.gov/public/do/PRASearch (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Revision of a currently approved collection.

Abstract: Authority for this information collection is found in Title 38 Code of Federal Regulations (CFR) Part 51, ''Per Diem for Nursing Home, Domiciliary or Adult Day Health Care of Veterans in State Veterans Homes.'' Specifically, the legal requirements that necessitate this collection of information are found in Title 38 CFR Parts § 51.31, § 51.43 and § 51.210 for all three levels of care: nursing home, domiciliary, and adult day health care. VA requires State Veterans Homes (SVHs) to be recognized by the Under Secretary for Health as providing safe, high-quality programs in these areas.

The six forms in this collection (10–0143, 10–0143A, 10–0144, 10–0144A, 10–0460 and 10–3567) are completed by SVH management as part of the VA survey process and ongoing compliance. This information collection falls under the auspices of the Office of Geriatrics and Extended Care in VA Central Office (12GEC). The information is assessed in accordance with the applicable regulations by VA contracted vendors during a VA survey at each SVH.

a. VA Form 10–0143 is used for annual certification pursuant to the Drug-Free Workplace Act of 1988.

b. VA Form 10–0143A is used for annual certification of compliance with Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112).

c. VA Form 10–0144 is used for annual certification regarding lobbying, in compliance with Public Law 101–121.

d. VA Form 10–0144A is used for annual certification of compliance with Title VI of the Civil Rights Act of 1964, as incorporated in Title 38 CFR 18.1–18.3.

e. VA Form 10–0460 is used for the SVH to submit to the VA medical center of jurisdiction a monthly itemization of the corresponding prescription(s) for each eligible Veteran.

f. VA Form 10–3567 is completed by SVH management for the annual VA survey and is used by VA to record and then assess the following: operating beds versus recognized beds, total full-time employee equivalent (FTEE) authorized and total FTEE available, and resident census.

Total Annual Burden: 2,248 hours.

Total Annual Responses: 2,975.

VA Form 10–0143

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 15 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 175.

VA Form 10–0143A

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 15 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 175.

VA Form 10–0144

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 15 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 175.

VA Form 10–0144A

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 15 hours.

Estimated Average Burden per Respondent: 5 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 175.

VA Form 10–0460

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 2,100 hours.

Estimated Average Burden per Respondent: 60 minutes.

Frequency of Response: 12 times per year.

Estimated Number of Respondents: 175.

VA Form 10–3567

Affected Public: State, Local, and Tribal Governments.

Estimated Annual Burden: 88 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: Once annually.

Estimated Number of Respondents: 175.

(Authority: 44 U.S.C. 3501 *et seq.*)

Lanea Haynes,

Alternate, VA PRA Clearance Officer, Office of Information and Technology, Office of Data Governance and Analytics, Department of Veterans Affairs.

[FR Doc. 2026–21297 Filed 10–16–26; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0829]

Agency Information Collection Activity Under OMB Review: Income and Asset Statement in Support of Claim for Pension or Parents' Dependency and Indemnity Compensation (D.I.C.)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden, and it includes the actual data collection instrument.

DATES: Comments and recommendations for the proposed information collection should be sent by November 18, 2026.

ADDRESSES: To submit comments and recommendations for the proposed information collection, please type the following link into your browser: *www.reginfo.gov/public/do/PRAMain,* select ''Currently under Review—Open for Public Comments'', then search the list for the information collection by Title or ''OMB Control No. 2900–0829.''

FOR FURTHER INFORMATION CONTACT: VA PRA information: Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov*

SUPPLEMENTARY INFORMATION:

Title: 21P–0969, Income and Asset Statement in Support of claim for Pension or Parents' Dependency and Indemnity Compensation (D.I.C.).

OMB Control Number: 2900–0829 *https://www.reginfo.gov/public/do/PRASearch.*

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21P–0969 allows claimants and beneficiaries to report unreimbursed medical expenses to reduce their countable income for needs-based benefit programs, such as VA Pension and Parents' Dependency and Indemnity Compensation (DIC). These expenses are deducted from otherwise countable income to determine eligibility for income-based benefits and the rate payable. Veteran Service Representatives use the information on the form to adjust benefits.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 91 FR 48509, July 31, 2026.

Affected Public: Individuals or Households.

Estimated Annual Burden: 27,500 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 55,000.

Authority: 44 U.S.C. 3501 *et seq.*

Shunda Willis,

Alternate, VA PRA Clearance Officer, Office of Information and Technology, Office of Data Governance and Analytics, Department of Veterans Affairs.

[FR Doc. 2026–21322 Filed 10–16–26; 8:45 am]

BILLING CODE 8320–01–P



FEDERAL REGISTER

Vol. 91 Monday,
No. 200 October 19, 2026

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 18

Marine Mammals; Incidental Take of Polar Bears and Pacific Walruses in the Beaufort Sea and North Slope of Alaska; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

[Docket No. FWS–R7–ES–2026–0694; FXES111607MRG01–267–FF07CAMM00]

RIN 1018–BI93

Marine Mammals; Incidental Take of Polar Bears and Pacific Walruses in the Beaufort Sea and North Slope of Alaska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (FWS), in response to a request under the Marine Mammal Protection Act (MMPA) of 1972 from the Alaska Oil and Gas Association (AOGA), finalize regulations facilitating the authorization of incidental, unintentional take of small numbers of polar bears (*Ursus maritimus*) and Pacific walruses (*Odobenus rosmarus divergens*) during year-round oil and gas industry activities in the Beaufort Sea (Alaska and the Outer Continental Shelf (OCS)) and adjacent northern coast of Alaska. Take may result from oil and gas exploration, development, production, and transportation activities occurring for a period of 5 years. Oil and gas industry operations include similar types of activities covered by the previous 5-year Beaufort Sea incidental take regulations effective from August 6, 2021, through August 5, 2026. We will issue letters of authorization, upon request, for specific activities in accordance with these regulations.

DATES: This rule is effective October 19, 2026 and remains effective through October 19, 2031.

ADDRESSES: *Document availability:* You may view this rule, the associated final environmental assessment (EA), and other supporting material at *https://www.regulations.gov* under Docket No. FWS–R7–ES–2026–0694, or these documents may be requested as described in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Madonna Baucum, Chief of Regulations, U.S. Fish and Wildlife Service, by email at *Info_Coll@fws.gov,* or by telephone at (703) 468–8211. 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:

Immediate Promulgation

In accordance with the Administrative Procedure Act (APA; 5 U.S.C. 553(d)(3)), we find that we have good cause to make this rule effective less than 30 days after publication. Immediate promulgation of the rule will ensure that the requester will implement mitigation measures, monitoring, and reporting requirements that reduce potential impacts on polar bears (*Ursus maritimus*) and Pacific walruses (*Odobenus rosmarus divergens*), will allow the applicant to receive coverage under the MMPA (16 U.S.C. 1371(a)(5)(A)) for potential take of polar bears and Pacific walruses, increase our understanding of impacts that result from the requester's activities, and thus further our conservation objectives. Finally, this rule recognizes an exemption that is afforded the requester under the MMPA.

Executive Summary

In accordance with the MMPA and its implementing regulations, we, the U.S. Fish and Wildlife Service (hereafter ''FWS'' or we), finalize incidental take regulations (ITRs) that facilitate the authorization of the incidental, unintentional take of small numbers of polar bears and Pacific walruses during oil and gas exploration, development, production, and transportation activities in the Beaufort Sea (Alaska and the OCS) and adjacent northern coast of Alaska, not including lands within the Arctic National Wildlife Refuge (ANWR), for a 5-year period. Oil and gas activities include similar types of activities covered by the previous 5-year Beaufort Sea ITRs effective from August 5, 2021, through August 5, 2026 (86 FR 42982, August 5, 2021; revised 90 FR 27398, June 26, 2025).

This final rule is based on our findings that the total takings of polar bears and Pacific walruses during specified activities will impact small numbers of animals, will have a negligible impact on the species or stocks, and will not have an unmitigable adverse impact on the availability of these species or stocks for subsistence use by Alaska Natives. We base our findings on data from monitoring the encounters and interactions between these species and the oil and gas industry; research on these species; oil spill risk assessments; potential and documented effects on these species from similar activities; information regarding the natural history and conservation status of polar bears and Pacific walruses; data reported from Alaska Native subsistence hunters; and predictive modeling. In conjunction with this rulemaking, the FWS has prepared an EA and associated FONSI.

These regulations include permissible methods of taking; mitigation measures to ensure that AOGA activities will have the least practicable adverse impact on these species or stocks, their habitat, and the availability of these species for subsistence uses; and requirements for monitoring and reporting.

Background

Section 101(a)(5)(A) of the MMPA gives the Secretary of the Interior (Secretary) the authority to allow the incidental, but not intentional, taking of small numbers of marine mammals, in response to requests by U.S. citizens (as defined in title 50 of the Code of Federal Regulations (CFR) in part 18 (at 50 CFR 18.27(c)) engaged in a specified activity, other than commercial fishing, within a specified geographic region. The Secretary has delegated authority for implementation of the MMPA to the FWS. According to the MMPA, the FWS shall allow this incidental taking for a period of up to 5 consecutive years if we find that the total of such taking:

(1) Will affect only small numbers of individuals of the species or stock;

(2) Will have no more than a negligible impact on the species or stock;

(3) Will not have an unmitigable adverse impact on the availability of the species or stock for taking for subsistence use by Alaska Natives; and

(4) We issue regulations that set forth:

(a) Permissible methods of taking,

(b) Means of effecting the least practicable adverse impact on the species or stock and its habitat and the availability of the species or stock for subsistence uses, and

(c) Requirements for monitoring and reporting of such taking.

If final regulations allowing such incidental take are issued, we may then subsequently issue letters of authorization (LOAs), upon request, to authorize incidental take during the specified activities.

The term ''take'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal. Harassment for activities other than military readiness activities or scientific research conducted by or on behalf of the Federal Government means ''any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild'' (the MMPA defines this as ''Level A harassment''),

or ''(ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering'' (the MMPA defines this as ''Level B harassment'').

The terms ''negligible impact'' and ''unmitigable adverse impact'' are defined in 50 CFR 18.27 (*i.e.,* regulations governing small takes of marine mammals incidental to specified activities) as follows: ''Negligible impact'' is an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. ''Unmitigable adverse impact'' means an impact resulting from the specified activity: (1) that is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by (i) causing the marine mammals to abandon or avoid hunting areas, (ii) directly displacing subsistence users, or (iii) placing physical barriers between the marine mammals and the subsistence hunters; and (2) that cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

The term ''small numbers'' is also defined in 50 CFR 18.27. However, we do not rely on that definition here as it conflates ''small numbers'' with ''negligible impact.'' We recognize ''small numbers'' and ''negligible impact'' as two separate and distinct requirements for promulgating ITRs under the MMPA (see *Ctr. for Biological Diversity* v. *Salazar,* 695 F.3d 893, 904 (9th Cir. 2012)). Instead, for our small numbers determination, we evaluate if the number of marine mammals estimated to be incidentally taken is small relative to the size of the species or stock.

The term ''least practicable adverse impact'' is not defined in the MMPA or its implementing regulations. In promulgating ITRs, we ensure the least practicable adverse impact by requiring mitigation measures that are effective in reducing the impact of specified activities, but not so restrictive as to make specified activities unduly burdensome or impossible to undertake and complete.

In this rule, the term ''Industry'' includes individuals, companies, and organizations involved in exploration, development, production, and transportation activities of the petroleum industry. Industry activities may result in the incidental taking of Southern Beaufort Sea (SBS) polar bears and Pacific walruses (hereafter ''walruses''). The MMPA does not require any party to obtain an incidental take authorization; however, any incidental taking that occurs without authorization is a violation of the MMPA. Since 1993, the oil and gas industry operating in the Beaufort Sea and the adjacent northern coast of Alaska has requested and we have issued ITRs for the incidental take of polar bears and walruses within a specified geographic region during specified activities. For a detailed history of our current and past Beaufort Sea ITRs, refer to the **Federal Register** at 90 FR 27398, June 26, 2025; 86 FR 42982, August 5, 2021; 81 FR 52276, August 5, 2016; 76 FR 47010, August 3, 2011; 71 FR 43926, August 2, 2006; and 68 FR 66744, November 28, 2003.

Summary of Request

On September 30, 2025, the FWS received a request from AOGA on behalf of its members and 8 Star Alaska, LLC to promulgate regulations for incidental take of small numbers of polar bears and walruses during oil and gas exploration, development, production, and transportation activities in the Beaufort Sea and adjacent northern coast of Alaska for a period of 5 years (2026–2031) (hereafter referred to as the ''Request''). The FWS deemed AOGA's Request as adequate and complete on January 12, 2026.

The AOGA requested regulations that will be applicable to the oil and gas exploration, development, production, and transportation activities of multiple companies specified in the Request. This includes AOGA member companies and 8 Star Alaska, LLC that have applied for these regulations. The companies represented in the Request (as modified via subsequent communication from AOGA concerning membership changes) include: Alyeska Pipeline Service Company; APA Corporation; BlueCrest Energy, Inc.; Chevron Corporation; ConocoPhillips Alaska, Inc. (CPAI); ExxonMobil Alaska Production, Inc. (ExxonMobil); Hex Operating, LLC; Glacier Oil and Gas Corporation (Glacier); Hilcorp Alaska, LLC and Hilcorp North Slope, LLC (Hilcorp); Marathon Petroleum Corporation; Petro Star, Inc.; Repsol; Santos; Shell Exploration and Production Company (Shell); and 8 Star Alaska, LLC (a non-member company).

The activities within the scope of the Request are consistent with the nature of oil and gas activities that have occurred on the Alaska North Slope for decades. Those activities have occurred in parallel with monitoring and reporting that has provided a record of polar bear interactions in connection with such activities. To date, we have not made any determination of an effect on more than small numbers, a more than negligible impact, or an unmitigatable adverse impact on the availability for taking for subsistence use by Alaska Natives for polar bears or Pacific walruses in the Alaska North Slope from oil and gas activities. AOGA has indicated that not all activities described in the Request will actually occur during the ITR period, noting the broad scope of activities in the Request was included to support a comprehensive analysis and account for variability.

Summary of Changes From the Proposed Regulations

In preparing the final rule for the incidental take of polar bears and walruses, we reviewed and considered comments and information from the public on our proposed ITR published in the **Federal Register** on March 9, 2026 (91 FR 11240). We also reviewed and considered comments and information from the public on our draft EA. Based on public comment on these and other issues in the proposed ITR and draft EA, the final rule reflects the following changes:

- The requester asked FWS to clarify the LOA process; specifically requesting FWS issue LOAs for activities within the scope and type of activities described in the Petition without detailed data requirements or new model runs. We have clarified the LOA process in the regulatory text at 50 CFR 18.123.
- The requester asked FWS to revisit our predictive estimates for vessel impacts, as they felt some routes were being double counted. Some routes were found to be counted in both the vessel analysis and the surface analysis. We have accordingly updated these estimates.
- The requester noted several small editorial errors. These errors did not substantially affect the content of the preamble. They have been corrected.
- The requester asked for several small points of clarification in the description of their specified activities. These included clarifying the following: helicopters will not knowingly hover over polar bear dens, ice roads may be used to access wells for plugging and abandonment, unmanned aerial vehicles (UAVs) may be used for environmental studies, geophones may not necessarily be placed in the ground, airborne gravity and airborne magnetic surveys may use rotary or fixed-wing aircraft, and aerial pipeline surveys may be

conducted with fixed-wing aircraft in addition to rotary aircraft. None of these impact any take estimates.

- The requester stated the mitigation measure requiring vessels to maintain the ''maximum distance possible'' from polar bears and walruses was too vague. In response, FWS has changed the language to ''maximum distance practicable (805 m (0.5 mi) or greater).'' This change does not affect any take estimates. FWS take estimates were calculated under the assumption that polar bears may be harassed within a 1.6 kilometer (km) (1 mile (mi)) impact area surrounding vessels.
- The requester stated skirting around facilities is not current practice, is not necessary, and is not operationally possible. We have removed discussion of this mitigation measure. This change does not affect any take estimates.
- The requester stated that conducting a required third aerial infrared (AIR) survey of polar bear included in the proposed ITR as an additional mitigation measure is not practicable due to logistical, human safety, and economic factors. As explained below, the FWS concluded that a third AIR survey is not practicable and has removed this additional mitigation measure.
- Commenters noted a discrepancy in the title of Subpart J which has been corrected.
- The requester and other commentors also noted the substantial differences between the historical data and the results from the predictive model and questioned whether the use of the model accurately estimates ''take'' of the species under the MMPA. We recognize the limitations of the predictive model and take estimates that significantly exceed historical data and AOGA take estimates. For that reason, the Service affirmatively considers other information and does not give its predictive models more weight than those other sources of information. FWS is clarifying that it considered all information before it, namely: monitoring encounters and interactions between the at-issue species and the oil and gas industry; research on these species; oil spill risk assessments; potential and documented effects on these species from similar activities; information regarding the natural history and conservation status of polar bears and Pacific walruses; and data reported from Alaska Native subsistence hunters; the FWS model; and AOGA's take estimates. FWS considers all these inputs in line with Executive Order (E.O.) 14303, ''Restoring Gold Standard Science.'' We recognize that, if it considered the model absent considering qualitative factors and AOGA's take estimates, it would not be considering the ''best available science.'' In other words, considering all these inputs ensures the ''best available scientific evidence'' is used to support the determinations in this ITR.

We also present in the preamble of this final ITR revised estimates from the FWS predictive modeling efforts, specifically the estimates of impacts to denning bears. Through the process of further streamlining the code for the predictive denning model, we discovered two errors causing inaccurate model outputs. In the first error, dens that had zero cubs naturally (a roughly 7 percent chance in the model) but were simulated to receive lethal or level A harassment were being counted when we summarized the number of dens impacted in those categories. While the simulated den was impacted in terms of the sow, there could not be any harassment of cubs because they did not exist. In the second error, a line of code was identified that was causing an error in the counting of a single category of disturbance events.

The model relies on a simulation of polar bear dens across the landscape, followed by simulated exposure to project activities, and finally simulated disturbance (for some of the dens). We iterate this 10,000 times so that we can account for variation in different aspects of polar bear denning biology (*e.g.,* date of entry, birthdate, number of cubs, emergence date) as well as the random element of whether disturbance occurred based on empirical probabilities. We then calculate summary statistics for each kind of take, such as the probability of occurrence, mean, median, and upper and lower confidence intervals.

One line of code led to a single unaccounted category of dens. These dens were previously undisturbed in early and late denning but disturbed in the post-emergence period. That line of code has been fixed, the remaining code has been reviewed to ensure it does not have similar issues, and a series of auto-check functions have been written to ensure a similar issue doesn't present during future code updates.

To describe the change plainly, instead of coding to ''count all the dens specifically marked undisturbed'' we changed the code to ''count all dens except for those that were marked disturbed.'' This change is necessary because the latter statement also selects those dens with a ''missing'' value where the former does not. Missing values in the code were present because the den was not labeled ''disturbed'' at the previous denning stages.

As a result of the code repairs, some FWS take estimates have changed. The estimated probability of lethal take has decreased slightly because we were using a den count to calculate the probability, and a small number of zero-cub dens were included in the calculation. Level A and Level B harassment estimates have increased as they now account for impacts to previously undisturbed dens that are simulated to exhibit a disturbance response in the post emergence period. The probabilities of such dens experiencing Level B (applicable to the sow) and Level A harassment (applicable to any cubs) is 28 percent and 72 percent respectively. This is a change from the faulty output, which did not count any take for these dens (*i.e.,* 0 percent take).

Description of the Regulations

These regulations facilitate the authorization of the incidental, unintentional take of small numbers of polar bears and walruses that may result from the specified activities. They do not authorize or ''permit'' the specified activities themselves. The regulations include:

(1) Permissible methods of taking;

(2) Measures designed to ensure the least practicable adverse impact on polar bears and walruses, their habitat, and on the availability of these species or stocks for subsistence uses; and

(3) Requirements for monitoring and reporting.

Description of Letters of Authorization (LOAs)

An LOA is required to conduct activities pursuant to ITRs. Under these ITRs, eligible parties may request LOAs that would authorize incidental take of polar bears and walruses resulting from the specified activities described in these ITRs. Eligible parties are the member companies and 8 Star Alaska, LLC as specified in AOGA's Request, and their corporate affiliates, respective contractors, subcontractors, partners, owners, co-lessees, designees, or successors-in-interest. Requests for LOAs must be consistent with the activity descriptions and mitigation and monitoring requirements of the ITRs and be received in writing at least 90 days before the activity is to begin. Requests must include (1) an operational plan for the activity, including the timing of work and the nature of work to be conducted; (2) an interaction plan for polar bears and walruses; (3) a site-specific marine mammal monitoring and mitigation plan that specifies the procedures to monitor and mitigate the effects of the

activities on polar bears and walruses; and (4) plans of cooperation (if required as described in Mitigation Measures, below). Once this information has been received, we will evaluate whether the level of activity identified in the LOA request exceeds that analyzed by us in considering the findings made for the total taking allowable under these ITRs. If the level of activity exceeds that analyzed, the FWS may request additional information. For more information on requesting and receiving an LOA, refer to 50 CFR 18.27(f).

Description of Specified Geographic Region and Specified Activities

The specified geographic region covered by the requested ITRs (Beaufort Sea ITR region, see figure 1, below) encompasses all Beaufort Sea waters (including State waters and OCS waters as defined by the Bureau of Ocean Energy Management) east of a north-south line extending from Point Barrow (latitude 71.39139° N, longitude 156.475° W; Board on Geographic Names (BGN) 1944) to the Canadian border, except for marine waters located within the ANWR. The offshore boundary extends 80.5 km (50 mi) offshore. The onshore boundary includes land on the North Slope of Alaska from Point Barrow to the western boundary of ANWR. The onshore boundary is 40 km (25 mi) inland. No lands or waters within the exterior boundaries of ANWR are included in the Beaufort Sea ITR region. The geographical extent of the proposed Beaufort Sea ITR region (approximately 7.9 million hectares (ha) (approximately 19.8 million acres (ac))) is the same region covered in previous regulations set forth in the final rule that published at 86 FR 42982, August 5, 2021 and revised at 90 FR 27398, June 26, 2025. The specified geographic region includes but is not limited to the following oil and gas development areas on the North Slope of Alaska: Nikaitchuq, Oooguruk, Badami, Northstar, Endicott (Duck Island), Liberty, Milne Point, Point Thomson, Prudhoe Bay, Pikka, Quokka, Southern Miluveach, Kuparuk River, Greater Mooses Tooth, Colville River, Horseshoe, and Bear Tooth.

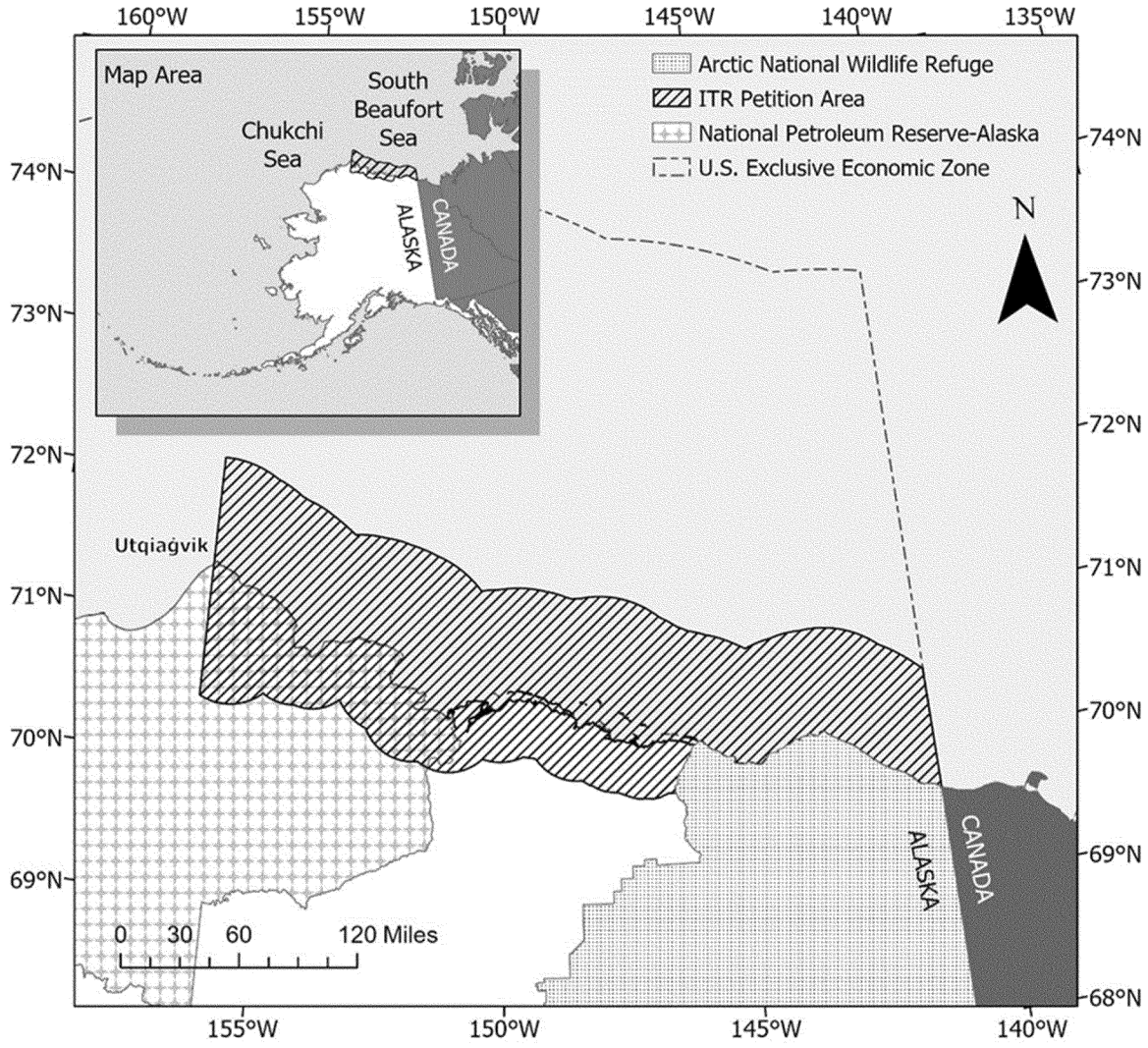


Figure 1—Specific geographic region of the requested incidental take regulations.

The specified activities include oil and gas exploration, development, production, and transportation activities within the specified geographic region. This section summarizes the type and scale of Industry activities anticipated to

occur in the Beaufort Sea ITR region from 2026 to 2031. Year-round onshore and offshore Industry activities are anticipated. During the 5-year ITR period, Industry activities are expected to be generally similar in type, timing, and effect to activities evaluated under the prior ITRs. Additional information is available in the Request at *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694.

Transportation and Staging

Transportation activities will include aircraft operations; vehicle and equipment operations on gravel roads, gravel pads, ice roads, and ice pads; vehicle operations on tundra; and vessel transit and barging operations.

Aircraft operations will consist of personnel and cargo transport flights to support operations, aerial pipeline inspections, and environmental monitoring surveys. Personnel and cargo flights will be conducted routinely throughout the Beaufort Sea ITR region to support operations, and the frequency of these flights may vary depending on the location and type of operation. Fixed-wing aircraft will generally be used to transport personnel and cargo across development areas. Helicopters will be used to transport personnel and cargo to coastal or offshore facilities and to access remote areas. Flight altitude for personnel and cargo transport flights will generally be above 305 meters (m) (1,000 feet (ft)) above ground level unless inclement weather requires a lower flight altitude for personnel safety. Aerial pipeline inspections will be conducted frequently year-round using helicopters, UAVs, or fixed-wing aircraft. Environmental monitoring surveys will be conducted using helicopters, UAVs, or fixed-wing aircraft depending on the type of survey and the frequency of these environmental monitoring surveys will vary across location and time of year during the ITR period.

Vehicle and equipment operations will occur on the existing gravel road system and gravel pads within the ITR region to support operations. Expansion of existing gravel roads and gravel pads as well as construction of new gravel roads and gravel pads will be conducted to support operations as needed throughout the ITR period. Gravel roads and pads typically will be constructed or expanded during the winter, although new gravel placement on the tundra may occur during any season. Equipment that will be used to construct or expand gravel roads and pads includes all-terrain vehicles (ATVs), graders, loaders, excavators, rollers, dump trucks, tractors, bulldozers, vehicles, and other heavy equipment. Gravel road and pad maintenance will occur as needed to support transportation and operations throughout the ITR period. Gravel will be obtained from existing gravel mine sites and new gravel mine sites that may be developed within the ITR region.

During the winter, ice roads and ice pads will be constructed both onshore and offshore to support vehicle and equipment transportation and operations. The number, size, and personnel occupancy of ice roads and pads will vary each winter depending on the operations. Some ice roads will be constructed annually in the same location and other ice roads will be constructed in different locations based on operation requirements that vary during the ITR period. Offshore ice roads, trails, and pads will be constructed on floating sea ice or grounded ice in shallow water (less than 2 m (7 ft)). Offshore ice roads, trails, and pads may be constructed as early as December and be used until May during each winter. Equipment that will be used to construct ice roads, trails, and pads includes tracked vehicles, tractors, snowplows, pump trucks, ATVs, graders, and loaders.

Vehicle operations will occur on the tundra to support surveys, scout transportation routes, conduct environmental monitoring studies, and support infrastructure inspections and maintenance activities. Tundra travel will occur year-round throughout the ITR period. Equipment that will be used for tundra travel includes tracked vehicles, ATVs, snowmachines, Tucker Sno-Cat vehicles, and Rolligons.

Vessel transit and barging operations will support transportation of personnel, equipment, and supplies for operations. There are several marine dock facilities that will be used to support vessel transit and barging operations in the ITR region including West Dock, Oliktok Dock, and other private dock facilities in development areas. West Dock is located on the northwestern shore of Prudhoe Bay east of Point McIntyre. Oliktok Dock is located on the eastern side of West Harrison Bay at Oliktok Point. Maintenance dredging or screeding will be conducted as needed at the marine dock facilities. The majority of the vessel transit and barging operations will occur during the open-water season (July through October). Vessels of various sizes will be used to support transportation activities and may include crew boats, hovercrafts, zodiac vessels, and catamarans. Hovercrafts will also be used to transport personnel and cargo during both the ice-covered season and open-water season. Barges, sealifts, and tugboats will be used to transport facility modules, construction materials, cargo, fuel, and other heavy equipment during the open-water season. Sealifts are anticipated to occur over multiple years of the ITR period to transport facility modules to Oliktok Dock or West Dock, and offloading of sealifts may occur in and around offshore, subtidal, or intertidal areas of the Beaufort Sea. Barge lightering may be used to transfer cargo between vessels to allow vessels to enter shallow water. Barges may be transferred to shallow draft tugs for nearshore transportation. During offloading, barges may be staged offshore if dock space is limited.

Surveys and Studies

A variety of surveys and studies will be conducted such as geophysical surveys, airborne gravity/magnetic surveys, geotechnical surveys, seismic exploration surveys, vibroseis seismic surveys, vertical seismic profiles (VSPs), seafloor imaging, offshore bathymetry surveys, shallow hazard surveys, open-water marine vibroseis surveys, environmental monitoring studies, and AIR surveys to detect polar bear dens. These surveys and studies may occur with routine frequency or be conducted as needed for specific projects. The specific locations and numbers of surveys and studies will vary depending on location-specific and operation-specific needs throughout the ITR period.

Geophysical surveys will be conducted to collect information about subsurface geology. Geophysical survey personnel will survey the surface of the land or seafloor to collect information on near-surface hazards that can be avoided during drilling operations or map deep strata beneath the surface of the ground to search for gas and oil-bearing rock formations. Geophysical surveys will occur routinely at existing development areas.

Airborne gravity and airborne magnetic surveys will record passive measurements of the Earth's gravitational and magnetic fields to collect information on potential geologic structures that may contain oil and gas. Surveys will use rotary-wing or fixed-wing aircraft. Survey flight altitudes for rotary-wing aircraft will range from 91.5 m (300 ft) to 152.4 m (500 ft) above ground level. Survey flight altitude for fixed-wing aircraft will be a minimum of 152.4 m (500 ft) above sea level.

Geotechnical surveys will consist of collecting shallow core samples to provide information about soil conditions where onshore and offshore

roads, pipelines, structures, or other facilities are planned to be constructed or to locate gravel sources. Geotechnical surveys will often occur simultaneously with other operations such as ice or gravel road construction or seismic exploration surveys. Geotechnical survey personnel will generally use winter tundra travel routes to access their survey areas and use a geotechnical drill unit to collect the core samples. A small mobile camp to support the survey personnel and other machinery will often be used during these geotechnical surveys. Geotechnical surveys will occur routinely at existing development areas.

Seismic exploration surveys will collect information on the subsurface structure of rock formations. Sound energy waves will be sent into the ground using an energy source such as an airgun or vibroseis, where different layers within the Earth's crust reflect this energy. These reflected energy waves will be recorded by geophones to identify hydrocarbon-containing structures. Vibroseis seismic operations will use truck-mounted vibrators that emit frequency energy into the ground, and these operations may occur both onshore and on sea ice. Vibroseis seismic operations may consist of 40 to 200 personnel, small and heavy equipment, and a mobile sled-mounted camp to support personnel. Vibroseis seismic operations may occur during the winter from January through May.

The VSP surveys will consist of lowering geophones into a well bore on land and repeatedly activating the energy source to gather seismic data from the well. These surveys will be conducted both on and off a drill pad, extending up to 5 km (3 mi) from the drilling rig, and up to eight personnel will conduct these surveys.

Seafloor imagery surveys will collect information about the seafloor by emitting sound energy towards the seafloor and interpreting the reflected sound energy to create a two-dimensional image of the seafloor and any features or objects on it. Equipment that will be used during these seafloor imagery surveys includes side-scan sonar that is towed behind a vessel. Side-scan sonar will generally emit high-frequency sound greater than 200 kilohertz (kHz).

Offshore bathymetry studies will collect information about the water depth, seafloor contours, hazards, and other environmental conditions. Equipment that will be used during these bathymetry surveys includes echosounders, such as a single-beam or multi-beam sonar device, that is mounted on the vessel's hull or on a side-mounted pole. Single-beam sonar devices emit a high-frequency single pulse of sound to record water depth, and these devices may operate at a frequency of either 100 kHz or 200 kHz. Multi-beam sonar devices will be composed of a transducer array that emits a swath of sound, motion sensor on the vessel, gyrocompass on the vessel, and a sound velocity probe in order to create a three-dimensional view of the seafloor. Multi-beam sonar devices may generally operate at a frequency of 240 kHz.

Shallow hazard surveys will collect information about the seafloor and immediate subsurface. Equipment that will be used during these shallow hazard surveys includes a high-frequency sub-bottom profiler, intermediate-frequency profiler, and a multi-channel system, which is an array of hydrophones towed by a vessel to receive reflected sound energy emitted by the sparker. Different types of sub-bottom profilers may be used depending on the type of seafloor imagery required for the shallow hazard surveys and the general frequency of this equipment may range from 0.3 to 20 kHz.

Open-water marine vibroseis may be conducted as a potential alternative to using traditional airguns for offshore oil and gas surveys. Equipment that will be used during these marine vibroseis surveys includes a vibrating plate or shell to displace water to produce acoustic signals.

Environmental monitoring studies to support oil and gas activities will include but are not limited to those that examine geomorphology (soils, ice content, permafrost); archaeology and cultural resources; vegetation mapping; analysis of fish, bird, and mammal species and their habitat; acoustic monitoring; hydrology; and other freshwater, marine, and terrestrial studies of the Arctic coastal and offshore regions. Environmental monitoring studies may be conducted by individual operators or in cooperation with other entities such as government agencies, academic institutions, or local communities. These environmental monitoring studies will often be conducted in response to regulatory requirements and may occur across multiple years. Equipment that will be used during environmental monitoring studies may include vehicles, vessels, snow machines or tuckers, helicopters, UAVs, or fixed-wing aircraft depending on the type of study. Flight altitudes for fixed-wing aircraft may range from 30 m (98 ft) to 450 m (1,476 ft) depending on the type of study. Environmental monitoring surveys will be conducted to fulfill regulatory and permit requirements and support natural resource exploration and development in the ITR region throughout the ITR period.

AIR surveys will be conducted to detect maternal polar bear dens near Industry each winter. Infrared cameras mounted on a fixed-wing aircraft will be used to detect body heat from denning female polar bears that permeates through the snow.

Well Drilling and Production

Drilling, production, and maintenance of operating wells for oil and gas exploration, development, and production at existing facilities will occur throughout the ITR period. Industry also plans to drill new exploration, appraisal, and production wells within the ITR region depending on resources and other factors. The number and location of these well drilling and maintenance activities will vary throughout the ITR period, but the level of these activities is anticipated to be similar to previous years. New wells may require construction of new gravel pads or new gravel roads or ice roads to access well locations. New wells may also require installation of stream crossings, vertical support members (VSMs), pipelines, power cables, and fiber optic cables to support well drilling and production activities. Temporary camps may be established to accommodate personnel during well drilling and production activities as needed. Equipment that will be used to support well drilling, production, and maintenance activities includes drill rigs, pumps, processing facilities, and support infrastructure. Industry plans to conduct plugging and abandonment of wells that are currently suspended or will be suspended during the ITR period. The number of wells that may be plugged and abandoned will vary each year throughout the ITR period, but the level of these activities is anticipated to be similar to previous years. These activities may be supported by aircraft or vehicles using ice roads or the existing road network depending on the location of the well that will be plugged and abandoned.

Artificial and natural islands along the Beaufort Sea coastline may serve as well drilling platforms for offshore production. Artificial islands may be constructed at various times of the year using a combination of gravel, boulders, artificial structures, or ice. Vibratory and impact pile driving will be conducted to install conductor pipes, foundation pipes, and sheet piles to support development of the islands for production. Monitoring and maintenance of the islands used for

production will be conducted as needed throughout the ITR period. Monitoring inspections may use sonar and divers, and these inspections may occur multiple times throughout each year of the ITR period depending on weather and wave conditions.

Pipelines

Maintenance of existing terrestrial pipelines (buried and above ground) and subsea pipelines to transport oil and gas products will occur throughout the ITR period. Pipeline inspections and maintenance activities will be conducted by tundra travel vehicles throughout the year. Industry will replace and extend existing pipelines and associated infrastructure as needed to maintain the integrity of the pipeline system throughout the ITR region. New pipelines may be installed within the ITR region to transport oil and gas products from existing wells or new wells. Pipeline installation will generally occur during winter and ice roads will be constructed to support pipeline installation. VSMs will be installed using vibratory and impact pile driving or drilling to support pipelines above ground.

Support Facilities, Infrastructure and Functions

Support facilities and infrastructure include the Deadhorse Airport, Dalton Highway, and Spine Road to transport personnel, equipment, and supplies across the North Slope of Alaska. Permanent camps will be used to house personnel at operation centers, processing facilities, drill sites, and other similar facilities. Temporary camps may be installed for specific projects or travel with personnel to complete projects as needed. Other support functions will include waste management, emergency response training for personnel, in-water dredging and screeding to remove or deposit sediment materials and smooth the seafloor for in-water operations, and pile driving to construct docks and land structures.

Waste management protocols will be implemented in an effort to minimize interactions with wildlife. Solid waste from camps will be disposed of at the Oxbow Landfill in the Prudhoe Bay Development or other permitted facilities. Food and burnable waste will be incinerated when feasible. Food waste will be carefully managed to avoid attracting wildlife such as placing food waste in wildlife-proof receptacles. Drilling and production waste will be injected into underground injection control disposal wells where it will be inaccessible to wildlife and will not have the potential to contact any sources of groundwater or surface soils. Hazardous waste will be kept inside closed containers and disposed of in accordance with applicable regulations.

Emergency and oil spill response training activities for personnel will occur at various times throughout the year during the ITR period. Oil spill equipment deployment exercises conducted during the ice-covered period will use snowmachines, ATVs, portable generators, skid steer loaders, snow blowers, and various types of equipment to cut ice slots or drill holes through floating sea ice. Other equipment and supplies that will be used during emergency response training activities include vessels, trucks, booms, and sorbents. The location and frequency of emergency and oil spill response training activities will vary depending on the sea ice or winter tundra conditions and training requirements.

In-water dredging and screeding will be conducted to remove and deposit seafloor sediment and smooth the seafloor to support in-water operations. These activities will be conducted during the open-water season of each year at various dock locations including but not limited to Oliktok Dock and West Dock. Dredging may also be conducted during the winter depending on conditions. Equipment that will be used for dredging includes a barge-mounted suction dredge, excavator, or a crane with a dredging bucket on a barge platform. Equipment that will be used for screeding includes a device such as a plow or rake-like structure that is attached to a barge or backhoe.

Pile driving or drilling activities will be conducted to support construction or repair of docks, bridges, and offshore or riverine structures as needed throughout the ITR period. Pile driving activities may include vibratory pile driving, impact pile driving, drilling, and down-the-hole drilling, and the pile driving methods, depending on the project requirements.

Anticipated Future Projects

Industry anticipates that the oil and gas exploration and development activities described above will continue at levels similar to previous years during the ITR period throughout the ITR region. There are also several new projects anticipated for the ITR period in addition to the routine oil and gas operations described above. Those projects are described in AOGA's Request and are not a comprehensive or exhaustive list of future projects that will occur during the ITR period. The scope of future projects and their associated schedules may change, and some listed projects may not occur at all. All projects that do occur, and for which LOAs are requested under these ITRs, will fall within the class of oil and gas exploration, production, development, and transportation activities described in AOGA's Request (and appendices) and summarized above.

Mitigation Measures

The applicant has proposed a decision framework and a number of mitigation measures in section 9 of their Request to minimize the potential effects of proposed activities on polar bears and walruses and effect the least practicable adverse impacts on those stocks. AOGA's proposed measures include mitigation for general avoidance and minimization that apply to a variety of their planned activities as well as measures specific to aircraft and vessels; they have also included in their Request plans for conducting maternal polar bear den surveys and methods for minimizing the impacts of their activities on the subsistence harvest of polar bears and walruses.

The general avoidance and minimization measures proposed in AOGA's Request include maintaining a current polar bear and walrus interaction plan in coordination with the FWS that details their protocols for food and waste management, training, snow removal, polar bear and walrus avoidance and encounters, and polar bear and walrus reporting procedures. The applicant also intends to continue to design facilities and plan projects in such a way that polar bears' access to attractants is reduced. Further, they will maintain designated personnel for specific activities to observe and record observations of polar bears and walruses. Finally, they highlight how they will continue to avoid operating equipment in potential den locations.

Proposed mitigation measures for aircraft use include not flying below an altitude of 457 m (1,500 ft) or within 805 m (0.5 mi) of polar bears or walruses observed on ice or land except in emergency situations. Helicopters will not be allowed to hover or circle over polar bears, known polar bear dens, or walruses. Additionally, the applicant has proposed that if weather conditions prevent flying at an altitude of 457 m (1,500 ft) or higher, that the pilot will avoid areas of known polar bear and walrus concentration.

The proposed measures for vessel use include having observers to monitor for polar bears and walruses during marine operations and maintaining the maximum distance practicable (805 m

(0.5 mi) or greater) from concentrations of polar bears or walruses. Polar bears or walruses observed on land or sea will not be approached within an 805-m (0.5-mi) radius except in the case of an emergency. Furthermore, vessels will not separate groups of two or more walruses and will reduce speed and maintain a minimum 805-m (0.5-mi) exclusion zone around groups of 12 or more walruses in the water or polar bears on ice. Vessels that are over 15 m (50 ft) long will maintain a distance of 805 m (0.5 mi) from any walrus haulout. When visibility is reduced, vessels will adjust speed accordingly to decrease the likelihood of injury to walruses.

LOA holders will survey for maternal polar bear dens via AIR during the early polar bear denning season, in November through January. LOA holders will conduct one AIR survey of all denning habitat within 1.6 km (1 mi) of winter activity. This survey would occur in November or December. LOA holders will also conduct a second survey of denning habitat within 1.6 km (1 mi) of winter activities in the high and moderate denning density zones established by FWS (for more information about the creation of denning density zones and a map, a summary of this information is available in supplemental information on *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694). The second survey would occur in December or January. Additionally, surveyed locations that yield heat signatures indicating the possible presence of a maternal polar bear den will be re-surveyed. Protocols for conducting the maternal polar bear den surveys are documented in section 9.2 of the Request. If AIR surveys yield any putative polar bear dens within 1.6 km (1 mi) of planned activities, AOGA will consult with the FWS to create a mitigation zone around the suspected den site such that it will not be disturbed by any project activities for the remainder of the denning season (November to April). The applicant has also proposed follow-up surveys via AIR, handheld or vehicle-mounted infrared cameras or binoculars, or the use of unmanned aerial systems (UAS) to confirm den presence or identify when the den is no longer in use. Known active den sites will be monitored by personnel in trucks or off-road vehicles, or by remote cameras that can record or stream data. This monitoring of polar bears' activity can assist with avoiding disturbance, especially during the den emergence period when polar bear sows and cubs make repeated short trips outside before returning to the den. Monitoring will be conducted from an appropriate distance established in consultation with the FWS to avoid disturbance from the monitoring activities. Finally, personnel working during the den emergence period will be trained to look for signs of polar bear dens in their work areas and dedicated personnel may be assigned to monitor work areas for polar bears to protect workers and allow polar bears to pass through undisturbed.

Trained and qualified personnel will continue to monitor for, record, and report polar bear and walrus observations, and initiate mitigation measures (Request, sections 9 and 10). LOA holders will report the efficacy of mitigation measures and any observed effects of Industry activities on these species. Monitoring personnel will complete a training program approved by FWS. Details of the monitoring procedures will be provided in an FWS-approved, site- and project-specific marine mammal monitoring and mitigation plan.

To help ensure that incidental taking of polar bears and walruses does not have an unmitigable adverse impact on the availability of the species for Alaska Native subsistence hunting opportunities, the Request states all LOA applicants will provide the FWS documentation of communication and coordination with Alaska Native communities potentially affected by the specified activity and, as appropriate, with representative subsistence hunting and co-management organizations. If Alaska Native communities or representative subsistence hunting organizations express concerns about the potential impacts of specified activities on subsistence activities, and such concerns are not resolved during this initial communication and coordination process, then a plan of cooperation (POC) must be developed and submitted with the applicant's request for an LOA. In developing the POC, the LOA applicant will further engage with Alaska Native communities and/or representative subsistence hunting organizations to provide information and respond to questions and concerns. The POC must provide adequate measures to ensure that specified activities will not have an unmitigable adverse impact on the availability of polar bears and walruses for Alaska Native subsistence uses.

Should community outreach result in concerns about adverse impacts to subsistence harvest from the planned activities, the Request states that LOA holders will develop a POC to address those concerns and prevent interference with the subsistence harvest. Regardless of the need for a POC, the applicant will limit the timing of activities (including aircraft- and vessel-based activities) and avoid known locations of importance for the subsistence harvest of polar bears and walruses.

Description of Marine Mammals in the Specified Geographic Region

Polar bears and walruses are the marine mammal species managed by the FWS likely found within the specified geographic region. Information on the range, stocks, biology, and other impacts on polar bears and walruses was considered in the development of these ITRs. A summary of this information is available in supplemental information on *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694.

Potential Impacts of the Specified Activities on Marine Mammals

Impacts of Surface Activities on Polar Bears

Disturbance impacts on polar bears will be influenced by the type, duration, intensity, timing, and location of the source of disturbance. The noises, sights, and smells produced by these activities could elicit variable responses from polar bears, ranging from avoidance to attraction. When disturbed by noise, animals may respond behaviorally by walking, running, or swimming away from a noise source, or physiologically via increased heart rates or hormonal stress responses (Harms et al. 1997; Tempel and Gutierrez 2003). However, individual response to noise disturbance can be based on previous interactions, sex, age, and maternal status (Anderson and Aars 2008; Dyck and Baydack 2004). Noise and odors could also potentially attract polar bears to work areas. Attracting polar bears to these locations could result in human-polar bear interactions, incidental harassment, and/or intentional take (which is not authorized via ITRs) by hazing or defense of human life. The Request includes mitigation measures to manage attractants in work areas and reduce the risk of human-polar bear interactions.

Human-Polar Bear Interactions

From mid-July to mid-November, SBS polar bears can be found in large numbers and high densities on barrier islands, along the coastline, and in the nearshore waters of the Beaufort Sea, particularly on and around Barter and Cross Islands (Wilson et al. 2017). This distribution leads to a significantly higher number of human-polar bear interactions on land and at offshore structures during the open-water season

than other times of the year. Polar bears that remain on the multi-year pack ice are not typically present in the ice-free areas where vessel traffic occurs, as barges and vessels associated with Industry activities travel in open water and avoid large ice floes.

On land, most polar bear observations occur within 2 km (1.2 mi) of the coastline based on polar bear monitoring reports. Facilities within the offshore and coastal areas are more likely to be approached by polar bears, and they may act as physical barriers to polar bear movements. As polar bears encounter these facilities, the chances for human-polar bear interactions increase. However, polar bears have frequently been observed crossing existing roads and causeways, and they appear to traverse the human-developed areas as easily as the undeveloped areas based on monitoring reports.

A larger percentage of SBS polar bears are spending more time on land during the open-water season, which may increase the risk for human-polar bear interactions (Atwood et al. 2016; Kelner et al. 2022; Rode et al. 2022). It is likely that human-polar bear interactions will occur at some point during the specified activities. Per the Request, operators would maintain human—polar bear interaction plans and attractant management plans, design facilities and plan projects to reduce the possibility of polar bears reaching attractants and humans, and monitor for polar bears. These plans and requirements are designed to reduce human-polar bear interactions and minimize the risks to polar bears and humans when interactions occur. Interaction plans detail how to respond to the presence of polar bears, the chain of command and communication, and required training for personnel. Attractant (*e.g.,* human food, garbage) management plans can prevent polar bears from associating humans with food, which mitigates the risk of human-polar bear interactions (Atwood and Wilder 2021). Information gained from monitoring polar bears near industrial infrastructure can be useful for better understanding polar bear distribution, behavior, and interactions with humans. Tools that may be used to facilitate detection and monitoring of polar bears include bear monitors, thermal cameras, and remotely operated cameras.

Effects of Aircraft Activities on Polar Bears

The Federal Aviation Administration tests aircraft-produced sound at all measured frequencies (50 hertz (Hz) to 10 kHz) (Healy 1974). At frequencies centered at 5 kHz, jets flying at 300 m (984 ft) produced ⅓ octave band noise levels of 84 to 124 decibels (dB), propeller-driven aircraft produced 75 to 90 dB, and helicopters produced 60 to 70 dB (Richardson et al. 1995). Thus, the frequency and level of airborne sounds typically produced by aircraft are unlikely to cause either temporary or permanent impairment to polar bear hearing unless polar bears are very close to the sound source (Southall et al. 2019).

Although neither temporary nor permanent hearing impairment is anticipated during the specified activities, aircraft overflights have the potential to elicit behavioral responses from polar bears. Exposure to aircraft overflights is expected to result in short-term behavior changes, such as walking, running, or ceasing to rest and, therefore, has the potential to increase energetic costs. Quigley et al. (2022 and 2024) conducted intentional aircraft overflights above polar bears to determine their responses to overflights. Researchers approached polar bears repeatedly at decreasing altitudes with an average flight altitude of 143 m (469 ft). Polar bears exhibited biologically meaningful behavioral responses during 66.6 percent of experimental overflights. These behavioral responses were significantly correlated with the aircraft's altitude, the polar bear's location (*e.g.,* coastline, barrier island), and the polar bear's activity at the time of the encounter. In a separate study, polar bears associated with dens were exposed to aircraft flying at altitudes of 150 m (492 ft) or less and exhibited various responses that ranged from increased head movement and observation of the disturbance to the initiation of rapid movement and/or den abandonment (Larson et al. 2020). Aircraft activities can impact polar bears across all seasons; however, aircraft have a greater potential to disturb both individuals and groups of polar bears on land during the summer and fall. These onshore polar bears are primarily fasting or seeking alternative terrestrial foods (Cherry et al. 2009; Griffen et al. 2022), and polar bear responses to aircraft overflights may result in metabolic costs to limited energy reserves. To reduce potential disturbance of polar bears during aircraft activities, the Request incorporates mitigation measures, such as minimum flight altitudes (457 m/1,500 ft) over polar bears and their frequently used areas and flight restrictions around known polar bear aggregations, to be conducted when safe to perform these operations during aircraft activities.

Effects of In-Water Activities on Polar Bears

While polar bears swim in and hunt from open water, they spend less time in the water than most marine mammals. Stirling (1974) reported that polar bears observed near Devon Island during late July and early August spent 4.1 percent of their time swimming and an additional 0.7 percent engaged in aquatic stalking of prey. More recently, Lone et al. (2018) found 75 percent of polar bears swam daily during open-water months, with animals spending 9.4 percent of their time in July in the water. While polar bears typically swim with their ears above water, there are occasions when a polar bear may dive and therefore have its ears below the surface.

Polar bear behavior is expected to be impacted by the presence of humans and equipment in the water. In 2012, during the open-water season, Shell USA, Inc (Shell) vessels encountered a few polar bears swimming in ice-free water more than 112.6 km (70 mi) offshore in the Chukchi Sea. In those instances, the polar bears were observed to either swim away from or approach the Shell vessels, sometimes swimming around a stationary vessel before leaving. In at least one encounter, a polar bear approached, touched, and investigated a stationary vessel from the water before swimming away. We anticipate that polar bears that encounter vessels during the specified activities may have an evasive or curious response, similar to these reports.

Some of the specified activities may introduce noise into the marine environment at sound levels capable of causing a behavioral change or temporary or permanent damage to polar bear hearing. However, the majority of the sound-producing instruments that will be used do not produce in-water sound above the threshold designated for Level B harassment or they do not produce sound within the hearing range of polar bears (for a discussion of this threshold and polar bear hearing see supplemental information on *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694). Echosounders and side-scan sonar are typically operated at a frequency at or above 200 kHz, which is outside the hearing range for polar bears (Southall et al. 2019). Other equipment types, such as sub-bottom profilers and sparkers may produce sounds within the hearing range of polar bears (2 kHz to 16 kHz and 300 Hz to 1.5 kHz, respectively), and at an estimated sound source level

above the Level B harassment threshold (202 decibels referenced to a pressure of 1 microPascal (dB re 1µPa)); however, their sound production is typically highly directional and focused within a narrow beam. While exposure to other underwater sounds such as those created by screeding, dredging, pile driving, or anchor handling and thrusting may cause changes in behavior, temporary or permanent changes in hearing sensitivity, or discomfort, polar bears are not expected to be frequently exposed because they do not typically swim with their heads under water unless diving (Lone et al. 2018).

Effects to Denning Polar Bears

Known or suspected polar bear dens around the oilfield, discovered opportunistically and/or during planned surveys for tracking marked polar bears and detecting polar bear dens, are monitored by the FWS. However, these sites are only a small percentage of the total active polar bear dens for the SBS stock in any given year. Each year LOA and incidental harassment authorization (IHA) holders coordinate with the FWS to conduct surveys to attempt to determine the location of known or suspected polar bear dens and denning habitat within 1.6 km (1 mi) of human activity. Per typical LOA requirements, if a known or suspected den site is located, LOA holders immediately consult with the FWS to determine if additional surveys or mitigation measures are required. The exact prescription of mitigation measures may vary based on the specifics of an individual den site but in the past, after locating a known or suspected den site, FWS has worked with operators to implement various mitigation measures such as activity exclusion zones and 24-hour monitoring of the den site. In their Request, AOGA has committed to ''maintain a minimum avoidance distance of 805 m from all polar bears at a den site when operating vehicles, vessels, and aircraft, except in the event of an emergency or a den-specific plan when safe and practicable to do so.'' The responses of denning polar bears to disturbance and the consequences of these responses can vary throughout the denning process, which entails four stages: den establishment, early denning, late denning, and post-emergence; definitions and descriptions are provided by Woodruff et al. (2022a) and are also located in the 2021–2026 Beaufort Sea ITRs (86 FR 42982, August 5, 2021; revised 90 FR 27398, June 26, 2025). The probability that denning polar bears will be disturbed by nearby Industry activities and the polar bears' resulting responses to disturbance (den abandonment, early emergence from the den, or early departure from the den site) varies by denning stage (A summary of this information is available in supplemental information on *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694).

Impacts of Surface Activities on Walruses

Walruses do not frequently inhabit the Beaufort Sea. The likelihood of encountering walruses during Industry operations is low and limited to the open-water season. During the ITR period, Industry operations may occasionally encounter small groups of walruses swimming in open water or hauled out onto ice floes or along the coast. Industry monitoring data have reported 49 walruses between 1995 and 2023, with only a few instances of disturbance to those walruses (AES Alaska 2015; FWS unpublished data). If walruses are encountered during the specified activities, the interaction could potentially result in disturbance.

Anecdotal observations by walrus hunters and researchers suggest that males tend to be more tolerant of disturbances than females, and individuals tend to be more tolerant than groups. Females with dependent calves are considered least tolerant of disturbances. In the Chukchi Sea, disturbance events are known to cause walrus groups to abandon land or ice haulouts and occasionally result in trampling injuries or cow-calf separations, both of which are potentially fatal. Calves and young animals at terrestrial haulouts are particularly vulnerable to trampling injuries. However, due to the lack of previous walrus haulouts in the ITR region, the most likely potential impacts of the specified activities include displacement from preferred foraging areas, increased stress, energy expenditure, interference with feeding, and masking of communications. Any impact of human presence on walruses is likely to be limited to a few individuals due to their geographic range and seasonal distribution.

The reaction of walruses to vessel traffic is dependent upon vessel type, distance, speed, and previous exposure to disturbances. Walruses in the water appear to be less readily disturbed by vessels than walruses hauled out on land or ice. Furthermore, barges and vessels associated with Industry activities travel in open water and avoid large ice floes or land where walruses are likely to be found. In addition, walruses can use a vessel as a haulout platform. In 2009, during Industry activities in the Chukchi Sea, an adult walrus was observed hauled out on the stern of a vessel.

Effects of Aircraft Activities on Walruses

Aircraft overflights may disturb walruses. Reactions to aircraft vary with range, aircraft type, and flight pattern, as well as walrus age, sex, and group size. Adult females, calves, and immature walruses tend to be more sensitive to aircraft disturbance. Walruses are particularly sensitive to changes in engine noise and are more likely to stampede when aircraft turn or fly low overhead. Researchers conducting aerial surveys for walruses in sea ice habitats have observed little reaction to fixed-winged aircraft above 457 m (1,500 ft) (FWS unpublished data). Although the intensity of the reaction to noise is variable, walruses are probably most susceptible to disturbance by fast-moving and low-flying aircraft (100 m (328 ft) above ground level) or aircraft that change or alter speed or direction. In the Chukchi Sea, there are recent examples of walruses being disturbed by aircraft flying in the vicinity of haulouts. It appears that walruses are more sensitive to disturbance when hauled out on land versus sea ice.

Effects of In-Water Activities on Walruses

Walruses hear sounds both in air and in water. They have been shown to hear from 60 Hz to 23 kHz in air (Reichmuth et al. 2020). Tests of underwater hearing have shown their range to be between 1 kHz and 12 kHz with greatest sensitivity at 12 kHz (Kastelein et al. 2002). The underwater hearing abilities of the walrus have not been studied sufficiently to develop species-specific criteria for preventing harmful exposure. However, sound level thresholds have been developed for members of the ''other marine carnivore'' group of marine mammals. For a discussion of these thresholds information is available in supplemental information on *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694. As we discussed in *Effects of In-Water Activities on Polar Bears,* the majority of the sound-producing instruments that will be used during the specified activities will not produce in-water sound above the threshold designated for Level B harassment or they do not produce sound within the hearing range of walruses.

If walruses are present within an ensonified area that reaches Level B harassment thresholds, noise may prevent ordinary communication between individuals and prevent them

from locating one another. The noise may also prevent walruses from using potential habitats in the Beaufort Sea and may have the potential to alter the frequency or duration of behaviors such as feeding, foraging, or nursing. The most likely response of walruses to acoustic disturbances in open water would be for animals to move away from the source of the disturbance. Displacement from a preferred feeding area may reduce foraging success, increase stress levels, and increase energy expenditures.

Impacts of the Specified Activities on Polar Bear and Walrus Prey Species

Information on the potential impacts of the specified activities on polar bear and walrus prey species can be found in the **SUPPLEMENTAL INFORMATION**. Based on this information, the FWS does not anticipate any substantial impacts on prey availability to polar bears or walruses as a result of AOGA's specified activities.

Potential Impacts of Oil Spills on Polar Bears and Walruses

The FWS reviewed the potential impacts of oil spills on the SBS stock of polar bears and walruses, as well as records of oil spills in the specified geographic region and evaluated oil spill response methods in the specified geographic region. Information from this review can be found in **SUPPLEMENTAL INFORMATION** at *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694. Based on this review, the likelihood of a large oil spill in the next 5 years is low. In the unlikely event of a large spill, the likelihood that spills would contaminate areas occupied by large numbers of polar bears or walruses is low. While individual polar bears could be negatively affected by a spill, the potential for a stock-level effect is low unless the spill contacted an area where large numbers of polar bears were gathered. Known polar bear aggregations tend to be seasonal during the fall, further minimizing the potential of a spill to impact the stock. Onshore oil spills would not impact walruses unless they occurred on or near beaches or oil moved into the offshore environment. In the event of a spill that occurs during the open-water season, oil could be released into the water column, or it could drift from onshore water sources to offshore areas, possibly encountering a small number of walruses. However, as was stated earlier, the Beaufort Sea is not within the primary range for walruses. Therefore, the probability of walruses encountering oil or waste products as a result of a spill from Industry activities is low. Therefore, we conclude that the likelihood of a large spill occurring is low, but if a large spill does occur, the likelihood that it would contaminate areas occupied by large numbers of polar bears or walruses is also low. If a large spill does occur, we conclude that only small numbers of polar bears or walruses are likely to be affected, though some animals may be killed, and there would be only a negligible impact on the SBS polar bear stock or walrus population.

Take Estimates

Incidental Take Under the Marine Mammal Protection Act

Below we discuss three types of MMPA take and how such takes could occur in the polar bear and walrus contexts. This discussion is provided for context and background and does not necessarily reflect what is anticipated to result from the specified activities.

Lethal Take

Human activity may result in biologically significant impacts on polar bears and walruses. In the most serious interactions with polar bears (*e.g.,* vehicle collision, running over an unknown den causing its collapse), human actions can result in the mortality of polar bears. We also note that, while not considered incidental, in situations where there is an imminent threat to human life, polar bears may be killed. Additionally, though not considered incidental, polar bears have been accidentally killed during efforts to deter polar bears from a work area for safety and from direct chemical exposure (81 FR 52276, August 5, 2016). If unintentional disturbance of a female polar bear by human activity during the denning season caused the female to abandon her cubs in the den before the cubs can survive on their own, incidental lethal take of polar bear cubs would occur. Incidental lethal take of walruses could occur if a walrus were directly struck by a vessel or trampled by other walruses in a human-caused stampede at a walrus haulout site.

Level A Harassment

Human activity may result in the injury of polar bears or walruses. Level A harassment, for nonmilitary readiness activities, is defined as ''any act of pursuit, torment, or annoyance which ... has the potential to injure a marine mammal or marine mammal stock in the wild'' (16 U.S.C. 1362(18)).

Numerous actions can cause take by Level A harassment of polar bear cubs during the denning period, such as creating a disturbance that separates mothers from dependent cubs (Amstrup 2003), inducing early den emergence during the late denning period (Amstrup and Gardner 1994; Rode et al. 2018), instigating early departure from the den site during the post-emergence period (Andersen et al. 2024), or repeatedly interrupting the nursing or resting of cubs to the extent that it impacts the cubs' body condition. As with lethal take, walruses are most vulnerable to Level A harassment when congregated in haulouts. The risk of stampede-related injuries increases with the number of walruses hauled out and with the duration spent on coastal haulouts. Calves and young walruses are the most vulnerable to suffer injuries and/or mortality (88 FR 53510, August 8, 2023).

Level B Harassment

Level B harassment, for nonmilitary readiness activities, is defined as ''any act of pursuit, torment, or annoyance which... has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, feeding, or sheltering'' (16 U.S.C. 1362(18)). Changes in behavior that disrupt certain behaviors or activities for the affected animal are indicative of take by Level B harassment under the MMPA. Such reactions include, but are not limited to, the following:

- Fleeing (running or swimming away from a human or a human activity);
- Displaying a stress-related behavior such as jaw or lip-popping, front leg stomping, vocalizations, circling, intense staring, or salivating for polar bears;
- Abandoning or avoiding preferred movement corridors such as ice floes, leads, polynyas, a segment of coastline, barrier islands, or other resting sites;
- Abandoning prey or feeding areas;
- Using a longer or more difficult route of travel instead of the intended path;
- Interrupting breeding, sheltering, or feeding;
- Moving away at a fast pace (adult) and polar bear cubs or walrus calves struggling to keep up;
- Temporary, short-term cessation of nursing or resting (cubs or calves);
- Ceasing to rest repeatedly or for a prolonged period (adults); or
- Loss of hunting opportunity due to disturbance of prey.

This list is not meant to encompass all possible behaviors; other behavioral responses may be indicative of take by Level B harassment. Relatively minor changes in behavior such as the animal

raising its head or temporarily changing its direction of travel are not likely to disrupt biologically important behavioral patterns, and the FWS does not view such minor changes in behavior as indicative of a take by Level B harassment. It is also important to note that eliciting behavioral responses that equate to take by Level B harassment repeatedly may result in Level A harassment.

Estimating Take

To evaluate incidental take of polar bears from the specified activities and inform our MMPA-required findings, we start by considering the estimates of likely incidental take and the analysis of associated impacts provided by the Request. We then identify some inherent uncertainties associated with forecasting impacts in this context, discuss legislative intent concerning how such uncertainties are to be considered in the ITR process, and effectuate that intent via further analysis that considers predictive model results. We then make findings that account for qualitative and quantitative considerations and data, the Request's estimates of likely incidental take, and FWS predictive model results. In light of the inherent uncertainties and challenges with quantifying take and the disparate results produced through different methodologies, the FWS considers its predictive model estimates alongside the requester's predictive estimates, which it derived from a distinct methodology (as described below in *The Request's Take Estimation Methods*), and various qualitative and quantitative factors. The FWS predictive model results for incidental take of polar bears were not a component of determining the MMPA-required findings in the Beaufort Sea ITRs issued between 1993 and 2016 because the model did not exist. As a part of a change introduced around that time for MMPA-required findings, the first Beaufort Sea ITRs using the FWS predictive model was the most recent 2021–2026 Beaufort Sea ITRs. The FWS is now further refining its approach to evaluate MMPA-required findings with additional information, including recent research, on-the-ground data, and the estimates provided by AOGA. The FWS also recognizes that this approach to rendering MMPA-required findings differs from the approaches used in ITRs and IHAs concerning polar bears since 2021, in which we relied on qualitative and qualitative considerations and predictive model results but not a separate set of incidental take estimates provided by the Requester. The reason for this change relates to the fact that the present Request, in providing the estimates and analysis required by 50 CFR 18.27(d), uses methodologies and assumptions that differ from those employed by FWS's predictive modeling, resulting in different quantitative estimates. In this context, considering the additional types of analysis provided by the Request, while continuing to consider qualitative and quantitative considerations and data, and the FWS predictive modeling results, facilitates a more comprehensive analysis to inform FWS's MMPA-required findings. The approach here also preserves the utility of the regulatory requirement that requests for ITRs provide estimates of likely incidental take. This approach is robust, well-tailored to the present circumstances, and permissible under 16 U.S.C. 1371(a)(5)(A), which does not require quantification at all, let alone prescribe any particular methodology for rendering required findings.

Request's Critique of FWS's Methodology for Estimating Take

Appendix A of the Request provides a ''Critique of USFWS's Methodology for Estimating Take and Rationale for AOGA's Evidence-Based Approach.'' In summary, the Request notes that the requester developed its methodology ''because the Service's approach—based solely on numerical modeling—has proven to be flawed and legally insufficient in multiple ways.'' Appendix A provides four ''primary flaws with the Service's approach . . . .''

The Request's Take Estimation Methods

The Request summarized its incidental take methodology as follows:

> To estimate incidental take of polar bears and walruses that may occur during the activities described in this petition, AOGA used a weight of evidence (WOE) approach consistent with the guidelines published by the EPA [Environmental Protection Agency] in 2016 (EPA 2016) and Executive Order 14303 (The White House 2025), which states that ''[w]hen scientific or technological information is used to inform agency evaluations and subsequent decision-making, employees shall apply a weight of scientific evidence approach.'' The WOE framework offers a structured approach to combine multiple sources of evidence and draws on field-verified data to support estimates of incidental harassment of polar bears and Pacific walruses that may occur during the class of oil and gas activities described in [the Petition]. (Request, p. 3–1).

The Request lists ''[t]he lines of evidence used to estimate incidental Level B takes by harassment of polar bears and Pacific walruses during the class of oil and gas activities described in [the Petition] and ''also used to evaluate and assess the likely anticipated impacts on marine mammals . . . .'' The Request's lines of evidence are (Request, pp. 3–2, 3):

- 2,646 records of 2,830 polar bear sightings within the petition area reported by the oil and gas industry (2014–2024);
- Incidental Level B takes by harassment reported during oil and gas activities within the petition area (2014–2024);
- Aerial Surveys of Arctic Marine Mammals (ASAMM) program data for the period (2013–2019);
- Denning bear case studies (1974–2024) (appendix C.3);
- Documented polar bear dens detected within the petition area using AIR (2013–2024);
- Documented polar bear dens detected within the petition area by personnel on the ground (2006–2024);
- Documented bear responses when mitigation measures were applied by Industry (*i.e.,* avoidance and minimization measures applied for dens located near Industry; section 3.7);
- The type, nature, and extent of monitoring protocols carried out by Industry to observe polar bears and dens in the vicinity of oil and gas activities;
- Literature review—over 620 data sources (*i.e.,* scientific literature, monitoring reports, field data, etc.) were reviewed and over 240 sources are cited in this petition;
- LOA monitoring reports of Pacific walrus sightings (2023–2024);
- Sensitivity Analyses of the USFWS Surface Bear Model (USFWS 2021b) and USFWS Denning Bear Model (USFWS 2025a) (appendix C); and
- Comparison of USFWS Denning and Surface Model results using USFWS parameters and AOGA Parameters (USFWS 2021b) (USFWS 2025a) (appendix C).

The Request further notes that:

> To estimate take of polar bears and Pacific walruses, the weighted body of evidence listed in table 3–1 was evaluated in terms of quantity (*i.e.,* more lines of evidence enhances reliability), coherence (*i.e.,* logical alignment among different types of evidence improves reliability), lack of bias (*i.e.,* evidence is more reliable when consistent results are observed across studies or time periods), and comprehensiveness (*i.e.,* evidence that covers a broad spectrum of relevant information).
>
> Among the lines of evidence, direct field observations (such as the LOA database (in the Request at appendix C.2), historical bear denning case studies, and walrus sightings) and scientific literature received the highest weighted scores for overall relevance, strength, and reliability.
>
> Higher-weighted evidence is given proportionally more influence in estimating

take in this petition. This does not mean weaker evidence is ignored, but rather that take estimates are guided more by the strongest, most reliable, and most relevant data. AOGA considered all the evidence and determined that the best evidence on which to base a take estimate is the highest 5 years of takes over the last ten years.

The LOA database (appendix C.2) is the most extensive empirical dataset collected regarding industry polar bear monitoring in the world and is well-suited to inform this petition as the data were collected during the same classes of activities, in the same environment and for the same animal populations for which this petition is submitted as described in section 1.2. These data, along with evidence from peer reviewed literature are the best evidence from which to assess potential incidental harassment of polar bears on the surface (*i.e.,* non-denning polar bears). In addition, a total of 64 denning bear case studies, of which 23 are representative of industry activities, were reviewed to assess potential incidental harassment of denning bears for this petition. These written accounts of human discovered dens describe the class of nearby human activities (if any), den location and phenology (*i.e.,* timing), and observed polar bear behaviors, as well as records of dens documented by extensive industry surveys and on-the-ground field operations within the petition area provide the basis for the assessment of potential disturbance to dens during industry activities. Historical data on denning bears dating back to 1974 were used to develop proportional outcomes of potential harassment (rates) and correlative distances for denning bears exposed to human activities, and demonstrate patterns of preferential denning regions in the petition area. Direct field evidence gathered each year using AIR surveys and personnel on the ground offers the most accurate information on potential dens in the petition area. Real data on probable den locations are mapped and distributed to operations every denning season so that dens may be avoided by industry.

The USFWS models for surface and denning bears were considered as relevant evidence, but they received less weight than other evidence such as field observations because sensitivity analyses show the models have weaknesses with respect to reliability and strength.

To estimate the incidental take of Pacific walruses, walrus sighting data reported by vessel-based and aerial surveys (Clarke et al. 2017a, 2018a, 2019, Clarke et al. 2015, Clarke et al. 2017b, Ireland et al. 2016), as well as recent industry observation data were the basis for assessing potential interaction with Pacific walruses during oil and gas industry activities. Notably, the sighting data used in this petition are records of the presence of walruses, not take by incidental harassment. Industry monitoring reports (LOA 24–INC–07, LOA 24–INC–08, and LOA 24–INC–09) reported either no takes of Pacific walruses by incidental harassment or it was unknown whether take occurred. For this reason, this petition uses the Pacific walrus sighting data from these collective sources to estimate Level B take by incidental harassment. These data sources summarize real-world observations, providing direct evidence of interactions between oil and gas activities and polar bears and Pacific walruses, and the result of those exposures. Assessments grounded in these lines of evidence offer the most accurate reflection of what occurs during the oil and gas activities outlined in this petition, instead of relying exclusively on assumptions and modeling. The evidentiary value of this approach, supported by the scientific literature cited throughout this petition, clearly presents patterns of species' presence and interaction with oil and gas operations within the petition area to pragmatically evaluate future interactions. These real-world datasets from which this petition tiers, represent documented proof of complex animal behaviors at the interface with industry activity. (Request, p. 3–10–11).

The Request details a number of reasons for having a high level of confidence in operators' ability to detect polar bears near Industry activities, including ''scientific methods used to detect surface bears and bear dens,'' required and effective ''[t]raining specific to polar bear identification, reporting and mitigation,'' and ''emphasis on vigilance and reporting'' based on polar bears being a ''threat to human safety.'' (Request, p. 3–53; see also Request, p. 3–54 stating ''[w]hile it is theoretically possible that a bear or bear den in proximity to Industry could go undetected, it is highly unlikely given the necessary vigilance and extensive and continuous monitoring that occurs during oil and gas activities.''). The effectiveness of mitigation measures is also addressed (see, *e.g.,* Request, section 3.7). Provided below is a summary of the Request's estimates of incidental take concerning surface (*i.e.,* non-denning) polar bears and denning polar bears.

AOGA Estimates: Surface Polar Bears During All Activities

In estimating the likely incidental take of surface polar bears, the Request states that ''the most recent 10-year period of observational data. . . provides the most reliable estimation of future incidental take of surface bears resulting from the [specified activities]'' because ''[t]he 2014–2024 period of observational data best reflects recent patterns in polar bear distribution and habitat use in the [Request] area, as well as industry activity, monitoring methods, and reporting practices that are consistent with today's regulatory and operational environment'' (Request, p. 3–42). The Request states that the average number of incidental Level B harassments observed ''for the recent 10-year period (2014–2024) was 16, with a standard deviation of (SD) of 9.95 and an annual range of 4–35'' (Request, p. 3–42). Also noted is ''a trend of increased presence of polar bears in coastal areas and their duration on land, particularly during the ice-free season.'' For the purposes of estimating incidental Level B harassment of surface polar bears from the specified activities, the Request ''assumes these trends will continue and therefore uses the five highest incidental take years from the most recent 10-year period of observational data as the most reasonable representation of incidental take levels of non-denning bears for the 2026–2031 period'' (Request, p. 3–42). This approach resulted in an estimated ''annual average of 24'' incidental Level B harassments of surface polar bears, ''with a SD of 7.62 and an annual range of 15–35'' (Request, p. 3–42). The number was derived using a dataset that includes Level B harassment events that occurred during vessel-based and aircraft-based activities, therefore the FWS has assumed AOGA intends the estimate to encompass these activities as well. The Request does not anticipate any forms of incidental take of surface polar bears other than Level B harassment.

AOGA Estimates: Denning Polar Bears

The Request states that ''[b]ased on the data from the five highest years of dens detected near industry during the last decade (Request, table 3–16), an estimate of 1.8 dens/year may be present near industry activities'' (Request, p. 3–52). AOGA conducted a denning case study review that evaluated 64 case studies, 23 of which they found to be relevant to Industry, to ''infer the disposition of denning bears exposed to industry activity'' (Request, p. 3–47). They provide a full description of their methodology in section 3.5 and appendix C of their Request. The results of AOGA's denning case study review are then summarized as follows: ''87 percent of dens resulted in no effect, 11 percent resulted in the Level B incidental harassment and 2 percent resulted in Level A harassment'' (Request, p. 3–53). Applying these probabilities in light of the estimated number of dens near Industry activities, and assuming three polar bears per den (a sow and two cubs), the Request estimates that ''23 denning bears would experience no effect, 3 denning bears would experience Level B incidental harassment, and the probability of Level A harassment is exceedingly low (less than one over the 5-year period)'' (Request, p. 3–53).

AOGA Estimates: Total Take

In sum, with respect to likely incidental take over the 2026–2031

period, the Request estimates the Level B harassment of 123 polar bears (120 surface polar bears and 3 denning polar bears) and no other forms of take. This consists of an annual average of 24 incidental Level B harassments of surface polar bears, which includes vessel-based and aircraft-based activities and an additional 3 Level B harassments of denning polar bears across the 5 years. AOGA estimates less than one Level A harassment over the 5-year period and does not anticipate any lethal take.

Consideration of Model Results

The Request also discusses the methods used by the FWS to estimate impacts to polar bears in recent regulatory processes (Request, section 3.3 and appendix A). This discussion asserts various flaws in FWS's modeling approach and characterizes FWS model outputs as substantially overestimating impacts. For comparative purposes, the Request reports two sets of results from AOGA-conducted runs of FWS's surface and denning models: one set described as using FWS parameters, and one set using parameters developed by AOGA (Request, p. 3–13, tables 3–6 and 3–7). Each set of results is further compared to AOGA's accounting of reported take reflected in their LOA database (Request, p. 3–16).

Uncertainties

Disparities in projections of future impacts can result not only from different interpretations of existing data, but also from use of different assumptions and methods to account for uncertainties. In the present context, several inherent uncertainties increase the difficulty of accurately estimating the future impacts of the specified activities on polar bears. Most notably, based on general observational data and reports along with various scientific studies:

- There is variability in how polar bears use the ITR region each year and in how individual polar bears respond (if at all) to Industry activities. This is demonstrated by the 43 Level B takes observed and reported by two operators in the ITR region for calendar year 2025, which is more than a standard deviation above the average annual numbers of the Level B harassment requested.
- The detailed observation reports submitted by operators pursuant to MMPA take authorization requirements provide valuable data concerning, among other things, polar bear distribution in the ITR region and how polar bears react (if at all) to industrial stimuli. However, ambient conditions common to the ITR region (*e.g.,* darkness, snow, fog, and wind) can reduce the ability to observe all polar bears (and impacts, if any) in the vicinity of Industry activities.
- During the denning timeframe, when a sow's abandonment of her maternal den prior to her cub(s) developing sufficient strength and/or ability to thermoregulate would be presumed to result in mortality of the cub(s), denning sows are thought to exhibit a relatively higher tolerance to disturbance. The existing dataset contains no definitive evidence that an Industry activity caused a maternal den abandonment that resulted in cub mortality. That said, given environmental conditions, the existence of scavengers, and difficulty of observation, it remains possible that this scenario has occurred but was not fully observed. It is also possible that if maternal den abandonment occurred, it was from factors outside Industry activity or that there were no cubs when a den was abandoned. Scenarios outside Industry activity should not be considered take by Industry.
- Several scientific studies have found a correlation between premature maternal den emergence and/or premature maternal den site departure and cub survival, suggesting these behavioral responses may result in a decline in cub fitness and associated reduction in cub survival probability. Observations indicating that denning polar bears prematurely emerged from their den and/or prematurely departed from their den site in response to Industry disturbance are rare. Assessment of this potential behavioral response is complicated by natural variability in the times that undisturbed polar bears establish their dens, remain in their dens, and remain at their den sites post-emergence. Any disturbance-caused decline in cub fitness would be difficult to observe, and any associated cub mortality would likely manifest after the family unit has departed from the observable area and onto the sea ice.
- The exact numbers and precise locations of maternal polar bear dens that will be established in the ITR region during each winter of the 2026–2031 period is unknown. The exact percentage of those dens that will be successfully detected and avoided by operators is also unknown. Therefore, a proportion of known/avoided to unknown/not avoided cannot be calculated.

Legislative Intent

The FWS addressed how to consider uncertainties regarding the probability and extent of potential impacts in the ITR context when it developed its implementing regulations at 50 CFR 18.27. Responding to a variety of public comments in its 1989 final rule (54 FR 40338, September 29, 1989), the FWS confirmed that the approach described in its proposed rule accurately interpreted the legislative intent behind the 1986 Amendments to the MMPA:

> ''If potential effects of a specified activity are conjectural or speculative, a finding of negligible impact may be appropriate. A finding of negligible impact may also be appropriate if the probability of occurrence is low but the potential effects may be significant. In this case, the probability of occurrence of impacts must be balanced with the potential severity of harm to the species or stock when determining negligible impact. In applying this balancing test, the Service will thoroughly evaluate the risks involved and the potential impacts on marine mammal populations. Such determinations will be made based on the best available scientific information.'' (54 FR 40338 at 40343, September 29, 1989, citing 53 FR 8473 at 8474, March 15, 1988; accord, 132 Cong. Rec. S16305 (Oct. 15, 1986)).

The 1989 final rule continues:

> ''The Service recognizes the tension that exists between development interests and wildlife resource interests when restrictions on development are predicated upon the existence of adverse impacts that are speculative in nature. To resolve these difficult situations, the legislative history of the 1986 Amendments endorsed the use of a balancing approach to weigh the likelihood of occurrence against the severity of the potential impact: The degree of certainty of occurrence required in these judgments should be inversely proportional to the resultant harm to the overall population. 132 Cong. Rec. S16305 (Oct. 15, 1986). In applying this balancing test, the Service must, of necessity, evaluate each request for specific regulations on a case-by-case basis'' (54 FR 40338 at 40343, September 29, 1989).

In the present context, where there exists substantial uncertainty as to the potential impacts of the specified activities, and where high rates of human-caused cub mortality (which has not been observed in the ITR region) could represent a significant effect to the SBS stock of polar bears, the FWS considered the results of its predictive modeling and AOGA's take estimates and other qualitative factors to further inform its balancing. While the legislative history on this point concerns ''negligible impact'' analyses, the FWS will utilize a similar, comprehensive approach for all MMPA-required findings.

The FWS's Predictive Model Results

The FWS conducts predictive modeling that entails four main components: processes for estimating incidental take of non-denning polar bears during surface activities, aircraft

activities, and vessel activities, and a process for estimating incidental take of denning polar bears during all operations. A detailed description of these processes, along with the model code and most recent data inputs, is provided at FWS–R7–ES–2025–1628 on *https://www.regulations.gov.* The FWS's predictive model results provide, among other things, a basis for assessing the probability and severity of potential impacts that the scientific literature suggests are possible but have not been observed or are rarely observed in the ITR region.

The FWS recognizes that all predictive analyses and models have limitations. The FWS further recognizes that its predictive models contribute to take estimates that have exceeded (and are expected to exceed) the number of events where biological consequences indicative of take are observed to result from Industry activities. This is partly because the predictive models are one way to estimate harassment consistent with the MMPA's harassment definitions, which encompass certain acts which have ''the potential to'' result in certain biological consequences, and to account for any unobserved take. When addressing uncertainties, the models incorporate assumptions that attempt to strike a balance between potential overestimates and potential underestimates, but, overall, are more likely to contribute to an overestimate, rather than an underestimate, of the incidental take of polar bears. Because of these limitations and the likely overestimates of incidental take by its predictive models, this ITR considers a range of qualitative factors, AOGA's take estimates, and its predictive models altogether as the ''best available scientific evidence'' to support its determinations. FWS acknowledges its awareness this rule represents a shift in approach from that taken in the 2021–2026 ITR and the proposed ITR regarding what constitutes the ''best available scientific evidence.'' For the reasons discussed here and throughout the preamble, the FWS concludes that the approach to the ''best available scientific evidence'' in this rule: (1) is permissible under the MMPA; (2) is a better approach than that reflected in the 2021–2026 ITR and the proposed ITR; and (3) is supported by good reasons.

Over the years, the FWS has continually incorporated new data as it becomes available and refined its modeling parameters to improve accuracy to the extent practicable. However, FWS recognizes that solely considering its predictive modelling estimates would not amount to considering the ''best available scientific evidence'' required to make its determinations.

Each refinement of modeling parameters has been described in the first ITRs or IHA review process in which they were employed (*e.g.,* 90 FR 27398, June 26, 2025; and 90 FR 2718, January 13, 2025). More recent refinements, in addition to incorporating the latest available data, introduced in the present analysis are as follows:

- Assessment of the rate of incidental take preceding intentional take: In past incidental take analyses, we explained that intentional take events are usually preceded by incidental Level B harassment, and that since sufficient data were not available to support application of a reliable correction factor, we included all intentional take events in our calculations of incidental take rates as a proxy for estimating incidental take in this context. We identified this assumption as ''conservative'' in the rulemaking process for the 2021–2026 Beaufort Sea ITRs (86 FR 42982 at 43049, August 5, 2021). To increase accuracy in future analyses, we used a structured review process with designated decision rules to revisit records of intentional take from 2014–2024 to determine whether incidental Level B harassment occurred or potentially occurred prior to the intentional Level B harassment. We found 29 percent of intentional encounters were not preceded by incidental harassment and we apply this correction factor in the present analysis.
- Estimation of polar bear re-sighting rate: In past incidental take analyses, we estimated numbers of incidental take of polar bears but lacked sufficient data to further estimate how many individual polar bears would be subjected to those takes. We then provided ''small numbers'' determinations that identified and applied a conservative assumption that each estimated take would accrue to a different individual polar bear (*e.g.,* 82 FR 42982 at 43039, August 5, 2021). We describe below in our efforts to refine this assumption.
- Development of Offshore Polar Bear Encounter Rate: In past incidental take analyses, the FWS has used the coastal polar bear encounter rate to estimate take from offshore activities, while acknowledging the rate was conservative and greater than the actual rate of offshore encounters. At the recommendation of AOGA, we explored the use of data from the National Marine Fisheries Service Aerial Survey of Arctic Marine Mammals (ASAMM). We subset the ASAMM dataset to account for decreased visibility due to sea state and observation limitations. A summary of this information is available in supplemental information on *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694. The effort enabled FWS to develop an offshore polar bear encounter rate that enables more accurate estimates of take from vessel activity beyond the barrier islands.

FWS Predictive Model Estimates: Surface Activities

The FWS analyzed take by Level B harassment for polar bears that may be encountered and potentially impacted during AOGA's specified activities within the specified geographic region using the predictive formula presented in the 2021–2026 Beaufort Sea ITRs (hereafter 2021–2026 ITRs; 86 FR 42982, August 5, 2021). The formula incorporates spatio-temporally specific encounter rates and temporally specific harassment rates. We updated the encounter and harassment rates using polar bear encounter records submitted since the promulgation of the 2021–2026 ITRs. A detailed description of this process, which included reassessment of the dates for open-water and ice seasons, evaluation of the rate of incidental take preceding intentional take, and establishment of a polar bear re-sighting rate as described above can be found in supplemental information on *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694. During FWS's preliminary review of their Request, AOGA provided the FWS with digital geospatial files that included the expected human occupancy for each individual structure (*e.g.,* each road, pipeline, well pad) of their proposed activities for each month of the ITR period.

FWS Predictive Model Estimates: Aircraft Activities

Polar bears in the ITR region will likely be exposed to the visual and auditory stimulation associated with the applicant's fixed-wing and helicopter activities; however, these impacts are anticipated to be minimal and short-term. Low-flying aircraft activities may cause disruptions in the normal behavioral patterns of polar bears as either an auditory or visual stimulus, thereby resulting in incidental Level B harassment. To reduce the likelihood that polar bears are disturbed by aircraft, AOGA has included a variety of mitigation measures, such as minimum flight altitudes over polar bears and restrictions on hovering over polar bears. Meanwhile, the Request also states that certain aviation activities must be flown at low altitudes by

design, including airborne gravity and airborne magnetic data collection, environmental (*e.g.,* avian, mammal, and ice) surveys, cultural and archeological resource surveys, and summer cleanup operations. We estimated the number of polar bears expected to be harassed by these low-flying aircraft activities using an estimate of the number of flight hours in each season and polar bear density zone (*i.e.,* coastal vs. inland zone). These estimates were used as inputs in the take calculation formula presented in the revised 2021–2026 ITRs (90 FR 27398, June 26, 2025). Disturbances from aircraft activity are expected to have no more than short-term, temporary, and minor impacts on individual polar bears.

FWS Predictive Model Estimates: Denning Polar Bears

We used the analytical methods presented in previous take authorizations (*e.g.,* 90 FR 27398, June 26, 2025) to estimate the effects of the specified activities on denning polar bears. The statistical model consists of 10,000 iterations of simulated dens that are exposed to the specified activities and potentially disturbed. We estimated 6.5 (median=6; 95 percent posterior credible interval (CI): 1–14) land-based dens in the area of specified activity in AOGA's Request and within a 1.6-km (1-mi) buffer of the activities, annually. Estimates for different levels of take are presented in supplemental information on *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694. The distributions of simulated Level A harassments as well as lethal takes due to den abandonment were non-normal and heavily skewed, as indicated by markedly different mean and median values. The heavily skewed nature of these distributions has led to a mean value that is not representative of the most common model result.

Due to the low probability of one or more lethal takes occurring either annually (0.12) or in 5-year aggregate (0.43), along with a median value of 0 for either time period, we do not anticipate the specified activities will result in lethal take of polar bears. These estimates do not account for certain mitigation measures that were incorporated into AOGA's Request but have benefits that cannot be quantified in the FWS's modeling approach (*e.g.,* personnel training). Implementation of these mitigation measures could further reduce the probability of take and minimize impacts on denning polar bears.

FWS Predictive Model Estimates: Vessel Activities

We used a method similar to that described in *FWS Predictive Model Estimates: Aircraft Activities* to estimate the potential effects of maritime activities on polar bears. As we discussed in *Effects of In-Water Activities on Polar Bears,* we do not anticipate harassment of polar bears due to in-water noise production. However, vessels may encounter polar bears in the open water or on ice floes, and polar bears may be harassed by vessel activity. We used the formula that incorporates spatio-temporally specific encounter rates and temporally specific harassment rates described in *FWS Predictive Model Estimates: Surface Activities* and Supplemental Information to estimate the potential Level B harassment associated with vessel activity. A detailed description of the methodology is provided in Supplemental Information.

Pacific Walrus: All Interactions Estimated Harassment of Walruses

In their Request, AOGA has presented an estimate of potential walrus harassment that is consistent with methods presented in the past and at present by FWS. With the low occurrence of walruses in the Beaufort Sea, and given the mitigation measures incorporated into the Request, the only anticipated effects from the specified activities in the Beaufort Sea are short-term behavioral alterations of small numbers of walruses. Most walrus encounters within the ITR region in the past 10 years have been of solitary walruses or groups of two walruses. A group of eight walruses was encountered during barging activity within the ITR region in 2025. The vessel encountered an additional 11 walruses along their voyage before entering the ITR region. While highly unlikely that a group of walruses will be encountered during the proposed activities, we estimate that no more than 20 walruses annually will be taken by Level B harassment during the specified activities. Harassment of no more than 20 walruses may occur from behavioral responses to vessels, or from behavioral changes in response to noise greater than 160 dB re 1 µPa created by in-water activities.

Critical Assumptions

In order to conduct this analysis and estimate the potential amount of Level B harassment and Level A harassment, several critical assumptions were made (for information regarding Critical Assumptions, see supplemental information on *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694).

FWS Predictive Model Estimates: Sum of Harassment From All Sources

The FWS predictive modeling methods estimated 94 takes by Level B harassment of 46 individual polar bears annually. This estimate from the models was comprised of 85 takes of 37 polar bears during surface interactions, 1 take of 1 polar bear during aircraft activities, 3 takes of 3 polar bears during vessel activities, and 5 takes of 5 denning polar bears. When these estimates from the models were aggregated over the 5-year period of the ITR, the modeling methods estimated 432 takes by Level B harassment of 209 polar bears. Of these takes estimated by the models, 395 takes of 172 polar bears were during surface interactions, 5 takes of 5 polar bears were during aircraft overflights, 10 takes of 10 polar bears were during vessel activities, and 22 takes of 22 polar bears were during denning. When aggregating model results over the 5-year period, the model also estimated 13 takes by Level A harassment of 13 denning cubs. We do not anticipate lethal take or Level A harassment would occur outside of impacts to denning polar bears because the level of sound and visual stimuli experienced by a polar bear on the surface would not be significant enough to result in injury or death. Denning polar bears, however, may be subject to repeated exposures, significant energy expenditure from den abandonment or departure, or potential impacts to a cub if the den is abandoned or departed prematurely.

Determinations and Findings

Small Numbers

For our small numbers determination, we consider qualitative considerations, the Request's estimates of likely incidental take, and FWS predictive model results to determine whether the number of polar bears and walruses to be subjected to incidental take are respectively small relative to the population size of the species or stock. These considerations are listed below.

1. Within the specified geographical region, the area of Industry activity is expected to be small relative to the ranges of polar bears and walruses. Specifically, the area of specified activities overlap with 0 percent of the walrus range and 1.9 percent of the US portion of the SBS polar bear range. Walruses and SBS polar bears range well beyond the boundaries of the ITR region. As such, the ITR region itself represents only a subset of the potential

area in which these species may occur. Thus, the FWS concludes that a small portion of the walrus population and SBS polar bear stock may be present in the specified geographic region during the time of the specified activities.

2. The majority of human-polar bear interactions will result in no effect or short-term, temporary behavioral changes. When developing estimates for Level B harassment, the FWS has estimated that there is a 99 percent chance that at least 88 percent of encounters with polar bears on the surface in the open-water season and 80 percent of encounters with polar bears on the surface in the ice season are expected to result in no significant change in a biologically important behavior, and we do not consider those interactions to result in a take. The remainder of polar bear encounters on the surface are anticipated to result in short-term, temporary changes in behavior that are indicative of Level B harassment of the animal.

3. Monitoring requirements and adaptive mitigation measures are expected to significantly limit the number of incidental takes of animals. Holders of an LOA will be required to adopt monitoring requirements and mitigation measures designed to reduce potential impacts of their operations on walruses and polar bears. A full description of the mitigation, monitoring, and reporting requirements associated with an LOA can be found in 50 CFR 18.126–18.128. The Service recognizes that while the benefit of these monitoring and adaptive mitigation measures may not be expressly accounted for in the numerical estimates that follow, to the extent such measures were also used in the past, any mitigative benefit may already be reflected in the LOA database that inform the quantitative estimates.

4. The estimated number of polar bears and walruses that will be harassed by Industry activity is small relative to the number of animals in their stocks.

In their Request, AOGA estimates Level B harassment of 24 polar bears on average each year, plus the estimated 3 denning bears that may be harassed over the entire 5 years, which, assuming all 3 denning bears were harassed in the same year, would be 2.9 percent of a 907-individual SBS polar bear stock. The FWS released a draft stock assessment report (SAR) for the SBS polar bear population on January 2, 2025 (90 FR 114), in which the SBS polar bear stock has changed to 819 polar bears, largely due to a shift in the border between the SBS and North Beaufort Sea stock. Should this draft SAR be finalized, 27 polar bears constitutes 3.3 percent of the SBS polar bear stock.

The FWS predictive model estimates that AOGA's proposed specified activities in the specified geographic region will involve the incidental take of no more than 209 polar bears during the 5-year period of these ITRs (see *FWS Predictive Model Estimates: Sum of Harassment from All Sources*). The highest estimated number of annual Level A harassment events is 3. The highest total number of polar bears estimated to be incidentally taken by Level A or Level B harassment during any year would be 49, which is 5.4 percent of the best available estimate of the current SBS polar bear stock size of 907 animals (Bromaghin et al. 2015; Atwood et al. 2020; $((49 \div 907) \times 100 \approx 5.4$ percent)), and 6.0 percent of a 819-individual SBS polar bear stock $((49 \div 819) \times 100 \approx 6.0$ percent)). The FWS considered both sets of numerical estimates in its determination that the number of polar bears that would be incidentally taken is small relative to the size of the SBS polar bear stock.

As stated previously, walruses are extralimital in the Beaufort Sea, with nearly the entire walrus population found in the Chukchi and Bering Seas. Industry monitoring reports have observed no more than 49 walruses between 1995 and 2023, with only a few observed instances of disturbance to those walruses (AES Alaska 2015; FWS unpublished data). Between those years, observations were typically of a single or two animals, often separated by several years. At most, only a tiny fraction of the walrus population, which is composed of hundreds of thousands of animals (Beatty et al. 2022), may be found in areas potentially affected by AOGA's specified activities. We do not anticipate that seasonal movements of a few walruses into the Beaufort Sea will significantly increase over the 5-year period of these ITRs. The estimated incidental take of 20 walruses per year from a population numbering approximately 257,193 animals represents 0.008 percent of that population ($(20 \div 257{,}193) \times 100 \approx 0.008$ percent). The FWS considered these numerical estimates in its determination that the number of walruses that would be incidentally taken is small relative to the size of the walrus population.

Small Numbers Conclusion

Based on our consideration of the qualitative and quantitative factors considered above, we find that the specified activities will incidentally take only small numbers of SBS polar bears and walruses.

Negligible Impact

We find that AOGA's specific activities would result in a negligible impact on the SBS stock of polar bears. For our negligible impact determination, we consider the following:

1. The number of polar bears that use the terrestrial habitat of the North Slope is small in relation to the entire SBS polar bear stock. The distribution and habitat use patterns of polar bears indicate that relatively few polar bears will occur in the specified areas of activity at any particular time and, therefore, few polar bears are likely to be affected.

2. Mitigation measures will reduce potential impacts. Under these ITRs, LOA holders will be required to adopt monitoring requirements and mitigation measures designed to reduce the potential impacts of their operations on polar bears. Den detection surveys for polar bears and adaptive mitigation and management responses based on real-time monitoring information will be used to avoid or minimize interactions with polar bears and, therefore, limit potential disturbance of these animals.

3. The monitoring data, analyses, and rulemakings dating back to the early 1990s, as detailed in the Request. Based on the monitoring and reporting conducted by the oil and gas industry under the current and prior ITRs, the FWS considered its substantial database of information regarding the scope, frequency, and anticipated effects of interactions that may occur incidental to oil and gas activities in and near the Beaufort Sea. Since the 1990s, the FWS has consistently concluded that the incidental take authorized under Beaufort Sea ITRs has no more than a ''negligible impact'' on polar bears.

4. The estimates in the Request, based on the five highest incidental take years from the most recent 10-year period of observational data, include an annual average of 24 Level B harassments of 24 polar bears on the surface, plus an estimated 3 Level B harassments of 3 denning bears at some point during the 5-year period. The estimates in the Request assess the probability of Level A harassment as ''exceedingly low (less than one over the 5-year period)'' and do not estimate that any lethal take will occur during the 5-year period noting that ''[i]ncidental lethal take of a polar bear due to oil and gas activities in the petition area has never been documented.''

5. The majority of human-polar bear interactions will result in no effect or short-term, temporary behavioral changes. When developing estimates for Level B harassment, the FWS has

determined that there is a 99 percent chance that at least 88 percent of encounters with polar bears on the surface in the open-water season and 80 percent of encounters with polar bears on the surface in the ice season are expected to result in no significant change in a biologically important behavior, and we do not consider those interactions to result in a take. The remainder of polar bear encounters on the surface are anticipated to result in short-term, temporary changes in behavior that are indicative of Level B harassment of the animal.

6. Based on primary literature (Patil et al 2022 and the USGS den catalog, few dens would occur in proximity to Industry activities. Roughly half of SBS polar bear dens are not found on land, but rather on the sea ice, and would not overlap spatially with Industry activities. Denning simulations show that on average six dens are estimated to occur within 1.6 km (1 mi) of the specified activities during each of the next five denning seasons. This number represents roughly 5 percent of the approximately 120 SBS polar bear dens that are established each year. The mitigation measures included in the Request reduce the number of dens whose occupants are estimated to be disturbed by the specified activities to 2.4 percent of the land-based dens and 1.2 percent of all dens in the SBS polar bear stock (figure 2, below).

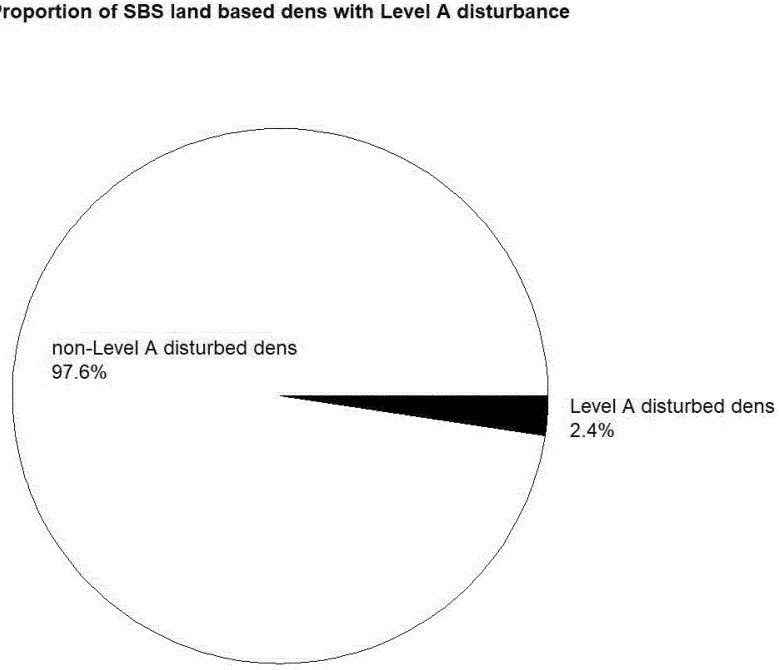


Figure 2—Proportion of SBS land-based dens whose occupants are estimated to experience Level A disturbance each year. Land-based dens represent roughly half of the SBS maternal polar bear dens established each year (Olson et al. 2017).

7. The FWS predictive model estimates 13 cubs may experience Level A harassment as a result of the specified activities over a period of 5 years. Even if 13 cubs actually experience Level A harassment over 5 years, that would not alter the distribution of cub survival probabilities for the SBS polar bear stock. The impact of these estimated harassment events can be quantified by first evaluating the estimated survival consequence to individual cubs and then estimating associated changes in overall survival rates for the stock. Lacking data regarding individual cub survival, we conduct this analysis using the metric of litter survival, which has been estimated by relevant empirical studies included in the supplemental information on *https://www.regulations.gov* in Docket No. FWS–R7–ES–2026–0694). While the metric does not account for partial litter loss (because a sow observed with one cub in the spring is assumed to have had an original litter size of one cub), it also cannot account for natural litter sizes of zero (because a sow observed with no cubs in spring is assumed to have lost a litter). Because this metric is derived from the available scientific studies (*i.e.,* Rode et al 2018, Andersen et al 2024,), and because it is not biased in only one direction, we feel it is the most appropriate available metric to reflect potential impacts on cub survival.

The denning analysis model allows us to compare the probability of litter survival using both the undisturbed and disturbed (if applicable) emergence and departure dates of simulated dens. With this information, we can estimate the average decrease in survival probability that can be attributed to simulated Industry disturbance. From the model, the mean probability of litter survival for dens experiencing Level A harassment decreased 12.6 percent after simulated disturbance (pre-disturbance 85.5 percent, post-disturbance 72.9 percent).

When examining the potential impact of 13 Level A harassment events at the stock level (as estimated by the model), we consider the low percentage of SBS dens with cubs that the model anticipates will experience Level A harassment. Given that 2.4 percent of land-based dens within the SBS stock

are anticipated to experience Level A harassment in any year, the modeled 12.6 percent decrease does not alter or shift the overall survival probability distribution for the SBS stock (figure 3, below). Further, if we examine the modeled distribution of survival rates for the entire land-based SBS stock, counting for potential decrease in survival due to both potential Level A harassment and potential lethal take via den abandonment (which is not anticipated), the model shows no more than a minor change in distribution, as is illustrated by the similarities of the graphs in figure 3.

In the most impactful year of the ITR, we there will be an average of 54 litters with cubs at the start of the year (some sows will naturally have no cubs). After applying the undisturbed survival rates to these simulated dens, we estimate an average of 46.7 dens will have at least one surviving cub in the spring. The estimate from the model decreases to an average of 46.4 dens when accounting for disturbance, indicating the effect of disturbance at the stock level is statistically insignificant. Further, it is important to acknowledge that roughly half of SBS polar bear dens are not found on land, but rather on the sea ice, and would not overlap spatially with the specified activities.

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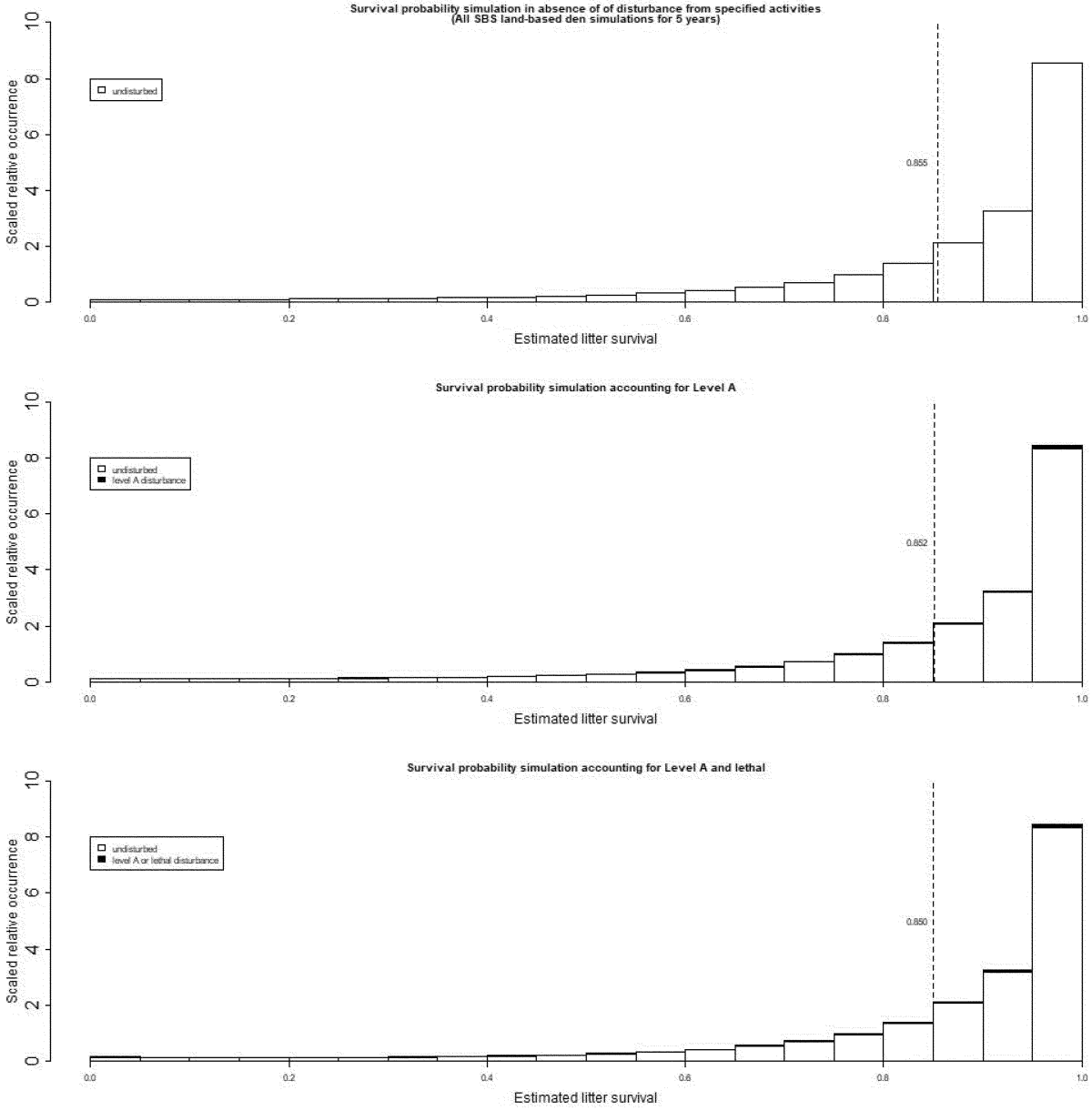


Figure 3—Estimated litter survival probability distributions and mean survival rates for the land-based SBS polar bear stock during the total 5-year period of the ITRs. The x axes of these graphs depict the simulated probability that one or more cubs from a litter will be alive in the spring, and the y axes of these graphs depict the relative occurrence of the survival probabilities in our simulations.
(Top plot: Survival probabilities simulated with no disturbance from Industry with mean survival rate. Middle plot: Survival probabilities simulated after considering potential decrease in survival rate due to estimated Level A take Bottom plot: Survival probabilities simulated after considering potential decrease in survival rate attributable to estimated Level A take and lethal take (not anticipated))

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8. Lethal take via den abandonment is rare within the SBS polar bear stock. Records of den abandonment in the oilfield are rare—the FWS has only one account of potential den abandonment within the 13 case studies used to develop early denning period disturbance rates. Applying the denning model, the greatest annual simulated probability of lethal take throughout the ITR period is 0.12. The aggregated probability of potential lethal take over

a 5-year period is 0.43. The median number of lethal takes in both the annual and 5-year aggregated modeling outputs was zero. These results, coupled with the lack of observed den abandonment, supports our finding that lethal take due to sow abandonment of the den and litter during the early denning period is unlikely.

9. We do not anticipate that loss of a cub or litter will adversely affect annual recruitment rates at the stock level. Under the ITRs, anticipated incidental Level A harassment only involves cubs during the denning period. Impacts to denning females, the demographic group most important to annual recruitment, would only involve take by Level B harassment. Therefore, the immediate number of potentially available reproductive females that would contribute to recruitment for the SBS polar bear stock would remain unaffected if a den disturbance were to result in the mortality of the cubs. If a den disturbance were to result in the mortality of the entire litter, the female would be available to breed during the next mating season and could produce another litter during the next denning season.

Cubs inherently cannot contribute to annual rates of recruitment until they have reached sexual maturity because in wildlife biology the concept of recruitment speaks to individuals entering the reproductive population. Further, while adult male bears would contribute to the overall number of individuals in the population, they do not contribute significantly to annual rates of recruitment. While a very small decrease in the number of males in a breeding population may be a concern if the stock was at risk of inbreeding depression or Allee effects (*e.g.,* decrease in population size or individual fitness in response to low population density), this is not the case in the SBS polar bear stock. Female cubs have the opportunity to reach sexual maturity and contribute to annual recruitment; however, natural rates of survival fluctuate in the SBS polar bear stock. Death of one female cub less than once per year is within the natural variability found within the SBS polar bear stock and cannot be reasonably expected to cause an adverse impact on annual rates of recruitment.

Based on the low percentage of SBS stock polar bears potentially being removed from the stock even if den disturbance were to result in the mortality of the cubs, and the expectation that the number of potentially available reproductive females that would contribute to recruitment would be unaffected by den disturbance, the FWS does not anticipate that the loss of a cub or litter would adversely affect annual recruitment rates at the population level for the SBS stock of polar bears.

We reviewed the effects of Industry activities on polar bears, including impacts from surface interactions, aircraft overflights, marine vessel traffic, and den disturbance. Based on our review of these potential impacts, past monitoring reports, and the biology and natural history of polar bears, we conclude that any incidental take reasonably likely to occur as a result of specified activities would be limited to short-term behavioral disturbances and temporary reductions in fitness that would not affect the annual rates of recruitment or survival for the SBS stock of polar bears.

The FWS has analyzed the potential impact of the proposed taking in light of other factors affecting SBS polar bears, including but not limited to subsistence harvest and other human-caused removals, as well as other ongoing and authorized oil and gas activities (which, like the specified activities considered in this ITR, are anticipated to affect SBS polar bears via limited short-term behavioral disturbances and temporary reductions in fitness). As we gain a better understanding of these and other effects, we will incorporate the information in future authorizations. While a variety of ongoing factors pose challenges to SBS polar bears, we do not expect them to influence the degree of impacts (*i.e.,* short-term behavioral responses and temporary reductions in fitness) resulting from the specified activities or incidental harassment to be authorized over the next 5 years under the ITRs.

Our analysis indicates that the impacts of these specified activities over 5 years cannot be reasonably expected to, and are not reasonably likely to, adversely affect the SBS stock of polar bears through effects on annual rates of recruitment or survival. Similarly, the estimated impacts described in AOGA's Request, which are lower than those of the FWS predictive model, cannot be reasonably expected to, and are not reasonably likely to, adversely affect the SBS stock of polar bears through effects on annual rates of recruitment or survival. We find that the total of the taking will have no more than a negligible impact on the SBS stock of polar bears.

When examining the potential impact of 20 takes by Level B harassment of Pacific walrus at the stock level, we consider the nature of the potential harassment, which is expected to be limited to temporary disturbance of behavioral patterns that will not impact the recruitment or survival of the effected individuals. The potential effects of greatest concern to walrus are associated with human-induced stampedes at walrus coastal haulout sites. Hauled out walruses tend to be in close physical contact, with groups ranging from a few animals up to tens of thousands of individuals—the largest aggregations occurring at land haulouts (Gilbert 1999, Monson et al. 2013, USFWS 2017). Intra-specific trauma at coastal haulouts is a known source of injury and mortality (Garlich-Miller et al. 2011). The risk of stampede-related injuries increases with the number of animals hauled out and with the duration spent on coastal haulouts. Calves and young are the most vulnerable to suffer injuries and/or mortality (USFWS 2017). There has never been a reported large coastal haulout site located in the South Beaufort Sea, nor is there any reason to suspect a large coastal haulout may occur in the near future given the extremely low density and transient nature of walrus in the region. Therefore, the FWS does not anticipate that the conjectural or speculative impacts associated with these specified activities warrant a finding of non-negligible impact or otherwise preclude promulgation of these ITRs.

Impact on Subsistence Use

Based on information from past community consultations, as well as our analysis of hunting area locations, which did not identify any overlap between hunting areas and the specified activities—and the best scientific information available—including monitoring data from similar activities, we find that take caused by the specified activities in the specified geographic region will not have an unmitigable adverse impact on the availability of polar bears or walruses for taking for Alaska Native subsistence uses during the specified timeframe.

While SBS polar bears and walruses represent a small portion, in terms of the number of animals, of the total subsistence harvest for the Utqiagvik, Nuiqsut, and Kaktovik communities, their harvest is important to Alaska Natives. However, the majority of project activities are within an established industrial area where harvest is not conducted. Walrus harvest from Nuiqsut and Kaktovik is opportunistic, and none of the walrus harvests for Utqiagvik, Nuiqsut, or Kaktovik from 2014 through 2024 have occurred within the area of specified activities. The FWS has not received any reports and is not aware of

information that indicates that polar bears or walruses are being or will be deterred from hunting areas or impacted in any way that diminishes their availability for Alaska Native subsistence use by the specified activities. In their Request, AOGA has committed to notify the Village of Kaktovik and Village of Nuiqsut of the planned activities and document any discussions of potential conflict. LOA holders would contact Alaska Native subsistence communities that may be affected by their activities to discuss potential conflicts caused by location, timing, and methods of the specified activities. They would also make reasonable efforts to ensure that activities do not interfere with subsistence hunting and that adverse effects on the availability of polar bears and walruses are minimized. The FWS is not aware of any concerns having been voiced by the Alaska Native communities regarding the specified activities limiting availability of polar bears and walruses for subsistence uses. However, should such a concern be voiced, POCs would identify measures to minimize any adverse effects and these measures will be implemented. POCs would further ensure that the specified activities will not have an unmitigable adverse impact on the availability of the species or stock for Alaska Native subsistence uses. POCs provide the procedures addressing how LOA holders will work with the affected Alaska Native communities and what actions will be taken to avoid interference with subsistence hunting of polar bears or walruses, as warranted.

Least Practicable Adverse Impact

These ITRs must set forth, among other things, means of effecting the least practicable adverse impact on the species or stock and its habitat. We evaluated the practicability and effectiveness of mitigation measures based on the nature, scope, and timing of the specified activities; and the best available scientific information, including monitoring data during Industry activities in the specified geographic region. The FWS did not identify any additional (*i.e.,* not already included in the Request), practicable mitigation measures to decrease the potential impact of the specified activities on walruses or their habitat, but we determined one additional mitigation measure noted below would decrease the potential impact of the specified activities on polar bears.

The additional mitigation measure is a larger 1.6 km (1 mi) mitigation zone surrounding polar bear sows and their cub(s) at den sites. Under this measure, LOA holders would consult with the FWS on any activities that need to occur within 1.6 km (1 mi) of a den location. The FWS would work cooperatively with LOA holders to identify mitigation measures, such as decreased and slowed traffic, personnel education, and increased monitoring, to decrease the potential impact of activities in the mitigation zone on polar bears.

We find that the mitigation measures already included within AOGA's Request will ensure the least practicable adverse impact on walruses and their habitat, and that the mitigation measures already included within AOGA's Request and the additional mitigation measure described above will ensure the least practicable adverse impact on polar bears and their habitat.

A number of mitigation measures were considered but determined to be not practicable. These measures are listed below:

- *Require a third AIR survey of polar bear denning habitat within 1.6 km (1 mi) of onshore winter activities in the high-density denning zone*—The FWS recognizes the important role that AIR surveys play in mitigating adverse impacts to polar bear. Per the Request, surveyed locations that yield heat signatures that indicate the possible presence of a maternal polar bear den will be re-surveyed, which could involve follow-up surveys via AIR, handheld or vehicle-mounted infrared cameras or binoculars, or the use of UAS in coordination with FWS. FWS anticipates that the added value of a third AIR survey will be less than that of the initial two surveys, as FWS anticipates fewer previously unidentified dens to be identified. While there are meaningful differences between the circumstances where three AIR surveys required and conducted in the 2021–2026 ITR and the three AIR surveys proposed as an additional mitigation measure in the proposed ITR, no additional dens were detected by the third AIR surveys conducted under the 2021–2026 ITR. With additional AIR surveys, the corresponding burden on operators increases, particularly with the specific time restrictions on all three AIR surveys in the proposed ITR. The undue logistical, human safety and economic burden is driven by a number of factors, including the availability of aircraft, specialized equipment, pilots, and personnel to monitor the equipment, and the requirement to conduct the additional AIR survey in a short time period in a harsh operational environment with weather constraints. The requester has explained that a single AIR survey involves a crew of three to four people flying in a small aircraft at night (or periods of little or no daylight), flying approximately 400 miles or more over the course of 4–5 hours in remote areas of the Arctic. The surveys occur during times of the year when temperatures can reach –55 degrees Farenheit below zero. These temperatures and nighttime operations raise human safety considerations, which include the potential that a search and rescue effort for a downed aircraft and personnel would place the safety of the personnel conducting those operations at risk.

  The requester has further explained that conducting AIR surveys on-schedule can be very difficult because of the harsh Arctic weather and the logistical challenges associated with carrying out activities in the Arctic. Planned surveys can be delayed for days and often can only be conducted during short windows of opportunity. That can be challenging enough for a single survey, or even two surveys, but it can be particularly constraining for three surveys. Surveys also require significant advance planning, including the transport of crews from Anchorage, Fairbanks, and the contiguous U.S. to the Arctic, the hiring and scheduling of a double crew of pilots and maintenance personnel, rental of short-term hanger space, deployment of specialized resources and equipment from out-of-state, and on-the-ground provisions in the Arctic. Additionally, the requester provided an example from one of its members that the third survey requirement caused the cancellation of freight and operations flights to prioritize completion of these surveys. In light of all of these considerations, the FWS concludes that a general third AIR survey is not practicable.
- *Require use of helicopters for AIR surveys*—Use of helicopters to survey active polar bear dens might lead to greater levels of disturbance and take compared to fixed-wing aircraft. This statement is supported by greater harassment rates for helicopter overflights compared to fixed-wing overflights determined in the aircraft take estimate analysis. Additionally, there is no published data to indicate increased den detection efficacy of helicopter AIR.
- *Require optimal weather conditions for AIR surveys*—Appropriate weather conditions for AIR surveys are incorporated into the Request and an FWS-required mitigation measure. Additional restrictions would not be practicable for the specified activities due to the available timeframe to complete AIR surveys.
- *Ground all flights if they must fly below 457 m (1,500 ft)*—Requiring all

aircraft to maintain an altitude of 457 m (1,500 ft) at all times is not practicable as some operations may require flying below that level to perform necessary inspections or maintain safety of flight crew. Aircraft are required to fly above 457 m (1,500 ft) at all times within 805 m (0.5 mi) of an observed polar bear or walrus unless there is an emergency.

• *Require speed restrictions for all aircraft operations*—Requiring all aircraft to operate below a specific speed limit is not practicable as some operations may require speeds above the specified speed limit to maintain safety of the flight crew during various weather conditions. Additionally, aircraft operating at lower speeds may increase the duration of impact and potentially result in greater levels of disturbance to polar bears or walruses.

• *Spatial and temporal restrictions on surface activity*—Some spatial and temporal restrictions of operations were included in AOGA's Request; however, additional restrictions would not be practicable for the specified activities based on other regulatory and safety requirements, and the need to meet project objectives such as acquiring sufficient data.

• *Operational exclusion zone around all known polar bear denning habitat*—A 1.6-km (1-mi) operational exclusion zone around all known polar bear denning habitat is not practicable as much of AOGA's specified survey area occurs within 1.6 km (1 mi) of denning habitat; thus, to exclude all areas within 1.6 km (1 mi) of denning habitat would preclude many project activities from occurring.

• *Prohibit driving over high relief areas, embankments, or stream and river crossings*—In their Request AOGA has committed to avoid operating in potential den locations. This includes providing crews GPS displays that highlight areas precluded from surface travel, training crews to recognize denning habitat and signs of animal activity, and scouting ahead with smaller/lighter equipment to evaluate travel routes before larger equipment arrives. Most travel will avoid embankments and steep slopes that polar bears utilize for denning, but scouting activity helps to further identify areas to avoid. To completely avoid these types of areas would likely cause personnel to drive further away from established operational areas and unnecessarily create additional safety concerns. Furthermore, other mitigation measures to minimize impact on denning habitats are included and will minimize the risk imposed by driving over high relief areas, embankments, or stream and river crossings. Lastly, the probability of a den being run over by equipment during the specified activities is exceedingly low each year of the ITRs, and this probability will be further mitigated by AIR surveys at the beginning of the specified activities to detect dens within 1.6 km (1 mi) of the activities.

• *Use of a broader definition of ''denning habitat'' for operational offsets*—No data are available to support broadening the defining features of denning habitat beyond that established by the U.S. Geological Survey.

• *Prohibit activities within designated critical habitat for polar bears*—Critical habitat for polar bears must be considered during the specified activities; however, complete prohibition is not practicable due to the large spatial extent of critical habitat and project objectives.

• *Establish corridors for female and cub transit to the sea ice*—As no data support the existence of natural transit corridors to the sea ice, establishment of corridors in the ITR region would be highly speculative. Therefore, no mitigative benefit would be realized by their establishment.

• *Require third-party neutral marine mammal observers*—AOGA has committed to conducting polar bear training that meets FWS standards and will use bear guards to monitor for polar bears during project activities. These bear guards will be fully incentivized to diligently monitor for polar bears given inherent safety considerations.

• *Require all activities to immediately cease if a polar bear or walrus is injured or killed until an investigation is completed*—The FWS has incorporated into the ITRs reporting requirements for all polar bear and walrus interactions. While immediately ceasing all activities may aid in any subsequent investigation, doing so may not be practicable or safe in certain circumstances and, thus, will not be mandated.

• *Require use of den detection dogs*—Requiring scent-trained dogs to detect polar bear dens across the broader ITR region is not practicable or safe due to the large spatial extent that would need to be surveyed. Such a wide-scale survey may also require additional transit vehicles and accommodations, which could increase disturbance to polar bears. However, in their Request, AOGA considered use of scent-trained dogs as a mitigation action when hotspots are identified, stating that their best use is one-time verification at a specific site (rather than routine monitoring or surveying large areas). This site-specific use, which is different than potential wide-spread surveys, may be used as deemed appropriate.

• *Construct safety gates, fences, and enclosures to prevent polar bears from accessing facilities*—Constructing safety gates, fences, and enclosures to prevent polar bears from accessing all facilities is not practicable due to the short-term and relatively mobile project activities and temporary facilities.

• *Require the use of handheld or vehicle-mounted forward-looking infrared equipment*—The efficacy rates for AIR surveys have been found to be four times more likely to detect polar bear dens versus ground-based forward-looking infrared (handheld or vehicle-mounted) due to impacts of blowing snow on detection. AOGA has previously incorporated into their mitigation measures the use of handheld or vehicle-mounted forward-looking infrared when transiting rivers occurring in suitable denning habitat, but it is not practicable to use the equipment during all transit.

• *Temporal restrictions after July 18*—While AOGA has committed to prioritizing cleanup in coastal areas first to complete them prior to July 18, the overall timing of cleanup activities is dependent upon snow-free conditions, which vary yearly and may not occur before July 18.

Monitoring and Reporting

The purpose of monitoring requirements is to assess the effects of the specified activities on polar bears and walruses, verify compliance with the ITRs and LOAs, detect any unanticipated effects on the species or stock, and ensure take will not have more than a negligible impact on species or stocks. Monitoring includes documenting when and how polar bears and walruses are observed, the number of polar bears or walruses, and their behavior during the observation. To the extent possible, personnel that encounter polar bears or walruses will record group size, age, sex, behavior, duration of observation, and closest approach to human activity. The AOGA would report all observations of polar bears or walruses. This information allows the FWS to measure encounter rates, examine trends in polar bear and walrus activity and distribution in the industrial areas, and estimate the number of polar bears or walruses potentially affected by industrial activities.

The FWS would provide AOGA with the most recent and up-to-date Polar Bear and/or Walrus Observation Form in which to record observations of polar bears or walruses. Observations must be reported to the FWS's Marine Mammals

Management Office within 48 hours of the observation and submitted to *fw7_mmm_reports@fws.gov.* Details on monitoring guidelines and reporting requirements can be read below in the regulation promulgation portion of this document in § 18.127 Monitoring and § 18.128 Reporting requirements.

Summary of and Response to Comments and Recommendations

Response to Comments

The FWS published a proposed ITR in the **Federal Register** on March 9, 2026, with a 30-day period seeking comments on both the proposed ITR and draft EA (91 FR 11240). The comment period closed on April 8, 2026. The FWS received 85,589 comments. Comments were received from the requester, the State of Alaska, the North Slope Borough, various advocacy organizations, student groups, a corporation, and interested members of the public. Submissions with multiple signatures were counted as multiple comments (one comment per individual signing).

The majority of comments (77,468) were part of mass mailing campaigns, where members of public added information and signatures to letters led by environmental organizations expressing opposition to the promulgation of the regulations. Outside of these mass campaigns, an additional 8,104 comments were submitted individually. Many of these submissions were identical or highly similar variations of nine different comment letters all expressing opposition to the regulations. A small number of comments were submitted to this docket by mistake, either as duplicate entries or as comments intended for a different docket. Nearly all individually submitted comments expressed opposition to the regulations.

We reviewed all comments, which are part of the docket for these ITRs, for substantive issues, new information, and recommendations regarding these ITRs and EA. The FWS used ''DocketScope'' to aggregate comments submitted by the public. The comments are aggregated by subject matter, summarized and addressed below, and changes have been incorporated into the final ITRs and final EA as appropriate. A summary of the changes to these final ITRs from the proposed ITR is found in the preamble section, entitled Summary of Changes from the Proposed Regulations.

Comment (1): Many commenters responded to FWS's statement in the proposed ITR that ''[t]he FWS is now considering whether the best reading of the MMPA's provisions concerning ITRs requires the FWS to allow (1) all types of incidental take that result from the specified activities; (2) only the types of incidental take that FWS anticipated during the rulemaking process; or (3) only the types of incidental take that were requested to be allowed.'' Commenters offered different views on how FWS should proceed in this regard.

Our Response: After considering the various interpretations and perspectives provided via public comments, FWS finds that approach (1) as described in this comment and in the proposed ITR reflects the best reading of the MMPA. Where FWS receives an adequate and complete request for an ITR, satisfies applicable procedural requirements and makes findings that the incidental taking from the specified activities will comply with applicable MMPA standards (*i.e.,* small numbers, negligible impact, and no unmitigable adverse impacts on the availability of the species or stock for taking for subsistence uses), FWS will issue an ITR allowing for all types of incidental take that result from the specified activities (to the extent they are conducted in compliance with ITR and LOA requirements).

This interpretation flows from section 101(a)(5)(A) which provides that in the circumstances described above, the Secretary ''shall allow . . . the incidental, but not intentional, taking by citizens while engaging in [a specified activity within a specified geographical region. . . .]'' This statutory directive to allow ''the incidental . . . taking'' is non-discretionary (*i.e.,* the Secretary ''shall'' allow it) and is not limited or caveated by any language concerning the types or numbers of incidental taking to be allowed.

Additional support for this interpretation is provided in comment responses below. Since the proposed regulatory text provided in the proposed ITR reflected the interpretation described above, no related changes to that regulatory text are made in this final ITR.

Comment (2): One comment agreed that this interpretation reflects the best reading of the MMPA, noting that the exemption from the MMPA's general take prohibition afforded by section 101(a)(5)(A) focuses on ''citizens . . . who engage in a specified activity . . . within a specified geographical region,'' and then exempts ''the incidental, but not intentional taking by citizens while engaging in that activity within that region.'' The comment also notes case law recognizing that there is nothing in section 101(a)(5)(A) that requires FWS, when promulgating ITRs, to quantify or estimate the number of animals that would be taken.

Our Response: FWS agrees with this interpretation of section 101(a)(5)(A). FWS also recognizes that the absence of a requirement to quantify or estimate the number of animals that would be taken when promulgating ITRs further undercuts the notion that ITRs may only allow that incidental take which was quantified or estimated. FWS relatedly notes that the statutory provision establishing the required contents of ITRs expressly requires FWS to set forth, inter alia, ''permissible methods of taking pursuant to such activity'' but says nothing of permissible types or numbers of taking pursuant to such activity (16 U.S.C. 1371(a)(5)(A)(i)(II)).

Comment (3): Some comments asserted that because FWS cannot authorize incidental take unless FWS finds the total taking will comply with certain MMPA standards, it necessarily follows that FWS cannot authorize any additional take beyond what it anticipated in making its MMPA findings.

Our Response: The FWS agrees that it cannot authorize incidental take under section 101(a)(5)(A) unless it first makes certain MMPA findings. However, FWS disagrees with the comments' ensuing conclusion, in part because it conflates the separate statutory standards governing (1) when ITRs may (or more precisely, must) be issued and (2) what an ITR (if issued) must allow.

When reviewing requests for ITRs, FWS makes MMPA findings that are inherently predictive in that they concern anticipated or expected takings from all future activities anticipated or expected to be conducted under the ITR (*i.e.,* the total taking). Where FWS makes the requisite MMPA findings, it must issue an ITR. The ITR must then ''allow . . . the incidental, but not intentional, taking by citizens engaging in that activity within that region. . . .'' (section 101(a)(5)(A)(i)). The statutory language establishing the scope of incidental taking to be allowed in ITRs does not mention predictive take estimates.

FWS recognizes that estimates of impacts from future activities rarely align perfectly with the actual impacts from those activities once conducted. It is always possible that FWS may overestimate or underestimate impacts resulting from the specified activities whenever it reviews ITR requests and makes its MMPA findings. The comments here seem to argue for a mechanism to ensure that the scope of allowable incidental take does not exceed the scope of previously estimated incidental take. However, the

text of section 101(a)(5)(A) does not accommodate such a mechanism and Congress has already described in a separate provision what FWS must do if the specified activities cause unforeseen impacts.

Section 101(a)(5)(B) of the MMPA establishes the circumstances under which the permission to incidentally take marine mammals under subparagraph (A) must be withdrawn or suspended, either on an individual or class basis. One of these circumstances is where ''the taking allowed under [the ITR] pursuant . . . is having, or may have, more than a negligible impact on the species or stock concerned'' (16 U.S.C. 1371(a)(5)(B)(ii)). This fail-safe provision demonstrates Congress' awareness that the Secretary's predictive MMPA findings under subparagraph (A) might not account for the full extent of actual impacts from the specified activities, due to unforeseen circumstances or other reasons. The fact that a fail-safe provision that provides FWS a recourse in the event of unforeseen impacts is already built into section 101(a)(5)(B) further argues against reading an additional, unspoken precautionary mandate into the text of section 101(a)(5)(A).

The commenters' interpretation of what MMPA incidental take can be authorized pursuant to an ITR also results in misalignment between MMPA and Endangered Species Act (ESA; 16 U.S.C. 1531–1544) provisions concerning incidental take of ESA-listed marine mammals. Under the ESA's section 7 consultation provisions, where a biological opinion concludes that incidental take will result from the proposed action but would not violate the substantive standards of section 7(a)(2), the biological opinion must provide an incidental take statement (ITS) (16 U.S.C. 1536(b)(4); see also 50 CFR 402.14(i)). The ITS must specify, inter alia, reasonable and prudent measures to minimize the impact of the taking and set forth terms and conditions that the action agency or any applicant must comply with to implement those reasonable and prudent measures. Congress made clear that any taking ''that is in compliance with the terms and conditions specified in [the ITS] shall not be considered to be a prohibited taking of the species concerned'' (16 U.S.C. 1536(o)(2)). Nothing in the ESA or its implementing regulations allows (much less requires) the consulting agency to limit the scope of this exemption to correspond to the types or numbers of incidental takings that it anticipated in its biological opinion. The exemption plainly applies to all incidental taking that is in compliance with the terms and conditions of the ITS. This is important here because a further requirement applies where the consultation involves ESA-listed marine mammals, *i.e.,* incidental take of marine mammals cannot be exempted under the ESA unless the taking is authorized pursuant to section 101(a)(5) of the MMPA (see 16 U.S.C. 1536(b)(4)(C)). Limiting the scope of an MMPA authorization in the manner suggested by commenters serves to preclude full implementation of the ESA's incidental take exemption provision. Under the commenters' interpretation, a citizen could be issued an MMPA section 101(a)(5) authorization, fully comply with the mitigation, monitoring, and reporting requirements of that authorization, fully comply with the terms and conditions of an ITS, and yet remain liable for certain incidental take under both the MMPA and ESA. This result does not square with the plain meaning of section 101(a)(5) of the MMPA or section 7(o)(2) of the ESA.

The commenters' interpretation also results in misalignment between the MMPA and a key ESA provision specific to polar bears. FWS's ESA section 4(d) rule for polar bears serves to generally prohibit take of polar bears but makes a key exception: ''None of the prohibitions in § 17.31 of this part apply to any activity that is authorized or exempted under the [MMPA]. . . provided that the person carrying out the activity has complied with all the terms and conditions that apply to that activity under the provisions of the MMPA. . . and [its] implementing regulations'' (50 CFR 17.40(q)(2) and 73 FR 28306, May 15, 2008). Like the MMPA's ITR provisions, this 4(d) rule provision applies to categories of ''activities'' as opposed to the types or numbers of take anticipated by FWS in its predictive analyses of such activities. Here again, limiting the extent of allowable MMPA take in the manner suggested by the commenters serves to preclude full implementation of an ESA provision. In this case, declining to implement an ''activity''-based approach when allowing incidental take under section 101(a)(5) undercuts FWS's intent in promulgating the polar bear 4(d) Rule. See FWS's ESA section 4(d) rule for polar bears which states (''This special rule under section 4(d) of the ESA aligns ESA incidental take provisions for polar bears with incidental take provisions of the MMPA and its implementing regulations'' (73 FR 28306 at 28310, May 15, 2008).

There are also some important policy and enforcement considerations at play here. FWS's interpretation promotes fairness and regulatory certainty in that LOA recipients who conduct their specified activities in compliance with all ITR and LOA requirements (including the mitigation measures that ensure the least practicable adverse impact on marine mammals) remain insulated from legal liability where FWS's predictive estimates prove inaccurate. Also, in FWS's prior experience, where the extent of allowable incidental take is limited to correspond to FWS's predictive estimates, it can be very difficult for FWS to adequately support enforcement actions concerning any ''extra'' and thus unauthorized incidental takes. This is largely because incidental take can be difficult to detect. The March 9, 2026, proposed ITR touched on this issue in the context of polar bears when it explained that ''ambient conditions common to the ITR area (*e.g.,* darkness, snow, fog, and wind) can reduce the ability to observe polar bears (and impacts, if any) in the vicinity of industrial activities'', and certain types of potential impacts ''would likely manifest after [the polar bears have] departed from the observable area . . .'' (91 FR 11240 at 11252). Incomplete information concerning the extent of an LOA recipient's prior incidental taking makes it difficult for FWS to sufficiently establish that one or more ''extra'' and thus unauthorized incidental takings have occurred. The notion (which seems implicit in these comments) that FWS could reliably identify and enforce against all ''extra'' and thus unauthorized takings is undercut by these practical realities.

Comment (4): Several comments stated that issuing an ITR that allows all incidental take resulting from the specified activities is inconsistent with the conservation-based purposes of the MMPA.

Response: The FWS disagrees. Whether an incidental taking is authorized pursuant to an ITR, or remains prohibited under the MMPA's general take prohibition, is immaterial to the extent of any associated impact to the marine mammal itself. The only change concerns the legal liability of the person or entity that commits the take. Meanwhile, FWS does not believe that allowing all incidental taking resulting from specified activities conducted in accordance with ITR and LOA requirements incentivizes or otherwise results in more frequent or more severe taking. ITR and LOA requirements already ensure the least practicable adverse impact on the species or stock and its habitat, and any incidental taking that results from activities that

are not conducted in full compliance with ITR and LOA requirements remain prohibited and subject to enforcement.

Comment (5): Several comments expressed confusion stemming from the proposed ITR's inclusion of the word ''Nonlethal'' in the proposed title of a new Subpart J, despite other text indicating that all forms of incidental take could be allowed.

Response: FWS regrets any confusion; this word appears to have been accidentally carried over as an artifact from a prior iteration of the Beaufort Sea ITR. While no lethal take is expected to result from the specified activities, the proposed regulatory provisions did contemplate allowing all forms of incidental take that could result from the specified activities, and FWS received many comments on that aspect of the proposed ITR. The referenced use of ''Nonlethal'' is omitted from this final rule.

Comment (6): One comment suggested that allowing for all incidental take that results from the specified activities (not just the take that was anticipated when developing the ITR) is incompatible with FWS's implementing regulations which require analysis of the ''total taking.''

Our Response: FWS disagrees. The comment quotes from the preamble to the 1989 final rule (54 FR 40338, September 29, 1989) that established FWS's implementing regulations. The referenced language calls for FWS to estimate the ''total takings expected'' from all the activities expected to be covered by the ITR. FWS has done so in its analysis here.

The comment then suggests that this preamble language, which concerns what is to be estimated during the rulemaking process, dictates that scope of incidental take that an ITR (if issued) can allow. There is no support for that conclusion in the preamble much less in the regulatory provisions themselves. FWS's implementing regulations address the required contents of ITRs at 50 CFR 18.27(e)(1). This provision (which essentially repeats the statutory provisions of section 101(a)(5)(A)(i)(II)) requires ITRs to set forth permissible methods of taking pursuant to the relevant activities but does not require ITRs to set forth permissible types or numbers of taking pursuant to those activities. The ensuing provision at 50 CFR 18.27(e)(1)(2) then provides that ''. . . [a]s new information is developed, through monitoring, reporting, or research, the regulations may be modified, in whole or in part. . . .''. Implicit here is the recognition that if monitoring and reporting data indicates that unexpected degrees of take are occurring from the specified activities, FWS can reassess the ITR and, if appropriate, take corrective action.

The referenced preamble is instructive as to what the phrase ''total taking'' means in the ITR context. Relevant portions of the preamble explain:

> Before the Service may allow a taking of marine mammals under the authority of section 101(a)(5) of the MMPA, it must find that the total taking expected from the specified activity will have a negligible impact on that species or stock. . . . In determining impact, the Service must evaluate the ''total taking'' expected from the specified activity in a specific geographic area. The estimate of total taking involves the accumulation of impacts from all anticipated activities that are expected to be covered by the specific regulations. In other words, the applicant's anticipated taking from its own activities is only one part of the story; the total takings expected from all persons conducting the activities to be covered by the regulations must be determined. (54 FR 40338 at 40340 and 40342, September 29, 1989).

In other words, ''total taking'' simply clarifies the scope of activities (*i.e.,* all those ''anticipated'' or ''expected'' to be covered by the ITR) and potential taking (*i.e.,* the ''anticipated'' or ''expected'' taking from those activities) to be considered when rendering predictive MMPA findings (*e.g.,* ''negligible impact''). It does not circumscribe the scope of incidental take that ITRs (if issued, after the requisite MMPA findings are made) must allow.

Comment (7): Several commenters stated the FWS must elaborate on the three potential interpretations of the MMPA presented in the proposed ITR, stating what they find to be the best reading of the MMPA. They state FWS appears to have given more weight to option 1, wherein all incidental take associated with the specified activities would be authorized. One commenter stated that should the FWS decide to use one of the other two options, it should publish a revised proposed ITR with an additional opportunity for public comment.

Our Response: The proposed ITR specifically alerted the public to this interpretive question and specifically requested public comment concerning the most appropriate resolution. FWS received and considered numerous public comments offering different perspectives on this issue. FWS then determined that the regulatory text of the proposed ITR already reflected the best reading of the statute. That text remains unchanged in the final rule, and there was no need to publish a revised proposed ITR.

Comment (8): The requester stated the final rule should clarify the LOA process and FWS should issue LOAs for activities within the scope and type of activities described in the Request without detailed data requirements or new model runs.

Our Response: Section 18.123 describes FWS's process for reviewing LOA requests. This process entails determining ''whether the level of activity identified in the request exceeds that analyzed by [FWS] in considering the number of animals estimated to be taken and evaluating whether there will be a negligible impact on the species or stock and an unmitigable adverse impact on the availability of the species or stock for subsistence uses.'' All specific projects and activities described in the Request and reflected in the requester's supporting materials are inherently within the ''level of activity. . . considered by [FWS] . . .'' in issuing this rule. FWS will thus grant LOA requests for such projects and activities without performing further, duplicative impact analysis. However, FWS will also consider LOA requests pertaining to other projects and activities so long as they would be conducted by an eligible entity within the specified geographical region and are of same classes and types of activities considered in this Rule. These projects or activities were not considered by FWS in issuing this rule, and additional analysis would be required to determine if the level of activity associated with the LOA request would exceed the level of activity already analyzed by FWS. In making this determination, FWS would consider the scope of activities described in the LOA request under review in combination with the scope of any contemporaneous activities covered by existing LOAs issued pursuant to this rule. The appropriate method for conducting such analyses may vary depending on the specific factual circumstances presented, and FWS will not require detailed data requirements such as activity footprint ''shapefiles'' and associated occupancy rates and remains committed to making decisions on LOA requests expeditiously. Clarifying language has been added to 50 CFR 18.123.

Comment (9): The requester noted that there is language in the preamble that suggests LOA requests will be evaluated against the total taking allowable under the ITRs and asserts that this is inconsistent with a proposed regulatory provision and FWS's stated approach to authorize ''all types of incidental take that result from the specified activities.'' The requester

stated the FWS should revise the preamble text and clarify that this Rule does not set a ''total taking allowable'' number.

Our Response: The referenced preamble text and the FWS implementing regulation it refers to (50 CFR 18.27(f)(2)) concern the standard that FWS applies when deciding whether to issue a requested LOA. FWS's stated approach of authorizing ''all types of incidental take that result from the specified activities'' pertains to a different topic, *i.e.,* the extent of incidental take that would be allowable under the LOA, if issued. The LOA review process described by § 18.123 of this Rule squares the regulatory phrase ''total taking allowable'' as it appears in 50 CFR 18.27(f)(2) with the best reading of the statute by ensuring that the scope of activities and estimated impacts associated with approved LOA requests will not exceed what was considered in this Rule.

Comment (10): The requester stated the FWS should clarify the potential length of LOAs issued under the proposed ITR, specifically highlighting the FWS should allow multi-year LOAs.

Our Response: The FWS will process and may approve LOA requests for periods of up to 5 years under this Rule.

Comment (11): The requester suggested a revision in the preamble text that describes specified activities to include ''. . . some projects not explicitly described may occur during the ITR period. All activities will be of the same classes and types of activity described in the Request as required by the MMPA.''

Our Response: The FWS will process and may approve LOA requests pertaining to projects not explicitly described in the Request or preamble text, so long as the project activities described therein would be conducted by an eligible entity within the specified geographical region and are of same classes and types of activities considered in this Rule. In lieu of modifying the ''Description of . . . Specified Activities'' section as between the proposed and final rules, the FWS has retained the original preamble text, which adequately accommodates LOA requests of this nature.

Comment (12): One commenter stated FWS cannot defer identification and analysis of specified activities to the LOA stage, as this would call into question the determination that based on the best available scientific evidence, the total taking from the specified activities included in the request are not reasonably expected to, and are not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. They argued that the lack of opportunity for public review of proposed LOAs demonstrates that no significant new information or analysis was contemplated to occur at the LOA stage.

Our Response: The FWS has not proposed a mechanism wherein MMPA findings are deferred to the LOA stage. This rule fully considers the specified activities described in the Request and makes the requisite MMPA findings. FWS and reviewing courts have long recognized that specified activities may be described broadly at the ITR stage. As we have explained above, FWS's subsequent reviews at the LOA stage will ensure that sufficient project-specific information was considered at the ITR or LOA stage before an LOA is granted, and that levels of taking will be consistent with the findings made in this rule.

Comment (13): One commenter suggested all activities eligible for LOAs must be fully analyzed in the ITR to be consistent with the MMPA and its implementing regulations. The commenter recommends that the FWS rejects deferring identification or analysis of specified activities, take estimates, and impacts assessment to the Letter of Authorization (LOA) stage.

Our Response: This rule fully analyzes the potential impact of the specified activities described in the Request. FWS's analysis considered the descriptions of activities provided in the Request as well as the requester's supporting materials, which included spatial files reflective of certain ongoing and planned activities. The requester has stated some projects not explicitly described may occur during the ITR period, and all additional activities will be of the same classes and types of activity described in the Request. Should an entity request an LOA for projects not previously analyzed, the FWS would evaluate the request in the manner described in section 18.123 of this rule.

In a broader sense, the commenter seems to question FWS's use of a two-step approach (*i.e.,* ITRs and then LOAs) to authorizing incidental take pursuant to section 101(a)(5)(A) of the MMPA. FWS has implemented regulations utilizing this approach for decades and it has proven successful in authorizing incidental take where warranted, imposing mitigation measures that effect the least practicable adverse impact on marine mammals, and ensuring that impacts to marine mammal species and stocks remain negligible.

Comment (14): Commenters stated that the proposed ITR is not clear on what entities will be eligible for LOAs, as it states that AOGA requested eligibility for LOAs be conditioned on active AOGA membership but also states that AOGA requested regulations be applicable to AOGA members and a non-member company that have applied for the regulations.

Our Response: The entities listed referenced in § 18.122(b) of this final rule, as well as their corporate affiliates, respective contractors, subcontractors, partners, owners, co-lessees, designees, or successors-in-interest will be eligible to apply for LOAs.

Comment (15): Some commenters noted that in the requester's petition, AOGA requested that eligibility under the proposed ITR be conditioned upon active AOGA membership. The proposed ITR extends eligibility slightly, but still restricts it to AOGA members, 8 Star Alaska, LLC, and their respective corporate affiliates and contractors, subcontractors, partners, etc. The commenter then urges the FWS to remove all eligibility requirements related to requiring membership in AOGA or other industry groups.

Our Response: The entities listed referenced in § 18.122(b) of this final rule, as well as their corporate affiliates, respective contractors, subcontractors, partners, owners, co-lessees, designees, or successors-in-interest will be eligible to apply for LOAs. If a party seeks an incidental take authorization for an activity not included in the specified activities, they can apply for a separate take authorization.

Comment (16): Several comments focused on who may apply for an LOA. One commenter stated that the FWS providing more flexibility in which companies are eligible for LOAs would support conservation and compliance objectives such as reducing the likelihood that Industry activities would proceed without incidental take coverage due to eligibility barriers, ensure all operators are subject to consistent mitigation, monitoring, and reporting requirements, and more flexible eligibility requirements would not pose any risks to the MMPA goals or the FWS's authority to process LOAs. One commenter stated that the FWS restricting LOA eligibility to entities based on their membership with the requester raises administrative and legal concerns such as unequal treatment of operators conducting similar activities in the same geographic region, potential exclusion of entities that are willing to comply with ITR requirements but elect not to join a private association for independent business or governance reasons or who lack a qualifying relationship to an eligible member entity, and unclear implications about

continuity of authorization, transferability, and enforcement if membership with the requester changes during the ITR period. They further state that the FWS's ability to ensure effective mitigation and monitoring requirements relies on clearly enforceable regulatory conditions and not whether an entity has a membership with the third-party organization. Finally, a commenter stated that the FWS restricting LOA eligibility to entities that have membership or a qualifying relationship with the requester conflicts with the MMPA statute of authorizing incidental take by specified activities within a defined geographic region, subject to findings regarding small numbers, negligible impact, and mitigation.

Our Response: The entities listed referenced in § 18.122(b) of this final rule, as well as their corporate affiliates, respective contractors, subcontractors, partners, owners, co-lessees, designees, or successors-in-interest will be eligible to apply for LOAs. As is reflected in the rule, FWS will not require confirmation of membership in AOGA prior to LOA issuance. If a party seeks an incidental take authorization for an activity not included in the specified activities, they can apply for a separate take authorization.

Comment (17): One commenter stated that, as noted in the proposed ITR's small numbers discussion, the population survey data used to calculate the minimum population estimate (Nmin) for the SBS stock of polar bears is over 10 years old. They recommended the FWS address if and how the age of the survey data impacts their confidence in their calculation of potential biological removal (PBR) as 14 bears.

Our Response: We acknowledge that having a more recent population estimate would be ideal; unfortunately these data are difficult to obtain. The FWS is currently working with the U.S. Geological Survey (USGS) and partners to develop an updated population estimate for the SBS stock. The FWS is confident that its calculation of PBR as 14 bears in the SBS SAR represents the best available scientific evidence at this time. Best available science also indicates the population decline that was noted in the mid-2000s appears to have stabilized (Bromaghin et al. 2021).

Comment (18): One commenter stated FWS should reassess its small numbers and negligible impact determinations using the minimum population estimate from the stock assessment reports (Nmin). They state Nmin is more appropriate for FWS to use the minimum population estimate (Nmin) for SBS polar bears in its small numbers determination rather than a population point estimate because the Nmin value provides reasonable assurance that the stock size is equal to or greater than that estimate.

Our Response: The MMPA does not require FWS to use Nmin when calculating small numbers. While Nmin is a valuable conservation metric, we find the population estimate to be the most appropriate denominator when calculating the percentage of the stock that is estimated to be subjected to incidental take as a result of specified activities.

Comment (19): One commenter recommended the FWS commission updated population surveys before finalizing the rule because the most recent population data is nearly a decade old.

Our Response: The FWS strives to obtain updated abundance estimates for polar bear stocks under its jurisdiction every 10 years. There has been an ongoing effort in the past year to use more recent data to update the stock's abundance estimate. The FWS anticipates these results to be available by the end of 2026. However, the estimate the FWS uses for the current ITR represents the best available scientific evidence available at this time.

Comment (20): One commenter recommended the FWS require meaningful, independently verified population recovery benchmarks before any authorization is issued.

Our Response: The FWS declines to implement this recommendation as the best available scientific information indicates the population decline of the SBS Stock in the mid-2000s has appeared to stabilize (Bromaghin et al. 2021). Separate from this rulemaking, the FWS, with a wide variety of partners from non-governmental conservation organizations to oil and gas industry representations, created and published the polar bear conservation management plan which presents certain benchmarks for polar bears.

Comment (21): Commenters argued that any additional industrial activity or harassment of polar bears in the Southern Beaufort Sea stock would be unacceptably harmful since the population is facing conservation pressure from declines in sea ice, which force polar bears to spend more time on shore. Commenters cited declines in foraging opportunities, body condition, cub survival, and overall numbers of Southern Beaufort Sea polar bears, sometimes highlighting specific population estimates (*e.g.,* estimates from the 1970s, 1990s, a 2021 stock assessment report, and a 2025 draft stock assessment report) or a period of low cub survival (2004–2007). Highly similar comments submitted by many individuals stated that peer-reviewed research has shown that the polar bear population in Alaska is likely lower than it has been at any point since the passage of the MMPA in 1972, and that further declines can be expected in the future if protections are not strengthened. Commenters stated that strengthened protections, including minimizing disturbance and protecting critical habitat, are needed to support recovery and prevent further population declines, given the vulnerability of the population. Some commenters similarly argued that the Pacific walrus population is already vulnerable due to sea ice declines and stronger protection is needed, as any additional industrial disturbance—especially noise, vessel traffic, and habitat disruption—exacerbates existing pressures.

Our Response: The FWS has carefully assessed anticipated impacts of the specified activities on the Southern Beaufort Sea stock of polar bears and the Pacific walrus population in light their current statuses and the baseline of existing impacts and concluded that incidental take associated with specified activities will have no more than a negligible impact on these populations. Our analytical methods account for the increased industrial footprint and for changing space use patterns (*e.g.,* more polar bear denning on shore and summer land use) associated with sea ice declines. The ITR includes mitigation and monitoring requirements that will limit potential disturbances and impacts to habitat. Commenters are correct that the SBS stock has declined since the MMPA was passed. Currently, however, existing evidence suggests the subpopulation's decline has stabilized and survival rates are much higher than during the early 2000s (Bromaghin et al. 2021). Some commenters incorrectly suggested that the lower population estimate included in the 2025 SBS draft stock assessment report indicated a biological decline in the population since the publication of the 2021 stock assessment report, but that is not the case as the updated population estimate was lower due to a change in the boundary that defines the SBS stock (movement of the eastern boundary of the SBS stock in Canada to the west).

Comment (22): Some commenters stated that the relatively late age of sexual maturity, slow reproductive rates, and heavy investment in each reproductive event for polar bears and walruses make populations vulnerable to impacts from oil and gas activities. Regarding polar bears, commenters

stated that any additional cub mortality resulting from den disturbance could harm recruitment and population trends due to polar bears' slow reproductive cycles, low numbers of dens, and low cub survival rates. One commenter stated that in light of the slow reproduction in polar bear and walrus life histories, the FWS should explain with much greater rigor how additional disturbance to denning, feeding, or maternal care can still be considered negligible.

Our Response: The FWS considered the relatively late age of sexual maturity, slow reproductive rates, and heavy investment in each reproductive event, population dynamics, among other relevant considerations, of SBS polar bears and walruses when analyzing potential impacts and developing its MMPA findings. The FWS does not anticipate lethal take of polar bears or Pacific walruses as a result of the specified activities. The SBS polar bear stock exhibits marked natural interannual variation in cub survival rates (Bromaghin et al. 2021) which are much higher than the anticipated effect of potential disturbance. Even with this variation, the most recent and best available science has supported that the population has stabilized (Bromaghin et al. 2021). Impacts to Pacific walrus are estimated to be limited to temporary behavioral disturbances of a very small portion of the population that may be encountered outside their typical home range.

Comment (23): One commenter states that the FWS must ensure that take authorized under individual LOAs already issued does not exceed the extent of take FWS anticipates or authorizes in the proposed ITR.

Our Response: LOAs already issued will not carry over into this ITR period. The FWS will evaluate new requests for LOAs under the provisions of this ITR.

Comment (24): Commenters stated that climate change and increases in human presence and activity are reducing habitat available to polar bears and walruses, leading to increases in encounters that are potentially dangerous.

Our Response: We account for the increased industrial footprint and changing space use patterns (*e.g.,* more denning on shore, more summer land use) in our analytical methods, as described in the **SUPPLEMENTAL INFORMATION**.

Comment (25): Comments stated that walrus populations are vulnerable to negative impacts from the rule due to their increased use of large coastal haulouts in association with reductions in sea ice. They stated that walruses at haulouts, particularly calves, face risks of disturbance-related mortality from stampedes and trampling triggered by aircraft noise, industrial activity, or human presence, in addition to risks of harmful behavioral disturbance.

Our Response: We agree that large coastal haulouts can be particularly vulnerable, however walrus are extralimital (*i.e.,* outside their range) in the ITR area and are only encountered in small numbers. There are no known walrus haulouts in the ITR area. However, should haulouts occur, LOA holders must maintain a mitigative offset in vessels or in aircraft.

Comment (26): One commenter stated that at a time when scientists warn of further declines and potential local extinctions in some polar bear subpopulations, Federal policy must prioritize habitat protection and disturbance minimization, not industrial convenience.

Our Response: Consistent with MMPA requirements, the final rule sets forth, among other things, means of effecting the least practicable adverse impact on SBS polar bears, walruses, and their habitat.

Comment (27): Several commenters recommended FWS conduct a more robust cumulative impact analysis accounting for prior, ongoing, and proposed authorizations, stating that considering individual authorizations in isolation obscures long term effects and is inconsistent with the MMPA. One commenter stated the FWS must analyze the consequences of multiple disturbances from all identified human activities with the potential to cause incidental take on individual polar bears and the SBS stock overall. One commenter stated the FWS must fully analyze the impacts of past take in considering how future annual, unknown levels of take authorized for the same population of bears pursuant to the proposed ITR will impact the SBS stock.

Our Response: FWS considered the impacts of the specified activities in light of the baseline of existing impacts, which includes impacts from ongoing, authorized activities.

Comment (28): One commenter stated that research shows extended ice-free fasting periods and decrease in sea ice extent are causing energetic stress to polar bears, and additional energetic costs from disturbance could therefore affect survival or reproduction.

Our Response: The FWS thoroughly discusses the potential effects of climate change on polar bears, including changes in sea ice extent, in the **SUPPLEMENTAL INFORMATION** to the proposed ITR. FWS considered this information when conducting its analysis and reaching its MMPA findings. We acknowledge that changes in the sea ice may lead to longer swims between the ice edge and the shore. However, we do not anticipate human-polar bear interactions to increase in severity during the 5-year ITR period. We anticipate polar bear reactions to continue to be short-term, temporary disruptions of behavior.

Comment (29): Some commenters stated that because the steep decline in the SBS polar bear population between 2000 and 2010 was driven by low cub survival, maximizing cub survival by preventing den disturbance is critical. One commenter specifically stated that the FWS failed to address the best available scientific information showing cub survival rates' influence on population trajectory, citing a study that showed high influence of cub survival on SBS polar bear population trajectory from 2002–2005.

Our Response: Bromaghin et al. (2021) noted that after the decline, survival rates increased to much higher levels. Further, the SBS polar bear stock exhibits marked natural interannual variation in cub survival rates (Bromaghin et al. 2021) which are much higher than the anticipated effect of potential disturbance from the specified activities. Even with this variation, the most recent and best available science has supported that the population has stabilized (Bromaghin et al. 2021). The FWS has analyzed the possibility of cub mortality and the extent to which it would affect the SBS stock. Preventing den disturbance is indeed important and these ITRs require various mitigation measures to effect the least practicable adverse impact on denning polar bears.

Comment (30): A commenter stated that one reason the loss of one additional cub due to the specified activities is very significant to the long-term survival of the stock is the greater importance of land dens to the population given their greater likelihood of yielding cubs that survive and reproduce themselves. They stated the FWS failed to acknowledge the particular importance of land-denning bears.

Our Response: While it is true that Rode et al. (2018) have found support for a higher rate of denning success in land-based dens, the available science does not provide a basis for discounting the value of cubs born in sea ice dens. Rode et al. (2018) indicated the likely reason for increased litter survival of land-based dens was later average emergence dates. We incorporated this effect into our model as empirical data

from land-based dens were used to create denning parameters in our analysis.

Comment (31): One commenter stated that in the proposed ITR, the FWS is ''glossing over a substantial probability of injury or death rather than reckoning with the impacts of such an injury or loss on the stock.''

Our Response: As the FWS has stated in our negligible impact determinations, we do not anticipate loss of a cub through den abandonment. Further, the litters that experience Level A take over a 5-year period are anticipated to have an average 12.6 percent decrease in survival probability. This change in survival probability is not anticipated to have more than a negligible impact on annual rates of recruitment for the SBS stock. The stock exhibits marked natural interannual variation in cub survival rates (Bromaghin et al. 2021) which are much higher than the anticipated effect of potential disturbance. Even with this variation, the most recent and best available science has supported that the population has stabilized (Bromaghin et al. 2021).

Comment (32): One commenter stated that FWS cannot assume the SBS population is stable because the most recent draft stock assessment shows a continued decline in population estimates.

Our Response: The commenter is incorrect. The draft stock assessment report for the SBS (citing Bromaghin et al. 2021) found evidence that the decline that occurred in the early 2000s had likely abated and that the population had appeared to stabilize. As noted in the stock assessment report, the lower number (819) reported is not the result of a decline in the population, but rather a boundary shift in Canada that reduced the overall footprint of the SBS and thus the number of bears considered to be part of the subpopulation.

Comment (33): Commenters stated that take considered in the rule does not meet the definition of incidental take, which is defined as takings which are infrequent, unavoidable or accidental. One commenter stated that when disruption is anticipated, modeled, and permitted in advance, it is not incidental in any meaningful sense, and another stated that ''incidental'' is not a standard the FWS can uphold or monitor.

Our Response: In accordance with the MMPA, this rule may only authorize incidental take. The fact that future incidental take can be predicted does not mean it is not infrequent, unavoidable, or accidental. FWS's definition of ''[i]ncidental, but not intentional, taking'' makes clear that such taking need not be ''unexpected.'' The FWS can and does make distinctions between take that is intentional (such as take that occurs when polar bears are intentionally deterred from an area to promote bear and human safety) and incidental take.

Comment (34): One commenter stated that the FWS does not explain what it is using for a threshold to characterize a probability as low, nor does it explain how the 45 percent likelihood of lethal take occurring within the 5-year period, which was estimated by the FWS predictive model for denning bears, compares to this threshold.

Our Response: The qualifier (''low'') does not involve any thresholds and was used generally to characterize FWS's overall assessment of the likelihood of lethal take and was not necessary to support our assessment. In light of the probability from the FWS predictive model of one or more lethal takes occurring either annually (0.12) or in 5-year aggregate (0.43), along with a median value of 0 for either time period, we do not anticipate the specified activities will result in lethal take of polar bears.

Comment (35): The commenter believes that the FWS is not properly considering the MMPA's definitions of take specifically with regard to the phrasing of ''potential'' threat of take. Therefore, the FWS is overlooking the potential for lethal take of cubs when characterizing impacts as Level A harassment.

Our Response: The FWS's application of the term Level A harassment is appropriate. The MMPA defines ''take'' to include, among other things, ''harass'' and ''kill.'' The MMPA further defines two types of harassment (Level A and Level B) and specifically incorporated the concept of ''potential'' into those definitions. The MMPA does not define ''kill.'' The Service therefore applies the ordinary meaning of the word ''kill,'' which is to deprive of life or cause the death of, not to potentially deprive of life or cause the death of.

The limited numbers of Level A harassment contemplated by this rule are estimated to entail an average 12.8 percent marginal reduction in litter survival probability, which represents a possibility of death, but not a certainty or even likelihood of death. This is not an adequate basis for assuming lethal (*i.e.,* ''kill'') take. As previously noted, the existing dataset contains no definitive evidence that an Industry activity caused a maternal den abandonment that in turn resulted in cub mortality. We also note that such an assumption would be unworkable in the enforcement context in terms of meeting the applicable burden of proof.

Comment (36): One commenter states that the FWS improperly deems impacts that may result in cub mortality as Level A harassment instead of lethal take. They specifically state the science shows impacts during late denning could result in cub death.

Our Response: The FWS's application of the term Level A harassment is appropriate. The MMPA defines ''take'' to include, among other things, ''harass'' and ''kill.'' The MMPA further defines two types of harassment (Level A and Level B) and specifically incorporated the concept of ''potential'' into those definitions. The MMPA does not define ''kill.'' The Service therefore applies the ordinary meaning of the word ''kill,'' which is to deprive of life or cause the death of, not to potentially deprive of life or cause the death of.

The limited numbers of Level A harassment contemplated by this rule are estimated to entail an average 12.8 percent marginal reduction in litter survival probability, which represents a possibility of death, but not a certainty or even likelihood of death. This is not an adequate basis for assuming lethal (*i.e.,* ''kill'') take. We also note that such an assumption would be unworkable in the enforcement context in terms of meeting the applicable burden of proof.

Comment (37): One commenter stated the Request included estimates of potential take that used FWS methodology, that these estimates are different than those presented by FWS in the proposed ITR, and that FWS must explain and address this discrepancy.

Our Response: The estimates referenced by the commenter are not those presented by AOGA as their likely estimate of take. They were part of AOGA's discussion of FWS predictive modeling methodology and appear to have used input values that are no longer used by FWS. There is no statutory or regulatory provision that requires any applicant to use any FWS predictive model.

Comment (38): One commenter stated that the FWS failed to consider some additional level of lethal and non-lethal take in the ITR that is likely to occur over the ITR period.

Our Response: The take estimates considered by the FWS for this ITR account for the potential of lethal and non-lethal take to occur due to the applicant's proposed activities based on the best available scientific information. Assuming additional take beyond what was analyzed would be unduly speculative.

Comment (39): Commenters stated that previous Beaufort Sea ITRs (*e.g.,*

rules finalized in 2016 and 2021) did not permit Level A harassment and that permitting Level A harassment now is unwanted regulatory rollback.

Our Response: In consideration of the best available scientific information, the FWS has updated our approaches to estimating and authorizing Level A harassment since 2021. Level A harassment was authorized under the revised Beaufort Sea ITRs issued in 2025. We disagree that authorizing similar take under this ITR amounts to regulatory rollback, and is consistent with the requirements of the MMPA.

Comment (40): One commenter states that the FWS cannot lawfully issue an ITR or LOA that allows unintentional, incidental taking, including undefined amounts of unanticipated lethal take, when the ITR findings rely on the assertion that lethal take is not sufficiently likely to warrant consideration in the findings. The commenter further stated their belief that this approach violates the MMPA, is beyond the Service's authority, and is arbitrary and capricious.

Our Response: FWS specifically considered the potential for lethal take in its analysis and associated findings, including the negligible impact finding. A conclusion, based on detailed analysis that a potential consequence is not anticipated to occur should not be mistaken for a conclusion the issue does not warrant analysis.

Comment (41): The requester has stated that the FWS statement that the 43 Level B harassment events reported by two operators in calendar year 2025 are a standard deviation above the annual Level B take requested is a mischaracterization because the request did not seek take authorization on a certain number of takes/year basis.

Our Response: We have included some clarifying language to more accurately reflect the take authorization request and note that the purpose of the statement at issue was to illustrate inter-annual variability in polar bear use of the ITR area, not to characterize how take was estimated or requested.

Comment (42): The requester stated that FWS's modeling is unreliable and model results should not be used to support the rule. The requester further suggested that FWS disavow the notion that an ITR request could be disapproved based on modeled take estimates.

Our Response: The FWS's model-derived take estimates, like requester's take estimates, support issuance of the requested ITR. It is beyond the scope of this rulemaking to delineate the potential basis for disapproving a request for an ITR.

Comment (43): The requester states that any discussion of the FWS predictive estimates in the final rule should clarify (1) the results and associated determinations are not likely to occur, (2) they are not intended to be used as a regulatory measure, and (3) they are not necessary to support the final rule.

Our Response: The FWS has made a number of revisions that help provide context concerning the nature of FWS's methodologies and appropriate consideration of resulting take estimates.

Comment (44): One commenter states that the weight of evidence approach employed by the requester and summarized in the proposed ITR is a farce because the most heavily weighted line of evidence is from AOGA's own field observations and LOA database. The commenter further claims that the FWS is leaving industry to police themselves.

Our Response: AOGA is required by the MMPA to submit estimates of likely take in their Request. The FWS clearly explained their rationale for considering both sets of estimates in the proposed ITR (91 FR 11240 at 11251, March 9, 2026).

Comment (45): One commenter stated the FWS acknowledges what appears to be skepticism regarding the estimates presented in the request and does not go on to explain its rationale for relying on the estimates in the Request.

Our Response: It is unclear what part of the proposed ITR suggests skepticism to the commenter. It was not our intent to express skepticism of a particular analytical approach to estimating take. We clearly explain our rationale for considering both sets of estimates in the Rule.

Comment (46): One commenter stated that before finalizing the proposed ITR, the FWS should provide clearer quantitative estimates of anticipated take levels.

Our Response: The FWS provided all the quantitative estimates of anticipated take levels as part of the proposed ITR and also published all of the code and model output that these results were derived from.

Comment (47): One commenter urged the FWS to adopt the take estimates produced by its own predictive model rather than AOGA's ''weight of evidence'' methodology.

Our Response: We considered both estimates along with qualitative factors in our analysis regarding the required MMPA determinations.

Comment (48): One commenter stated FWS should complete a retrospective analysis of polar bear observations and takes reported by Industry operators over several decades to more accurately predict future incidental take through an objective, transparent, scientifically rigorous, and uniformly applicable process.

Our Response: The FWS has considered predictive estimates of take from both the requester and FWS predictive model estimates which both incorporate a retrospective analysis of polar bear observations by Industry operators over several decades. The FWS considers the observational data a key component of the best available scientific information. As such, we continue to analyze observations alongside additional scientific information to inform and refine its predictive model estimates, as is explained in the proposed ITR and associated supplemental information.

Comment (49): One commenter stated that the ITR request relies on past opportunistic observations to predict future take without providing details on how past activities compare to potential future projects, some of which are not yet identified. They stated that to justify using past take levels as a predictor of future take, the requester would need to show that exposure levels are likely comparable between them by documenting intensity, methods, locations, and timing of past and proposed activities, and these data are not provided in the proposed ITR or in the ITR request.

Our Response: We considered both the estimates provided in the Request and our own independent predictive take analysis that resulted in the best available scientific evidence which included, but was not limited to, the past records of polar bear observations discussed in the request. The FWS considered additional information, such as the geospatial files referenced by AOGA in their request.

Comment (50): One commenter states that while the FWS should explore and assess different approaches to estimating potential take, the FWS has an obligation to determine which method and associated take estimate is based on best available scientific information and present that to the public.

Our Response: The MMPA requires the FWS to utilize best available scientific evidence when developing MMPA findings; however, nothing in the MMPA requires the FWS to quantify take estimates or identify a single, best methodology for estimating take or making MMPA findings. For instance, prior iterations of the Beaufort Sea ITR have made determinations based on both qualitative and quantitative factors.

Here, the FWS considered both sets of take estimates along with qualitative factors in making its MMPA findings.

Comment (51): One commenter stated that the proposed ITR and EA are unclear in how the FWS, when making required determinations, applied take estimates generated by its quantitative predictive methods or applied take estimates provided in the ITR request. The commenter stated it is implied the FWS relied on the requester's incidental take estimates to make determinations, which is problematic because there is evidence these values are underestimates.

Our Response: Each set of take estimates supported FWS's preliminary MMPA findings in the proposed ITR, and support FWS's findings in the final rule.

Comment (52): One commenter suggests the proposed ITR is vague, does not give enough guidelines or estimates of what may occur, and focuses on the applicant's own methodology.

Our Response: We disagree. We considered both the estimates provided in the Request and its own independent predictive take estimates alongside a number of qualitative factors, incorporating the best available scientific evidence. The preamble contains a summary of both sets of quantitative estimates with the details of each methodology available in the requester's petition and the FWS Supplemental Information.

Comment (53): One commenter claims the proposed ITR is an example of regulatory capture, suggesting a linkage between fossil fuel lobbying and the current administration. The commenter recommends that all industry communications related to the proposed ITR be disclosed and all lobbyist-written language be excluded from the final rule.

Our Response: During the ITR process, the FWS must review and speak to the Request we have received. We must also invite, consider, and respond to public comments, and in this process we must be open to receiving comments from all members of the public, regardless of status. As such, we may be required to present and respond to comments from lobbyists. When information from the requester or other external parties is included in FWS documents, we clearly attribute the source.

Comment (54): The requester states the FWS should explain why the result of their analysis to understand the frequency of incidental take preceding intentional take is different than those in their own request.

Our Response: The comment references an analysis that FWS conducted prior to and separate from its consideration of the Request at issue in this rulemaking. The decision rules and overall conclusions of that referenced analysis were explained in the Supplemental Materials provided in the docket associated with the proposed ITR. Meanwhile, the Request reports its own conclusions concerning this issue. Rather than focus on differences between the take estimates provided in the Request versus those produced via FWS's predictive modeling, this rulemaking considers both sets of estimates when rendering MMPA findings.

Comment (55): The requester suggests the denning model does not accurately reflect real-world conditions or animal reaction to oil and gas activities.

Our Response: The FWS uses the best available science which is largely collected from polar bears in the SBS stock thus they are representative of bears in the region. As previously explained, the FWS considers qualitative and quantitative considerations and data, the Request's estimates of likely incidental take, and FWS predictive model results as the ''best available scientific evidence'' used to support the determinations in this ITR. The FWS has been explicit about their analytical assumptions and why any assumptions are needed.

Comment (56): The requester and one commenter provided several criticisms of the FWS predictive model for estimating potential take of denning polar bears. They stated the model was inaccurate, seriously flawed, and resulted in intentional overestimates of take that far exceed historical data. They state the model has not been validated, and its use in MMPA authorizations does not meet the standard set by E.O. 14303, ''Restoring Gold Standard Science'' because it undermines required agency transparency due to the use of assumptions and disregard of available data due to uncertainty. They also state that use of the model will unnecessarily constrain industry by decreasing oil and gas activities and adding costs and mitigation measures. Finally, they conclude estimates generated using the model should not be used in the FWS's negligible impact determinations.

Our Response: We acknowledge the criticisms of our modeling methodologies and results from various stakeholders and appreciate that all predictive analyses and models have limitations. We further recognize that our predictive models contribute to annual take estimates that have exceeded (and are expected to exceed) the number of events where biological consequences indicative of take are observed to result from Industry activities. One reason is that the predictive models are based on annual activities forecast for 5 years of Industry activity in advance, and the annual activities, and thus the corresponding take, has historically been of a smaller scope than that analyzed. Additionally, the predictive models are one way to account for any unobserved take and account for certain acts which have ''the potential to'' result in certain biological consequences. Accounting for unobserved take and ''the potential for'' certain consequences involve a level of scientific uncertainty. When addressing uncertainties, the models incorporate assumptions that attempt to strike a balance between potential overestimates and potential underestimates, but, overall, are more likely to contribute to an overestimate, rather than an underestimate, of the incidental take of polar bears.

The FWS recognizes the continuing uncertainty about the scope of unobserved take and ''the potential to'' result in certain biological consequences, because these components, definitionally, do not avail themselves of an opportunity to evaluate the estimates against observations. Therefore, in evaluating the Request, we have avoided giving our predictive models, and quantification of take in general, undue weight in evaluating the Request. More specifically, we considered two separate predictive methodologies and resulting sets of take estimates, as well as qualitative factors, when making our small numbers and negligible impact determinations. The FWS thus did not rely solely on any single source of numerical estimates.

The FWS recognizes the importance of transparency required by E.O. 14303, ''Restoring Gold Standard Science'' and has sought to provide transparency in reporting assumptions of its predictive modeling, as well as providing all of the model code, input, and rationale provides transparency. In any scientific endeavor, control rules must be established to direct the inclusion of data, so incomplete information does not bias the results. We have explained our control rules to clearly communicate why certain data may not be incorporated into our analyses. Using different control rules will lead to differing data included in estimates using the same model.

The FWS does not agree that consideration of its predictive model results unnecessarily constrains oil and

gas activities through increased costs and mitigation measures. Any restrictions or mitigation measures imposed by ITRs stem from implementation of the MMPAs requirement that an ITR sets forth the means of effecting the least practicable adverse impact on the stock. This requirement applies to all ITRs, regardless of the extent of take estimated or how take was estimated (or whether take was quantitatively estimated at all). In implementing this requirement, we do not require mitigation measures that are so restrictive as to make specified activities unduly burdensome or impossible to undertake. Requesters are afforded an opportunity to comment on these issues when FWS-proposed mitigation measures are identified in proposed ITR.

As noted in the preamble, in light of the inherent uncertainties and challenges with quantifying take and the disparate results produced through different methodologies, the FWS considers its predictive model estimates alongside the requester's predictive estimates, which it derived from a distinct methodology, and various qualitative factors.

Comment (57): The requester urged FWS to provide a more ''complete and balanced discussion'' of the methods presented in the Request in the final rule.

Our Response: The FWS has updated the preamble of this rule to provide a more thorough summary of the requester's methods and take estimates alongside FWS's predictive modeling methods and results.

Comment (58): Commenters stated that greater numbers of SBS polar bears are projected to spend more time on shore in the vicinity of oil and gas activities in the future (and cited a proportion of the SBS stock estimates to spend prolonged period onshore by the year 2040), meaning current mitigation measures may not be sufficient and take numbers may be underestimated in the proposed ITR.

Our Response: The FWS disagrees that the mitigation measures are not sufficient and disagrees that the predicted take numbers are underestimated. The take estimates considered adequately account for the anticipated number of polar bears expected to utilize onshore areas within the 5-year ITR period that will expire in 2031. We continue to use and consider the best available scientific information.

Comment (59): Several commenters stated the FWS appears to have conducted its predictive modeling analysis and subsequent small numbers and negligible impact determinations using speculative spatio-temporal data, data from similar projects, or with a general lack of specificity.

Our Response: FWS requested and AOGA supplied a geodatabase that was used to conduct our predictive modeling estimates. The geodatabase included location, occupancy rate, and start/end dates for future proposed activities. We supplied the public with our analyses, which included these files, incorporated in an R environment datafile, in the docket of the proposed ITR.

Comment (60): One commenter stated that FWS estimates concerning Level A harassment indicate a 95 percent probability that oil and gas activities on the North Slope could be lethal to polar bears over a 5-year period.

Our Response: FWS's predictive take estimate indicates the greatest annual simulated probability of lethal take throughout the ITR period is 0.12, and the aggregated probability of potential lethal take over a 5-year period is 0.43. The median number of lethal takes in both the annual and 5-year aggregated modeling outputs was zero. Our predictive take estimates do estimate a high probability of one or more Level A harassments occurring, and that Level A harassment of cubs in the late denning and post-emergence period entail some (albeit limited) possibility of survival consequences to affected cubs. The extent to which these potential impacts could affect the SBS stock was considered in the proposed ITR and is considered in the final rule. We also considered AOGA's estimates for the aggregated probability of lethal take throughout the 5-year period of 0.000 and of Level A take of 0.103.

Comment (61): One commenter states that the proposed ITR only considers to possibility of Level A harassment or lethal take occurring to cubs and arbitrarily fails to consider the possibility of Level A harassment or lethal take occurring of an adult female polar bear while denning.

Our Response: The FWS has detailed the information it relies on to inform Level A harassment and lethal take. The scientific literature is clear that the impacts to dens are restricted to the cubs because the early emergence/departure relate to cub fitness and ability to keep up with their mother and survive outside the den. The mother does not have these same constraints and would only experience a short-term behavioral reaction as a result of such disturbance. The only instances where the impact could be as severe as to cause lethal take, or even Level A harassment to a mother would be if a den was run over by equipment and the female crushed. However, we have already shown that the probability of this happening is so low (<=0.005) that it is discountable.

Comment (62): One commenter suggests that the FWS's denning analysis asserts that only 16 percent of dens disturbed during the late denning and post-emergence periods would result in cub death.

Our Response: The commenter is incorrectly interpreting our analytical approach. The value of 16 percent does not reflect the percent of dens that would experience cub death. The 16 percent value reported reflects the average reduction in litter survival that is attributable to simulated disturbance from industrial activities.

Comment (63): One commenter stated that FWS does not explain how best available science supports its conclusion that the probability of a den being run over by equipment during the specified activities is exceedingly low each year of the proposed ITR, nor does it define ''exceedingly low'' or address the probability across the total 5-year ITR period. They also noted that no analysis of the likelihood of traffic, ice road construction, or other specified activities encountering a polar bear den is presented.

Our Response: The FWS has considered the probability of a den being run over by industrial activity. First, it would be restricted to seismic surveys or the creation of an ice road or a tundra travel route. Second, those areas would receive at least one AIR survey to detect some of the dens prior to using those areas. Even when placing tightly-spaced seismic arrays over the entire 1002 area of the ANWR (where some of the highest density denning areas for the SBS are located, but located outside the geographic scope of this ITR) it resulted in a very low probability of running over a den (<=0.005). This estimate fails to consider that typically oil operators would not develop a road/route/seismic line over a steep slope that would be challenging to get a vehicle down, which is where the bulk of polar bear den habitat is located (*i.e.,* steep slopes). So, we have considered the risk to polar bears of being run over while in the den and found the probability to be so low that it was extremely unlikely to occur.

Comment (64): Commenters stated that the FWS was flawed in not further considering the mean number of predicted lethal takes over the 5-year ITR period and instead applying the median, which does not capture the fact that when lethal den disturbance does occur, it would usually result in lethal take of multiple cubs. They stated that

by ignoring the mean value and the biological reasons for the skew in predicted totals of lethal take in reaching its conclusions, FWS is downplaying the extent of potential take from AOGA's activities.

Our Response: We have underlying den parameters that, in general, have more probability towards the center of their distribution but also have positive, albeit very small, probability in more extreme values. When performing a simulation, the goal is to look at the entire space of all the combinations of these distributions to look at the breadth and variability of possible outcomes. Possible does not mean probable. There will be occasions where the values chosen for that particular iteration will represent extreme values for multiple parameters, very far from the central values we expect for parameters. These occasions will still produce a result, but they will sometimes be a combination that makes a value that is much more extreme. While these values are technically possible, they occur relatively rarely and are wildly divergent from most of the other results. Such extreme, yet improbable, values are what skew the resulting distribution of outcomes, leading to a mean value that is less representative of the central tendency than the median.

Comment (65): One commenter argues that the FWS underestimates lethal take in its predictive denning model because dens that exhibit a behavioral response leading to early emergence prior to February 27 should be considered lethal take. They base this argument on Andersen et al. 2024, where the authors only estimated survival rates based on dens where emergence occurred on or later than February 27 based on the conclusion that no viable cubs would be present at an emergence date prior to February 27.

Our Response: Part of the reason Andersen et al. justified excluding dens prior to February 27 was to avoid including non-maternal dens (*i.e.,* shelter dens) where cubs were not born. This is an important factor to consider in this type of analysis. Unlike empirical data from collared bears where it is unknown when cubs were born, or how many are present at the time of emergence, our analytical model is able to assign simulated birth dates (based on existing science). Thus, for simulated dens, we know which dens contained cubs and when the cubs were >60 days old. Additionally, our approach does not consider the presence of non-maternal dens, so it makes sense that we would rely on an analysis that purposefully attempted to exclude those. Further, it is an incorrect assumption that bears observed without cubs later in the spring that emerged prior to February 27 meant they emerged without cubs. While that is one possibility, another is that the bear emerged with cub(s) but lost them prior to being later observed in spring.

Comment (66): Two commenters stated that the FWS's den disturbance model is flawed or arbitrary and capricious because the way it handles emergence or departure dates creates a second opportunity for there to be no response to disturbance. One commenter specified that even after application of the probabilities in table 8 of the Request (p. 41 (supplemental information)), indicates that a Level A harassment occurs (resulting in assignment of a new ''disturbed'' emergence and/or departure date for the den), the model arbitrarily creates a second opportunity for there to be no response to the disturbance by allowing the new ''disturbed'' emergence and/or departure date to be the same as, or very close to, the original ''undisturbed'' date. They stated the FWS does not provide any explanation for creating this second opportunity in the model for there to be no response to the disturbance, nor does the FWS explain how this squares with its rationale that whether exposure to disturbance results in Level A take from early emergence and/or departure or not is determined based on probabilities calculated in its case studies analysis.

Our Response: We disagree. In our approach, if a Level A harassment occurs, dens are not given another opportunity for no response to occur. Once a den is simulated to have a take by Level A harassment occur, nothing in our modeling approach allows that to be taken away. We believe the commenter is confused by our inclusion of two sets of post-emergence disturbance probabilities. Significant thought, based on polar bear ecology, went into informing this portion of the model. The reason there are two post-emergence probabilities is because if a den is not disturbed until after the bears emerge from the den, based on our case studies, bears tend to show higher levels of disturbance outside the den than if they had been disturbed leading to an early emergence. Part of this is related to mitigation measures being imposed to limit disturbance once a den is discovered. The other post-emergence set of probabilities is for the case where a den was disturbed leading to an early emergence. Again, these probabilities were derived from the case studies and showed lower probabilities of disturbance during the late denning period. Because we do not have very precise information on when anthropogenic disturbance might occur, we simulate the new, disturbed, emergence/time-at-den values, and then calculate the updated litter survival rate from those. It's true that those new ''disturbed'' emergence/time-at-den values could be very close to when they were ''naturally'' meant to be. However, this would occur with the same probability as a den being disturbed much earlier than its ''undisturbed'' values. This is because we utilize a uniform distribution to simulate the updated phenology values.

Comment (67): One commenter explained from their reading of the FWS's analyses, that about 61 percent of dens in the Colville-Canning region are on barrier islands, or 15.25, leaving 9.75 other land-based dens annually in the Colville-Canning region. Those, plus the 12 estimated for the National Petroleum Reserve—Alaska (NPRA), indicate at least 21.75 expected dens occur in the ITR area annually. The reduction of that number to just 6.5 dens expected to be within a mile of industry activities is unexplained. The commenter noted that it is unclear to them how the FWS calculated 6.5 dens within the ITR area and requested that the FWS better explain how the 6.5 dens was calculated.

Our Response: The reduction to 6.5 dens expected to be within a mile of Industry activities was accomplished by examining the spatio-temporal files provided to FWS by AOGA upon our request. These files were used to complete our predictive modeling estimates as described in the proposed ITR and supplemental information at *https://www.regulations.gov* under Docket No. FWS–R7–ES–2026–0694.

Comment (68): One commenter states that the FWS does not properly explain how it estimated the number of dens to be located within a mile of industry activities, when the FWS does not know when and where various activities would take place. Additionally, the commenter suggests it was an error by the FWS to remove certain dens from the analysis.

Our Response: The FWS provided the code and model inputs for public comment. In the model documentation (R workspace), the spatial layers that the FWS used are provided.

Comment (69): One commenter notes that in its analysis of denning impacts the FWS defines the post-emergence period as ''the date of den emergence until permanent departure from the den site.'' The commenter further suggests that defining the post-emergence period in this manner does not account for the time spent by the mother and cubs after

they depart the den site and move toward the coast and sea ice.

Our Response: The commenter is correct that the FWS den disturbance model does not account for things that happen to the family group after they permanently depart the den site. That is because the information we use to inform impacts to denning bears is related to events that occur at the den site. However, we do account for these impacts in the surface analysis. The LOA database captures observations of sows and cubs of the year as they head to the sea ice, and therefore the surface analysis predictive estimates sufficiently address their potential harassment.

Comment (70): One commenter notes that the FWS's predictive models account for MMPA's harassment definitions, which encompass certain acts which have ''the potential to'' result in certain biological consequences, and to account for any unobserved take. However, the commenter disagrees with how the FWS takes these into account and suggests that the FWS's assessment of activities should be based on best available science and must avoid speculation.

Our Response: The FWS's analytical approaches do use the best available scientific evidence when assessing the nature of certain acts and the potential consequences of those acts to marine mammals.

Comment (71): Several commenters expressed preference for take estimation methods based on ''observed data'' and stated the FWS predictive estimates are not based on observed data.

Our Response: We use observational data, as well as other data sources, in our predictive modeling. The use of predictive modeling does not abandon observed data, rather it incorporates it into a broader estimate that also includes other empirical biological data.

Comment (72): The requester states the FWS should adopt the analyses presented in the Request, which they claim are better suited than those produced by FWS.

Our Response: We have chosen to retain their predictive model estimates in the ITR alongside the estimates presented in the Request.

Comment (73): The requester states the MMPA does not require applicants to prove harassment didn't occur, yet the burden has shifted in the proposed ITR.

Our Response: The required components of requests for ITRs are specified in the implementing regulations at 50 CFR 18.27(d). Here, we deemed AOGA's request adequate and complete.

Comment (74): One commenter states that in the FWS's denning impacts analysis, a disturbance during the late denning period can only cause assignment of a new ''disturbed'' emergence date, but cannot result in an early departure unless disturbance also occurs again between the time of the new ''disturbed'' emergence date and the original departure date, in which case only 0.30 of such dens will then have a new departure date assigned in response to the second disturbance. The commenter then states that disturbance during the late denning period can result not only in premature emergence, but in premature emergence and departure, even absent additional disturbance following the emergence. The commenter attributes this assertion to best-available science. However, no information sources or data are provided to indicate where this conclusion is drawn from or why it should be considered best available science. The commenter further states that the FWS does not explain why a den must be disturbed at least twice before a disturbance during the late denning period results in premature departure.

Our Response: We are not aware of any science that indicates that departure from the den will be shortened even in the absence of a disturbance stimuli after emergence (*i.e.,* during the post-emergence period). We have been clear that for disturbance to be categorized in our analysis of case studies, a source of disturbance within 1 mile must be present.

Comment (75): One commenter states the FWS use of 60 days as the threshold at which polar bear cubs would not die if they were exposed to the environment outside the den is arbitrary, because the source study that discusses this threshold references cubs walking at 60–70 days of age. They state using a 60-day cutoff results in arbitrarily underestimating the probability and extent of lethal take.

Our Response: The FWS disagrees with this assessment. While it is true that Kenney and Bickel (2005) note that bears were generally walking by 60 days old, this is not the only information we use to support our position that cubs can be viable outside of the den once they reach 60 days of age. Harington (1968) provides evidence that cubs begin to sleep away from their mothers in the day at about 60 days of age, indicating their thermoregulatory abilities have improved. This is further confirmed by Blix and Lentfer (1979) that showed thermoregulatory ability of cubs to ambient air temperatures is well-established at den emergence. Finally, Rode et al. (2018) found ''the earliest estimated date of emergence from a den for a female later observed with cubs was 8 January, a duration of 61 days.'' They further show that, ''[t]he shortest estimated denning duration for a reproductively successful female was 42 days.'' Thus, there are multiple lines of evidence that at 60 days, cubs could be viable outside of the den. The FWS is not claiming that their survival wouldn't be impacted by such an early emergence, but this reduced survival would be captured based on our litter survival rates calculated based on the date of emergence and time spent at the den post emergence.

Comment (76): One commenter stated the denning bear behavioral reaction probabilities are not supported by reliable scientific studies, but instead the LOA database of human observations. They state the use of the LOA database and case studies is fundamentally flawed because (1) the information was not obtained through a systematic or peer-reviewed study and (2) FWS acknowledges polar bears can move cryptically through their environment, avoiding detection by humans even when in close proximity to infrastructure and activities. Finally, the commenter states FWS cannot logically rely on the absence of reported take of surface bears by industry to conclude that little harassment has occurred in the past.

Our Response: The commenter is incorrect that the FWS approach to estimating disturbance to denning bears was not obtained through a peer-review study. We developed the den case studies methods, submitted them to a peer-reviewed scientific journal for review, and the manuscript was later published in a peer-reviewed scientific journal (*i.e.,* Woodruff et al. 2022). We agree that having more precise information on how polar bears respond to disturbance through an experimental study would be best. However, that would lead to an unacceptable number of dens being actively disturbed to obtain those data, including the potential for cubs to be abandoned. We will not propose to conduct such invasive research. Thus, we relied on existing information from the peer-reviewed literature, LOA reports, and other case studies to develop an informed estimate of disturbance from these. We discuss the potential for unobserved bears in the context of our predictive modeling estimates, which are designed to provide estimates inclusive of both observed and unobserved take.

Comment (77): The commenters cite a letter from Dr. Steve Amstrup that

discusses a non-zero probability that family groups en route from dens to the sea ice will encounter human activities that may cause mothers to run and separate from their cubs. They also state that this potential source of Level A harassment or cub mortality should be included in the predictive estimates of impacts to surface bears.

Our Response: The FWS's approach to assessing disturbance to denning bears only considers the period of time bears are at the den site, and not what happens after they depart the den site. However, we also consider the potential for disturbance to bears once they leave the den through their surface level disturbance analysis. We have no records from the LOA database that indicate a sow was permanently separated from her cubs. While we cannot state there is no chance of this occurring, it has not been reported in decades of operations, therefore we do not anticipate it occurring during the ITR period.

Comment (78): One commenter states that the FWS chose to re-examine the denning model and denning case studies, which resulted in a lower likelihood estimate of serious injury or mortality, to address least practicable adverse impact on the species or stock rather than work with the requester to examine how the frequency, methodology, timing or location of activities could be altered to reduce the probability of serious injury or mortality and thereby ensure that the take met the definition of incidental take which requires it to be infrequent, unavoidable, and accidental to address least practicable adverse impact on the species or stock.

Our Response: The FWS has always recognized that its analytical methods are not set in stone but are updated as new information becomes available or when issues with our current ways of interpreting information are identified. That is what happened with our reassessment of the case studies. Upon reviewing our case study assessments prior to the creation of the proposed ITR, we realized that we were not being consistent in how we applied some of our decision criteria, such that the methodology only allowed case studies to be classified as having an impact based on information other than phenology dates for dens that occurred after peak emergence date, but did not allow a similar thing to happen for dens with emergence prior to the peak emergence date. We also recognized that there was not sufficient information in the scientific literature to support the contention that a bear captured during (or just prior to) the den establishment period would have no impact on the denning process. Thus, we further updated our case study inclusion criteria to address this. We also worked with the requester to incorporate a new data-led strategy for AIR surveys that prioritizes high density denning areas, leading to a decrease in survey time while increasing the amount of habitat surveyed.

Comment (79): One commenter noted that while the FWS predictive denning model incorporates the relationship between early emergence, early departure, and a decrease in litter survival rate presented by Rode et al. 2018, the authors of that study also noted that the earlier den emergences were likely of function of less healthy sows, indicating early emergence and/or departure may be a combination of natural factors, and not human disturbance.

Our Response: The relationship between earlier den emergence and decreased litter survival has been documented in multiple studies (Rode et al. 2018, Andersen et al. 2024). These studies did not include investigations of the mechanisms underlying the decision by bears to depart dens early vs. late, but the authors did speculate that maternal condition could be influential. Decreased maternal condition at emergence could be the result of poor condition prior to denning, but it is also possible that stress or changes in phenology during earlier denning periods caused by disturbance led to decreases in body condition. Further, the case studies document multiple instances of sows that appear to be in good body condition emerging from dens concurrent with a disturbance, strongly suggesting that the disturbance caused the bear to emerge earlier than it would have under undisturbed circumstances.

Comment (80): One commenter discussed the use of median thresholds for time at den between emergence and departure when evaluating denning model case studies. They highlighted the difference between the Andersen et al. 2024 dataset (hereby referred to as the reference dataset), which was used to establish a median value threshold, and the case study dens. Specifically, the commenter said the bears included in reference dataset were collared, and their den emergence and den departure timelines were measured from collar data, which is more precise than the human observation data available for case study dens. They also state collar data can potentially include time that was post den departure. The commenter states these differences contribute to the reference dens having a longer time at the den before departure. The commenter further describes the reference dataset as having a bimodal distribution and large 50 percent confidence interval. They state these statistical traits may be an artifact of the small sample size and not representative of true post-emergence behavior. Finally, the commenter states almost all case studies would be classified as staying longer than the lower end of the 50 percent confidence interval, and almost all case studies would be classified as departing early if we relied on the upper end of the 50 percent confidence interval. They state it is unclear whether the modest effect of human activity on post-emergence den duration in the distribution data is due to low sample size in the undisturbed reference group, different measures of den emergence and departure between ITR case studies and the undisturbed reference group, or a true effect.

Our Response: The temperature-based methodology used to estimate emergence in Andersen et al. (2024) can lead to earlier emergence dates than the observation-based estimates in the case studies if bears open dens before they first leave the den and are observed on the surface. This could cause an overestimation of take in the post-emergence period, but for the same reason, this would cause an underestimation of take in the late denning period. We acknowledge this possibility, but because any overestimation in one period would necessarily be equal to an underestimation in the other, we will continue to use this approach unless a more appropriate alternative is revealed in future peer-reviewed studies. It is correct that the median post-emergence duration (6.25 days) in the Andersen et al. (2024) dataset was based on a sample of 20 dens. This is because we limited the data to dens that occurred on land in the SBS subpopulation for which cubs were observed in the spring following denning, which we considered to be most representative of the AOGA ITR simulation process. The Andersen et al. (2024) dataset also demonstrates that durations do not differ significantly ($p<0.05$) between the SBS and Chukchi Sea subpopulations. If we include dens assumed to have produced cubs (emergence >=27 Feb) from both subpopulations, the sample size increases to 36, the distribution of durations is not bimodal, and the median duration increases to 9.5 days. For future iterations of the simulation model, we will continue to consider the appropriateness of including a larger

sample of dens to address the commenter's concerns.

Comment (81): One commenter stated using a den emergence threshold for case study evaluation that is based on the median den emergence date of the dens included in Andersen et al. (2024) is difficult to justify. The commenter points to the standard deviation of den emergence dates in the referenced dataset, which they say is 19.5 days, and constitutes a spread so large that the median-based threshold would classify a substantial proportion of any sample of dens as early emergers regardless of whether disturbance occurred. They also state the observed 28.9 percent of case study dens classified as early emergers falls 21 percentage points below the 50 percent baseline expected by chance alone, which they say is the opposite relationship one would expect when comparing an undisturbed reference median to exposed dens in the case studies. Finally, the commenter states these statistical results indicate there is no clear evidence of early emergence, and instead the estimate appears to simply be the result of the median-based threshold cutting off the early end of what appears to be a typical distribution of emergences for undisturbed dens.

Our Response: We appreciate these comments and agree that the median-based approach can be improved if additional data or scientific studies become available to support revision or a viable alternative. However, we must account for the peer-reviewed scientific studies that have demonstrated that early den emergences and short durations at the den post-emergence are associated with reduced survival of polar bear litters (Rode et al. 2018, Andersen et al., 2024) and evidence from multiple case studies that document instances of den emergence or departure quickly following a disturbance event. In some cases, the reaction seems clearly causal, primarily because of the timing of the reaction compared to the human activity (*e.g.,* a bear emerged from a den for the first time, looked towards a loader operating 146 m away, then departed for the sea ice with 1 cub within 5 minutes). The case studies, however, often lack the detailed information necessary for temporally linking an emergence or departure to an activity, and attributing the response to the activity becomes increasingly subjective as the temporal threshold increases. For example, a response concurrent with an activity is very likely to have been influenced by that activity, but this link becomes less clear if the response occurs days later. Our approach of using median dates of emergence and departure to inform probabilities of disturbances resulting in early responses was developed to avoid this subjectivity in classifying case study responses. We continually review and refine the process based on received input and new scientific information.

Comment (82): One commenter references a response to comments in a prior rulemaking. In that comment response, the FWS compared den emergence times derived from collar temperature sensor data (such as those in Rode et al. (2018) and Andersen et al. (2024)) to those derived from case study data. Collar temperature sensors detect the moment the den is opened to outside air, whereas case study data, which are based on visual observations of bears on the surface, are likely to be recorded after initial emergence. However, the commenter disagrees that the comparison should not be made at all (*i.e.,* that the comparison is completely uninformative). Rather, the commenter believes it is appropriate to keep in mind the difference in how emergence times are measured when making broad comparisons between the two distributions.

Our Response: From the beginning, the FWS has considered how this difference in methodology could influence the structure and outcomes on the simulation model. For example, if a bear in a case study was not observed until after March 12 (hence not classified as an early emergence), but the den was actually opened earlier than March 12 (or the bear was on the surface earlier, but not observed due to darkness, weather conditions, lack of observers in the area, etc.), then the probabilities of disturbance derived from the case studies could underestimate take during the late denning period. This underestimation, however, would likely be balanced by a concomitant overestimation in the late denning period because the imprecise observer-based emergence estimate would underestimate the duration of the post-emergence period. We update the ITR approach continually based on input from concerned parties and as new empirical data and scientific studies become available.

Comment (83): One commenter states that using the median as a threshold for classifying Level A harassment creates a baseline classification problem in assessing how industry activities alter polar bear behavior.

Our Response: We appreciate this point and agree that the median-based approach can be improved if additional data or scientific studies become available to support revision or a viable alternative. However, we must account for the peer-reviewed scientific studies that have demonstrated that early den emergences and short durations at the den post-emergence are associated with reduced survival of polar bear litters (Rode et al. 2018, Andersen et al., 2024) and evidence from multiple case studies that document instances of den emergence or departure occurring as a response to a disturbance event. In some cases, the reaction seems clearly causal, primarily because of the timing of the reaction compared to the human activity (*e.g.,* a bear emerged from a den for the first time, looked towards a loader operating 146 m away, then departed for the sea ice with 1 cub within 5 minutes). The case studies, however, often lack the detailed information necessary for temporally linking an emergence or departure to an activity, and attributing the response to the activity becomes increasingly subjective as the temporal threshold increases. For example, a response concurrent with an activity is very likely to have been influenced by that activity, but this link becomes less clear if the response occurs days later. Our approach of using median dates of emergence and departure to inform probabilities of disturbances resulting in early responses was developed to avoid this subjectivity in classifying case study responses. We continually review and refine the process based on received input and new scientific information.

Comment (84): One commenter states that poor maternal body condition may affect post-emergence duration and reduced cub survival.

Our Response: We agree that poor maternal condition could cause females to depart the den site early. Although it's possible that poor body condition could be unrelated to disturbance, it is also possible that disturbance during denning could contribute to that condition (*e.g.,* through stress or disruptions to denning phenology or activities earlier in the denning period). Presently, the mechanisms behind this relationship are not well understood, but the scientific literature demonstrates that decreased time at the den site post-emergence is associated with reduced litter survival and disturbance can decrease that time. At every step, we incorporate the best available science into the ITR process and amend that process as new information becomes available.

Comment (85): One commenter states that they think research activities are typically inappropriate proxies for predicting incidental take related to oil and gas activities. The commenter also states that they believe the inclusion of research case studies as a proxy for

industry activities likely inflates the incidental take probabilities in the denning analysis.

Our Response: Sources of disturbance in research case studies include snowmachine, helicopter, fixed-wing aircraft, and people on foot. Each of these modes of travel are used by Industry and produce sound profiles similar to other types of Industry activities. Recognizing polar bear research may focus on activities involving closer proximity to polar bears than Industry activities focused on avoidance or minimization, the distributions of distances at which the activities occurred overlap substantially.

Comment (86): One commenter states that they disagree with the FWS classification of Case Study 32 as a cub mortality.

Our Response: The FWS did not conclude that a cub mortality did occur, just that there was likely den abandonment during the early denning period, which may have resulted in the loss of one or more cubs due to the early emergence date before cubs would have been viable.

Comment (87): One commenter states that they disagree with assertions described in Woodruff et al. (2022) that say the use of median- or mean-based values should minimize bias associated with individual variation. The commenter believes that using median- or mean-based threshold is unlikely to capture true disturbance rates and leads to an overestimation of disturbance.

Our Response: It isn't possible to know when a bear that was exposed to disturbance would have emerged or departed in the absence of that disturbance, but multiple case studies document instances of den emergence or departure occurring very soon after disturbance events, so we disagree that it is possible that true rates are low or close to zero. In some cases, the reaction seems clearly causal, primarily because of the timing of the reaction compared to the human activity (*e.g.,* a bear emerged from a den for the first time, looked towards a loader operating 146 m away, then departed for the sea ice with 1 cub within 5 minutes). The case studies, however, often lack the detailed information necessary for temporally linking an emergence or departure to an activity, and attributing the response to the activity becomes increasingly subjective as the temporal threshold increases. For example, a response concurrent with an activity is very likely to have been influenced by that activity, but this link becomes less clear if the response occurs days later. Our approach of using median dates of emergence and departure to inform probabilities of disturbances resulting in early responses was developed to avoid the potential for bias in subjectively classifying case study responses. We agree, however, that the median-based approach can be improved if additional data or scientific studies become available to support revision or a viable alternative.

Comment (88): One commenter presented an analysis and concluded that using a median-based threshold to estimate disturbance of denning bears likely overestimates actual den disturbance rates.

Our Response: The smallest effect considered in the simulations is 5 days, so it isn't possible to gauge results directly for a 1-day change in the behavior. Nevertheless, these results suggest that our approach may be as likely to underestimate take as it is to overestimate it based on the true level of disturbance. Based on the emergence simulations, if >50 percent of bears emerge a day early due to disturbance, these simulations suggest our method underestimates take, whereas take would be overestimated when <50 percent of bears are disturbed. Although importantly, these simulations suggest that the magnitude of the bias is not equal above and below a disturbance level of 50 percent. At an effect size of 5 days (again, even 1 day constitutes take, but that effect isn't included), the median-based approach overestimates take by 3–4 percent when the true rate of disturbance is 30 percent. When the true rate of disturbance is 70 percent, however, this simulation suggests take is being underestimated by 10 percent (holding 5 days constant). Although true rates of disturbance cannot be known with currently available data, these simulation results suggest that our median-based approach is likely not overestimating take based on the MMPA definition.

Comment (89): One commenter stated that the denning simulation assumes that nearly 3 out of 4 polar bear cubs within 1 mile of industry activities during the post-emergence period will experience potential injury.

Our Response: This is an incorrect interpretation of our methods. The commenter is forgetting that first, dens should not be disturbed if they were identified by one of the forward looking infrared (FLIR) surveys. Thus, the actual percent of dens that could be impacted would be substantially less after FLIR detections are accounted for.

Comment (90): One commenter asserts that the FWS's modeling results suggest that the FWS should consider that there would be at least two lethal take event of cubs during the 5-year span of the ITR, including one lethal take during early denning and one lethal take due to survival fitness impacts from disturbance during late denning and/or post-emergence.

Our Response: The FWS predictive modeling did consider the possibility of lethal take during the early denning period. We also considered the potential impacts to litter survival probability from impacts during the late denning period. In robust analysis the overall estimated average SBS reduction in survival probability is calculated as (overall undisturbed survival) − (overall accounting for disturbed lethal/A/B survival). Those values are 0.8547933 − 0.8498685 = 0.0049248, meaning the total drop in average survival probability for SBS land-based dens is estimated as 0.4 percent.

Comment (91): One commenter suggested that the FWS did not consider the potential lethal impacts shown by its own modeling and they believe the litter survival should have been 49 rather than 51.

Our Response: We do not anticipate loss of any cubs through den abandonment. Focusing on the take that is anticipated, while also considering conjectural or speculative impacts, the FWS's negligible impact analysis addresses the extent to which the specified activities would and could impact SBS polar bears at the stock level. Further, the litters that experience Level A take over a 5-year period are anticipated to have an average 12.6 percent decrease in survival probability. This change in survival probability is not anticipated to have more than a negligible impact on annual rates of recruitment for the SBS stock. The stock exhibits marked natural interannual variation in cub survival rates (Bromaghin et al. 2021) which are much higher than the anticipated effect of potential disturbance. Even with this variation, the most recent science has supported that the population has stabilized (Bromaghin et al. 2021).

Comment (92): One commenter stated that the FWS's den disturbance model is arbitrary and capricious because it ignores the best available science indicating that emergences that occur during the late denning period, but prior to February 27 will result in lethal take. They stated the underlying analysis in Andersen et al. (2024) did not encompass lethal impacts (zero survival probability), and moreover were calculated after removing from the data set dens where emergence occurred prior to February 27, because for all dens where the emergence date occurred prior to February 27 the denning bear was later observed post-

emergence with no cubs, indicating that there were no viable cubs at the time of emergence.

Our Response: We disagree. Part of the reason Andersen et al. justified excluding dens prior to February 27 was to avoid including non-maternal dens (*i.e.,* shelter dens) where cubs would not be born. This is an important factor to consider in this type of analysis, and therefore indicates that our approach is not arbitrary or capricious. Unlike empirical data from collared bears where it is unknown when cubs were born, or how many are present at the time of emergence, our analytical model is able to assign simulated birth dates (based on existing science). Thus, for simulated dens, we know which were born with cubs and when the cubs were >60 days old. Additionally, our approach does not consider the presence of non-maternal dens, so it makes sense that we would rely on an analysis that purposefully attempted to exclude those. Further, it is an incorrect assumption that because bears were observed without cubs later in the spring if they emerged prior to February 27 that means they emerged without cubs. While that is one possibility, another is that she emerged with cub(s) but lost them prior to being later observed in spring.

Comment (93): One commenter states the FWS has failed to consider the potential impacts of early emergence and/or early departure on cub survival into the autumn, citing information from Rode et al. (2018) on the positive relationship between sow body weight at emergence and cub and litter survival.

Our Response: The FWS disagrees that we did not incorporate information from Rode et al. regarding duration in the den and its effects on litter survival. In actuality, we utilized the underlying data in Rode et al. (2018) and Andersen et al. (2024) to estimate the relationship between time in the den (and at the den post emergence) and litter survival in the spring. Instead of relying on a single metric, we rely on the underlying data to estimate this relationship and apply it to our analytical methods.

Comment (94): One commenter suggests that the FWS's rationales for revising its assessments of case studies were not justified and resulted in underestimation of the probability and extent of lethal take and Level A harassment.

Our Response: The FWS took a very detailed look at our previous set of methods for analyzing case studies and realized there were some areas where they could be improved. So, we reassessed them based on these updated criteria. We articulated why we made changes to each of the case studies and justified those decisions based on polar bear biology.

Comment (95): One commenter points out that FWS revised its assessment of Case Studies 8 and 9 and removed these Case Studies from its denning analysis inputs because the polar bears in these studies had been previously captured for research purposes. The commenter, citing the opinions of Dr. John Whitman and Geoff York, implies that it was arbitrary for the FWS to remove these studies because the best available science indicates that research captures have minimal effects, and there is no evidence indicating that the research capture influenced the subsequent response to disturbance. The commenter further suggests that the FWS's removal of Case Study 9 is not consistent with the rationale FWS offered to justify its removal because the research capture occurred during the den establishment period, since the record indicates the bear was collared prior to den establishment.

Our Response: The FWS has always excluded case studies involving research activities from the calculation of disturbance probabilities if those research activities were deemed to not be representative of activities that the oil and gas industry would conduct. We had previously included two case studies (8 and 9) in our analysis where polar bears were captured by researchers during the den establishment period, although both were not included as disturbance during the den establishment period. Both, however, were used to estimate disturbance during subsequent den periods (*i.e.,* early denning and late denning, respectively). We acknowledged that we do not know the effect of intense, capture-related disturbance during the den establishment period on subsequent denning behavior or phenology and therefore cannot be sure that these observations would reflect conditions experienced by bears disturbed by oil and gas activities. The commenter indicates that by excluding Case Study 9, we're inconsistent with our own justifications for dropping it. Yet, as described above, our criteria for dropping this den was that she was collared during the den establishment period. This was in the case study record: ''The bear was satellite radio collared and denned on a north coast barrier island on 20 October 1988.'' This is consistent with our stated rationale because capture is a stressful event for bears and thus could impact denning activity and potentially phenology. That is why it was dropped.

Comment (96): One commenter noted that upon revaluation the FWS reclassified Case Study 17 from early emergence and departure in response to disturbance to a classification of early departure only. The commenter cites the opinion of Dr. Joh Whiteman and Geoff York to conclude that the reclassification is not rational and should be considered arbitrary and capricious.

Our Response: Upon reviewing our case study assessments prior to the creation of the 2025 revised ITR, we realized that we were not being consistent in how we applied our decision criteria, such that it only allowed case studies to be classified as having an impact based on information other than phenology dates for dens that occurred after peak emergence date, but we did not allow a similar thing to happen for dens with emergence prior to the peak emergence date. Thus, we are actually being more consistent with our stated procedures for assessing case studies and not being arbitrary or capricious.

Comment (97): One commenter suggests that the FWS improperly concluded that any observed emergence after the median emergence date must be a natural emergence rather than an early emergence in response to a disturbance event. In the commenter's opinion this will lead to 50 percent mischaracterization of observations, therefore it is arbitrary and capricious for the FWS to make this conclusion.

Our Response: We agree that our case study methods can lead to some dens being classified as disturbed when they were not, or some that were disturbed as not being disturbed. Because we do not know when polar bears gave birth to cubs, we needed to rely on population-level metrics to make our assessments. Because we do not bias our assessment to be more prone to be disturbed (or less disturbed), our approach allows for the average effects to be identified over the course of 10,000 simulations. These procedures went through peer-review and are published in the scientific literature (Woodruff et al. 2022).

Comment (98): One commenter stated that past reports should not be the only basis of determining the type of harassment denning polar bears experience. They pointed out that FWS states reports of lethal take of cubs via den abandonment are rare, but that den abandonment would be difficult to observe.

Our Response: The FWS agrees that den abandonment would be difficult to observe. This, combined with the other

uncertainties listed in the proposed ITR, is why the FWS has also presented estimates generated using predictive modeling which considers not only past observational reports but also scientific studies illustrating various cause and effect mechanisms. As stated in the proposed ITR, ''FWS's predictive model results provide, among other things, a basis for assessing the probability and severity of potential impacts that the scientific literature suggests are possible but have not been observed or are rarely observed in the ITR area.''

Comment (99): The requester stated that the FWS predictive modeling of impacts to denning bears does not reflect best available scientific information because it relies on case studies that do not represent the impact of industry activities and relies on precautionary assumptions.

Our Response: The FWS has provided clear justification for its use of case studies that have a research component. We have always removed case studies where the research efforts did not have a parallel with Industry activities (*e.g.,* capture). However, just because a researcher walked in the general vicinity of a den does not mean that the bear would perceive a different risk than if it were an Industry employee walking in the general vicinity. And we have case studies where dens have been located very close (~50 feet) from active industrial activities all winter before the den was discovered on emergence. So, including certain research-related case studies is appropriate because they represent human activity around polar bear dens and how bears respond to it. Additionally, a number of case studies had researchers periodically near the den (*e.g.,* setting up cameras), but then there is documentation of a bear responding to Industry activity in the distance, but not to the researchers setting up the camera. Thus, we still believe these are representative case studies that should not be ignored.

Comment (100): The requester states the aircraft-related case studies used to calculate disturbance probabilities are not representative of industrial activity, even pipeline surveys. They state aircraft-based surveys of pipelines are unlikely to overlap with maternal polar bear dens because there are few polar bear dens that occur in the region relative to the suitable habitat in the coastal plain, spills are rare and distributed throughout a large network of infrastructure, and only remote stretches of pipelines are surveyed via aircraft.

Our Response: The FWS has provided clear justification for its use of case studies that have a research component. We have always removed case studies where the research efforts did not have a parallel with Industry activities (*e.g.,* capture). Including certain research-related case studies is appropriate because they represent human activity around polar bear dens and how bears respond to it.

Comment (101): The requester states that the case studies associated with research activities (both ground-based and aerial) are not representative of industrial activities and therefore their inclusion in the disturbance probabilities creates bias in the denning model.

Our Response: The FWS has provided clear justification for its use of case studies that have a research component. We have always removed case studies where the research efforts did not have a parallel with Industry activities (*e.g.,* capture). However, just because a researcher walked in the general vicinity of a den does not mean that the bear would perceive a different risk than if it were an Industry employee walking in the general vicinity. We have case studies where dens have been located very close (~50 feet) from active industrial activities all winter before the den was discovered on emergence. So, including some research-related case studies is appropriate because they represent human activity around polar bear dens and how bears respond to it. Additionally, a number of case studies had researchers periodically near the den (*e.g.,* setting up cameras), but then there is documentation of a bear responding to Industry activity in the distance, but not to the researchers setting up the camera. Thus, we still believe these are representative case studies that should not be ignored.

Comment (102): The requester cites three publications: Stankowich (2008), Blumstein et al. (2003), and Fernandez-Jurcic et al. (2005) in support of their statement that wildlife responses are strongly influenced by approach behavior and perceived intent with direct, targeted approaches eliciting significantly greater disturbance than tangential or passing movements.

Our Response: The cited references are not directly applicable to draw the commenter's conclusions or are counter to the argument being made by the commenter. A primary consideration that must be made in evaluating the applicability of these sources is that all three of the cited papers specifically focus on prey species, either small birds or ungulates (*e.g.,* hooved animals such as deer, moose, or caribou). The behaviors of prey vs. predator wildlife species display when confronted with humans are not interchangeable and they cannot be assumed to act similarly. Many prey species view humans as predators and elicit similar responses, whereas this cannot be assumed true for predator species such as polar bears. Therefore, the response of small birds and ungulates to humans should not be used as proxy for the response of apex predators (*e.g.,* polar bears) as the commenter has done.

Furthermore, the conclusion drawn from these specific articles does not directly support the claim that wildlife is significantly more disturbed by direct approaches than tangential movements. In Fernandez-Jurcic et al. (2005) the authors found that four of the five birds in their study were disturbed (measured as ''flight initiation distance'' (FID)) at greater distances from tangential approaches than in direct approaches. The second referenced paper that focuses on birds, Blumstein et al. (2003), did not compare nor attempt to compare direct and tangential approaches. This study only assessed the impact of direct approach on various bird species. Secondly, a major conclusion drawn by the authors is that the distance that elicits disturbance response in wildlife is species-specific and cannot be easily applied interspecifically (between species). A conclusion that is particularly pertinent when using the results of Blumstein et al. (2003) to make assumptions about polar bear behavior. The third article cited by the commenter concludes that ungulates, which are a prey species, are more likely to be disturbed by humans on foot than other stimuli (*e.g.,* vehicle, human noises). However, as previously mentioned, responses of prey species (which often view humans as predators) are not a valid proxy for the response of apex predators like polar bears to humans. When other researchers have compared the behavioral impacts of humans on multiple predator (including grizzly and black bears) and prey species (all ungulates) they found different behavioral reactions between the two groups of wildlife (Granados et al. 2023).

Comment (103): The requester states that there are no Industry activities, even pipeline surveys, that intentionally or repeatedly hover a helicopter above a known polar bear den as they state was done in Case Study 4. The requester suggests that conflating the research activities described in Case Study 4 with industry activities inflates estimated probabilities of harassment and the projected potential for take, specifically the risk of Level A or lethal take. They further state aircraft-based surveys of pipelines are unlikely to overlap with maternal polar bear dens

because there are few polar bear dens that occur in the region relative to the suitable habitat in the coastal plain, spills are rare and distributed throughout a large network of infrastructure, and only remote stretches of pipelines are surveyed via aircraft.

Our Response: The FWS has provided clear justification for its use of case studies that have a research component. We agree that case studies concerning activities that are not analogous to the specified activities in terms of their potential to impact polar bears should not be incorporated into the inputs of predictive modelling. Over the years, we have carefully scrutinized the case studies applying this standard and have in some instances removed case studies that after further review were deemed non-analogous. However, wholesale removal of all case studies concerning activities entailing a research component is not appropriate, as some activities conducted for the purpose of research closely parallel activities conducted by Industry for other purposes in terms of their capacity to impact polar bears. In other words, the status of the person conducted the case study activities, and the purpose of such activities, matter less than the extent to which the case study activities parallel the specified activities in terms of factors such as equipment used and stimuli produced. With respect to the example cited in this comment, while routine pipeline surveys generally occur at a higher altitude and in a linear fashion, weather conditions or other operational needs may require aircraft to fly lower or to revisit or hover over certain areas. Considering a case study that improves understanding of how such activities may affect polar bears helps us more accurately estimate take from analogous specified activities in the future.

Comment (104): Commenters suggested that the case studies used in the FWS's analyses resulted in an overestimation of effects of oil and gas activities to denning polar bears. The commenters cited differences in distances from and nature of sources of anthropogenic disturbances, seasonality, den phenology, and location as factors in the FWS's interpretation of the data in a manner that the commenter deemed overly conservative. Commenters stated that the den case studies used to estimate den disturbance rates are substantially closer to industry activities compared to the distances of simulated dens to industry activities, thus resulting in the denning model overestimating take.

Our Response: We agree with commenters that there is a relationship between the distance between a den and the source of disturbance. This factor was apparent in the recent study of aircraft overflights that we published on the relationship between altitude and polar bear take. Unfortunately, these data are challenging to collect in a designed study because they would require purposefully disturbing dens, which could lead to significant demographic impacts to the population. Instead, we must rely on existing case study data to help inform this critical model parameter. The arguments made by the commenter highlight this difficulty. While it is true that the distances between simulated dens and Industry are on balance higher than in the case study dataset, this is likely attributable, at least in part, to detection bias toward dens found closer to infrastructure. But just because fewer dens were detected farther from human activity in the case studies does not mean that dens farther out were not disturbed; it is possible such dens existed and were disturbed but were not detected. Numerous case studies show that bears can be disturbed by human activity at distances greater than those suggested by the commenter, and we appropriately account for this possibility.

Comment (105): One commenter stated 805-m buffers are inadequate to prevent disturbance of polar bears, especially since bears cannot distinguish between industrial activity and research monitoring.

Our Response: The FWS has not included 805-m buffers in the mitigation measures for this ITR. The ITR requires 1.6 km (1 mi) operational mitigation zone around putative polar bear dens.

Comment (106): One commenter stated that the fact that female polar bears have rarely been observed abandoning a den during early denning, which is the FWS's stated rationale for restricting the denning impact area to half a mile during the early denning stage, does not necessarily mean that polar bears have not experienced harassment expressed in another form (*i.e.,* physiological injuries) during this stage. Their comment suggested the FWS should consider this possibility and discuss information such as studies of noise propagation and detection probabilities as a function of distance from dens (Owen 2021), highlighting that the FWS supplemental analysis states that ''successful denning, birthing, and rearing activities require a relatively undisturbed environment.''

Our Response: It is possible that denning females could react inside the den in response to outside activities. However, the FWS has no data to determine if this occurs, how it would manifest (in the small space of a maternal den there are few ways behavioral patterns may be disturbed), and if it does, how frequently. The commenter is also correct that the referenced study provides information on how noise from different sources of anthropogenic disturbance propagates into the den at different distances. However, this study provides no information on how bears respond to the different activities, thus cannot be used to inform response rates to maternal females while inside the den (a time where their responses to activity cannot be observed).

Comment (107): One commenter states the louder and closer an exposure is to a den, the more likely is to affect a denning bear, and den Case Study 32 should not be included in the case studies to classify den disturbance rates.

Our Response: The FWS agrees that there is a higher chance of disturbance occurring to dens closer to sources of disturbance. However, to claim that the level of disturbance experienced by this bear is an outlier is not supported by other observations in the collection of case studies. For example, Case Studies 58 and 59, which both involve exposure to only industrial activities, both describe dens that had significant sources of disturbance occurring for prolonged periods, immediately adjacent to the dens. Thus, the den from Case Study 32 is relevant to retain.

Comment (108): The requester stated that the FWS-proposed 1 mi mitigation zone around denning polar bears is not practicable on the basis that it is unnecessary. The requester stated the FWS should adopt the 805 m mitigation zone around polar bear dens included in their Request, referencing data showing the reduced likelihood of disturbance of denning bears beyond 805 m. The requester also pointed to FWS's use of a 805 mitigation zone in recently-issued an incidental harassment authorization as evidence that a 805 m mitigation zone is more than sufficient to effect the least practicable adverse impact on denning polar bears.

Our Response: As stated in the proposed ITR, the FWS ''ensure[s] the least practicable adverse impact by requiring mitigation measures that are effective in reducing the impact of specified activities, but not so restrictive as to make specified activities unduly burdensome or impossible to undertake and complete.'' While we agree that likelihood of disturbance decreases as the distance between human activities and dens increases, the best available scientific evidence shows that denning polar bears can be disturbed at distances

greater than 805 m (0.5 mi). We thus find that expanding the 805 m mitigation zone proposed in the Request to a 1 mi mitigation zone (1,610 m) as contemplated in the proposed ITR will be effective in reducing the impact of the specified activities. We have not been provided any information demonstrating why implementing a 1 mi mitigation zone would be so restrictive as to make the specified activities here unduly burdensome or impossible to complete, and note that a 1 mi mitigation zone is required and has been successfully implemented via the current 2021–2026 Beaufort Sea ITRs. With respect to the one recent instance where we imposed a smaller, 805 m mitigation zone in an incidental take authorization, our determination to do so was based on project-specific safety considerations due to a specific sea ice route that required grounded ice.

Comment (109): The requester cited the conclusion of Larson et al. (2020), that denning polar bears on Alaska's North Slope are overtly unreactive (*i.e.,* largely tolerant) of human activity near den sites (<1.6 km) and that den abandonment did not occur when bears were exposed to low levels of disturbance.

Our Response: The requester is selectively using Larson's study to make their point. However, in the results section of Larson, they showed that 37 percent of dens displayed disturbance at levels that would be considered by the authors to be harassment under the MMPA. Even low-intensity stimuli for large machinery resultede in 31 percent of dens displaying behavior consistent with harassment. Thus, the statement cited by the requester is not representative of ultimate findings of that same study.

Comment (110): One commenter stated the FWS should analyze the potential impacts of AIR surveys as direct, not incidental, take.

Our Response: The FWS has considered this, and after reviewing hundreds of hours of FLIR footage, not a single instance of polar bear harassment (which would be readily apparent in the survey footage) was noted. We also note that if harassment were to occur from AIR surveys, it would meet the criteria of an incidental, as opposed to intentional, take.

Comment (111): One commenter stated that the FWS restricting simulated dens to be located on the mainland because no permanent infrastructure occurred on the barrier islands implies that only permanent infrastructure can disturb denning polar bears. This assumption conflicts with the FWS's statement that oil and gas activities, such as road construction and use, snow road construction, maintenance and use, and survey activity (including seismic surveys), have the potential to disturb denning polar bears.

Our Response: The FWS simulated dens on barrier islands, and where the spatio-temporal footprint of the specified activities overlapped with these simulated dens, the predictive modeling estimates incorporated that den exposure.

Comment (112): One commenter stated that there is no foolproof technology available to oil and gas workers for detecting polar bear dens, suggesting this may result in thumper trucks crushing dens.

Our Response: We agree there is no foolproof way to detect all polar bear dens on the landscape. However, our analysis has shown that the probability of running over a den would have a very low probability given the large area they occur over, existing mitigation measures, the fact that companies actively avoid building tundra travel or ice roads on steep slopes (*i.e.,* the same terrain bears create dens). We considered this risk in our analysis.

Comment (113): One commenter stated the proposed ITR and associated analysis should address the potential for the specified activities to create conditions that are attractive to bears seeking to create a den, including but not limited to, the likelihood that the presence of a road will result in the accumulation of drifting snow. This could result in polar bears denning in areas of high disturbance. The commenter stated FWS should address the likelihood of this occurring and whether it meets the MMPA definition of harassment.

Our Response: The FWS relies on interferometric synthetic aperture radar data to define where denning habitat exists to simulate dens. This dataset captures many man-made features where snow could accumulate, so this is accounted for in our modeling.

Comment (114): One commenter stated that the proposed ITR did not explore certain conservation concerns that, in contrast, were discussed in the FWS draft stock assessment reports for SBS polar bear. These concerns included potential negative impacts to denning bears from increased shipping and an expanding industrial footprint in northern Alaska, as well as negative impacts to the value of denning habitat from nearby infrastructure and the lack of a reliable method for detecting dens early in the denning season.

Our Response: Impacts to sea ice-based maternal polar bear dens from changes in shipping practices were not included in the FWS estimates for the proposed ITR because ice breaking during denning season was not included in the specified activities. The effects of an expanded industrial footprint on land were included in our predictive modeling efforts. We did so by using the geospatial files provided by AOGA at our request.

Comment (115): One commenter stated FWS should fully analyze the potential effects of AIR surveys, monitoring activities, and operational activities on denning bears, including the potential for disturbance, injury, or mortality. The commenter also stated the FWS must justify any reduction in den protection measures with best available science, and the potential impact to polar bear dens from repeated AIR surveys must be discussed.

Our Response: After reviewing hundreds of hours of FLIR footage, not a single instance of polar bear harassment was noted so the FWS no longer considers it a source of disturbance for denning polar bears. We have considered the impact of operational activities on polar bears in its assessments. We do not anticipate impacts from specific monitoring activities that are not already captured by our assessments of operations, as all monitoring would be completed in conjunction with operational activities.

Comment (116): One commenter suggests that the proposed ITR does not address whether AIR surveys are expected to be equally effective throughout the area of the proposed ITR. The commenter specifically states that the proposed ITR should address the impacts of infrastructure that could warm the landscape, such as pipelines, drill pads, or buildings, on the efficacy of AIR surveys.

Our Response: It was previously thought that warmth from infrastructure could impact FLIR survey efficacy, but in recent years, operators have shown that they can conduct FLIR surveys adjacent to pipelines without the imagery being washed out by the heat emanating from the pipeline.

Comment (117): One commenter stated that the distribution of denning in the FWS denning model does not adequately account for specific denning hotspots and that the model's kernel density map bleeds concentrated high-use denning habitat into less important denning habitat.

Our Response: The FWS uses the best available published scientific data (Durner et al. 2018) to estimate the kernel density map. Not all dens in Durner et al.'s den catalogue, however, are appropriate for estimating a

utilization distribution because a majority of those dens do not have information on the search effort. Thus, many of the dens are likely biased towards areas where humans are more likely to be present compared to areas further from human settlements and infrastructure. Accordingly, we utilize a subset of the Durner den catalogue to estimate the denning utilization distribution, relying only on those dens identified from a satellite collared bear, or one where a den was discovered from a systematic survey of VHF-collared bears on the landscape. This was done to ensure that the assumption could be made that the dens are a representative sample of where dens occur on the landscape rather than representative of where dens are most likely to be observed by humans on the landscape. As such, we recognize that certain areas might not be identified as ''hotspots'' where dens have been seen in the past (but not identified through systematic surveys). We continue to add additional dens to the den catalogue and update the den UD as new dens are discovered from collared bears. The commenter is also correct that the UD ''bleeds'' into areas with ''less important'' denning habitat. This is a standard feature of UDs and those that use UDs must strike a balance between having too small of a kernel (*i.e.,* too little smoothing) vs. too large of a kernel (*i.e.,* too much smoothing). We have attempted to strike this balance with our chosen kernels to ensure that with our relatively limited dataset, we're not underweighting areas that don't have a known den present but are still within the general vicinity of where dens have been observed. The commenter is also correct that our current approach may miss certain areas that are used repeatedly across years if denning by a collared bear did not occur in that area. This again is partially overcome by using larger kernels. We also note that as more bears are collared through research, our unbiased sample of dens will increase and will better capture these nuances. This was shown to be true in this current ITR as we included an additional den on Howe Island (an important denning area that did not have a usable sample previously).

Comment (118): Commenters stated mitigation measures are insufficient because AIR surveys fail to detect a substantial portion of polar bears, with many commenters referencing research findings that FLIR missed detection of 55 percent of polar bear dens. Commenters additionally stated den locations are likely to change in response to habitat loss and prey scarcity, contributing to challenges with detection. One commenter stated den detection may become more challenging with increasingly unstable weather patterns due to human caused climate change.

Our Response: The FWS accounts for these potential misses in its analytical approach and this is detailed in the supplemental information. We are committed to using best available scientific evidence in our analyses and should efficacy rates change in the future due to climate change or other factors they will be modified in our predictive modeling going forward.

Comment (119): One commenter suggests that because seismic surveys must occur in winter, when it is largely dark outside, operators will not be able to see closed polar bear dens. Additionally, the commenter states that den detection using hand-held FLIR is no more than 11 percent and therefore, it is unlikely to be an effective mitigation tool for detecting maternal dens.

Our Response: The FWS views the addition of vehicle-mounted FLIR as a valuable additional mitigation measure, but also does not consider any increase in detection in the den disturbance model as a result. This is because we do not have a good understanding of how effective they are for detecting dens, aside from knowing that they are less effective than aerial FLIR. We agree that darkness in winter reduces opportunities to detect polar bear dens visually, especially given they are likely to be completely covered in snow by the time seismic surveys occur. However, our analytical methods account for the distribution of dens, their phenology, and whether they are detected by aerial FLIR or not and found a low probability of encountering dens. Those that aren't detected are accounted for in our approach and the potential for take is assessed. Further, we have considered the probability of running over dens during seismic surveys and found that to occur with such a low probability (*i.e.,* p<=0.005) that is deemed extremely unlikely to occur. Especially given that seismic vehicles won't drive over steep slopes, and this is primarily where denning habitat is located.

Comment (120): One commenter states that the FWS's modeling does not address impacts to dens on barrier island or shore fast ice. The commenter states that impacts to potential dens in these specific habitats should have been considered because AOGA intends to undertake extensive activities in the marine environment, and the geographic scope of its anticipated exploration activities is not identified.

Our Response: The FWS has previously found limited existing evidence for denning occurring on shore-fast ice, and the pressure ridges needed for snow accumulation rarely occur in shore-fast ice, so we did not include dens in these areas in our analysis. As for barrier island dens, we do simulate dens on barrier islands, but as noted, none of AOGA's proposed activities exist on or adjacent to barrier islands with denning habitat during the denning period, so there was no reason to consider disturbance to them.

Comment (121): One commenter believes that in the proposed ITR the FWS has failed to consider the possibility of a den being directly run over [by a vehicle] based on an assumption that industry operators will detect and avoid the dens when driving. The commenter also states that the requester, AOGA, does not specify the location of seismic surveys and the FWS does not properly account for the extent of these seismic surveys that will occur over the course of the 5-year period of the ITR.

Our Response: The FWS has considered the possibility of a den being run over by industrial activity and presented an analysis in the 2021–2026 ITR. First, it would be restricted to seismic surveys or the creation of an ice road or a tundra travel route. Second, those areas would receive multiple (at least 2) FLIR surveys to detect some of the dens prior to using those areas. Even when placing tightly-spaced seismic arrays over the entire 1002 area of the ANWR (where some of the highest density denning areas for the SBS are located but not within the geographic scope of this ITR) resulted in a very low probability of running over a den (<=0.005). This estimate fails to consider that typically oil operators would not develop a road/route/seismic line over a steep slope that would be challenging to get a vehicle down, where the bulk of polar bear den habitat is located. So, we have considered the risk to polar bears of being run over while in the den and found the probability to be so low that it was deemed extremely unlikely to occur.

Comment (122): One commenter states that the FWS overestimates the efficacy of vehicle-mounted FLIR to detect and avoid running over dens that occur outside of permanent infrastructure. The commenter also states that in the petition, AOGA recognizes that there are limitations the vehicle-mounted FLIR but does not identify its predicted efficacy.

Our Response: The FWS views the addition of vehicle-mounted FLIR as a valuable mitigation measure, but also

does not assume any increase in detection in the den disturbance model as a result. This is because we do not have a good understanding of how effective they are for detecting dens, aside from knowing that they are less effective than aerial FLIR. So, we don't overestimate its effectiveness.

Comment (123): One commenter stated that the FWS does not provide specific operational constraints for avoiding potential denning habitat, such as requirements to avoid driving over areas commonly used for denning. They stated the FWS's failure to define what constitutes habitat suitable for denning is problematic, and any habitats showing a difference of 1m in elevation and a slope of 8 degrees or greater should be considered potential denning habitat and should be avoided by activities proposed in this ITR.

Our Response: As was explained in the proposed ITR, prohibition of driving over areas of high relief, embankments, or stream and river crossings would be operationally prohibitive, and as such is not a practicable mitigation measure. A restriction that broad would effectively prevent ice roads and tundra travel because as the commenter notes denning habitat is widely distributed throughout the ITR region. The FWS has worked in coordination with USGS to identify potential denning habitat using synthetic aperture radar and has shared that information with the general public.

Comment (124): One commenter states that the proposed ITR overstates the ability to detect maternal dens before on-the-ground activities occur and it is probable that undetected den will be present in the geographic region. The commenter further suggest that these dens could be exposed to multiple and varied sources of potential disturbance.

Our Response: The FLIR efficacy rate used is derived from peer-reviewed studies that use empirical data to obtain their respective estimates. So, we do not overstate the detection probability, but instead rely on what the best available science says. We agree that dens that are undetected can be exposed to multiple and varied sources of disturbance, which we account for in the predictive denning model.

Comment (125): One commenter states the FLIR (AIR) efficacy rates used in the FWS predictive denning model are skewed by the inclusion of the results from Wilson & Durner (2020), and at most FLIR surveys are likely to detect 15 percent of dens. They further state that research suggests that a 15–45 percent detection rate is probably close to the highest that could reasonably be expected from FLIR surveys, and 15 percent is the most realistic rate for any given survey.

Our Response: The FLIR efficacy rate used is derived from peer-reviewed studies that use empirical data to obtain their respective estimates. We do not overstate the detection probability, but instead rely on what the best available science says. Because each of the three studies have their own unique limitations (*i.e.,* Wilson and Durner: data from Amstrup were of known dens from a helicopter; Smith et al.: data did not account for search effort; Woodruff et al.: estimates derived from artificial dens versus real polar bear dens), it is most appropriate to consider the variation across the three studies because it is unclear which one offers the ''correct'' answer. Our analytical approach takes into account the potential for disturbance to occur to dens not discovered with AIR.

Comment (126): One commenter states the FWS should more clearly explain how it factored assumptions regarding increased den detection from multiple surveys into the predictive denning model.

Our Response: The FWS explains this in the preamble text and provides its analytical code showing how this is done. If a den is not detected with a single AIR, it is available to be detected with a subsequent AIR. For each unique FLIR survey, a new AIR detection probability is obtained from the distribution that was derived from the three AIR studies we draw from to inform our analysis. Then, based on this random detection probability, a den is either detected with the updated probability or not.

Comment (127): One commenter stated the authors in Woodruff et al. (2022) appear to have not actually measured the snow depth of the den covers at the time that the FLIR surveys were conducted. They state this calls into question the study's conclusion regarding snow depth and den detection.

Our Response: As with any scientific study, there are limitations to what can be accomplished. We did measure snow depth at the time of den creation, but did not measure it after that because we didn't want to create any tracks that would serve as a cue to surveyors that a den was located there. Additionally, information on snow depth related to detection with AIR came from the dens after family groups had emerged. Therefore, even those studies didn't measure snow depth at the time of AIR surveys. Regardless, the fact that we measured it at the time of their creation, and that any substantial snowfall/drifting snow that would change their depth would be similarly (or at least randomly) applied across artificial dens. So, there would still be variation in snow depth between dens that would have emerged as an explanatory variable if it had in fact explained much of the variation in detection.

Comment (128): One commenter stated the FWS should not treat all maternal polar bear dens as detectable by AIR in the predictive modeling efforts. They further state that the inclusion of results from Wilson and Durner in their average of efficacy rates fails to consider the initial intention of the study, which was to determine the upper limits of den detection.

Our Response: The scientific literature does not provide specific metrics identifying how different features of a den affect its detection. For example, there is no information on how the local terrain affects detection. Because the AIR estimates are used to inform how likely dens (overall) are detected with AIR, we used the average detection probability across artificial dens so that it would be representative across the unknown features of simulated (and actual) dens across the landscape. The commenter is also incorrect that the goal of the study was to estimate the upper limits of detection. It was intended to estimate the mean detection probability.

Comment (129): One commenter states that the FWS rejected a mitigation measure that would have required optimal conditions for operators to conduct AIR surveys. The commenter further states that the FWS does not provide specifics on weather requirements for AIR surveys.

Our Response: Appropriate weather conditions for AIR surveys are already incorporated into the Request. We further discuss why stricter environmental requirements are not practicable in the section of the proposed ITR discussing our least practicable adverse impact determination.

Comment (130): One commenterstatedthat any mitigative benefit from vehicle-mounted or handheld FLIR surveys is negated by the potential for disturbance of nearby dens prior to their detection by such methods.

Our Response: The FWS views the addition of vehicle-mounted or handheld FLIR as a valuable mitigation measure, but also does not assume any increase in detection in the den disturbance model as a result. This is because we do not have a good understanding of how effective they are for detecting dens, aside from knowing

that they are less effective than aerial FLIR. The potential for a den to be disturbed prior to its detection via these means is accounted for in our model results.

Comment (131): One commenter said due to the low effectiveness of AIR surveys, it is reasonably certain that dens will not be detected. They also state that the FWS should not assume in their analysis that a one mile mitigative buffer is maintained around dens.

Our Response: The FWS has worked in close coordination with AOGA and LOA holders for the past 5 years of the 2021–2026 ITR. We have provided tertiary review for hundreds of hours of AIR footage and worked together to identify and mitigate potential impacts around putative dens. In that time, putative dens have been identified, mitigation measures (such as re-routing ice roads) have been put in place, and family groups have emerged. We have worked with LOA holders to carefully document bear behavior during that time. While some dens were discovered post emergence that did not appear in survey that is to be accounted for in our analysis. In the den simulation component of our predictive denning model, 181,746 simulated dens were detected out of 301,914 simulated spatially exposed dens, implying about a 60 percent rate of detection overall. This includes disturbed dens that were seen by AIR after they were potentially exposed (*e.g.* perhaps missed on first AIR but seen on subsequent AIR after exposure could have begun: 22,132 disturbed during establishment, 2,481 disturbed during early denning, including 395 dens that were both). If we subtract these ''seen but temporally missed'' dens the efficacy is reduced to 52.2 percent of spatially exposed dens were able to be mitigated due to AIR detection. It is clear that this mitigation measure is effective at identifying a portion of dens and helping FWS and LOA holders mitigate potential impacts to family groups.

Comment (132): The requester states that FWS should not discuss the uncertainty associated with the potential impacts from the specified activities because they feel there is not substantial uncertainty. They also state because human-caused mortality has not been observed in the ITR area it cannot be a potential significant effect to the SBS population.

Our Response: The FWS has detailed in the proposed ITR both the reasons we believe uncertainty may exist and how we have addressed that uncertainty quantitatively. We do not feel this justification is misplaced. We did not come to the conclusion that potential human-caused cub mortality is anticipated, however we feel it is necessary to speak to the possibility of its occurrence when generating a thorough negligible impact finding.

Comment (133): The requester stated the FWS should explain why two AIR surveys included in the Request and used to run FWS's predictive modeling are not sufficient and a 3rd survey is warranted.

Response: As explained in the preamble to this ITR, the FWS has determined that a third AIR survey is not required under the least practicable adverse impact standard.

Comment (134): The requester has suggested removal of certain language concerning appropriate environmental conditions for AIR surveys of maternal polar bear dens, stating AIR surveys have successfully identified dens in blowing snow and other forms of precipitation.

Our Response: The language has been retained because it helps promote successful detection of polar bear dens via AIR surveys.

Comment (135): The requester stated the FWS did not produce evidence that unobserved takes are occurring, such as footprints, carcasses, hair, or blood or other indications that a bear was present and disturbed by Industry activity but not observed and recorded. And even if that evidence did exist, the requester states it would not be sufficient to ascertain whether the estimates of potential unobserved take were accurate.

Our Response: The vast majority of polar bear take estimated via FWS's predictive modelling is via Level B harassment, which occurs whenever ''an act of pursuit, torment, or annoyance has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to migration, breathing, nursing, breeding, or sheltering.'' Physical evidence of a disruption in behavioral patterns is inherently limited and/or difficult to observe (as would be the case with hair), though Industry observation reports occasionally acknowledge the presence of polar bear tracks in the vicinity of Industry activities without reporting sighting of a polar bear. We also estimate limited instances of Level A harassment, which entail a potential for injury to a marine mammal, but the nature of these estimated Level A harassments would typically not result in blood on the landscape. As was explained in the proposed ITR, in the event that an estimated Level A harassment leads to survival consequences, those consequences would likely manifest after the affected bear departs from the observable area. A carcass may or may not be observable in the context of an early den abandonment, but we do not anticipate that scenario to occur from the specified activities.

Comment (136): The requester states that while bears may approach industrial observations unobserved, it is unlikely this happens in a substantial number and less likely that these unobserved bears are harassed. They state this is due to monitoring and mitigation measures.

Our Response: We recognize that oil and gas operators, especially at larger facilities, conduct significant monitoring and therefore see many of the bears that interact with their facilities. And mitigation measures certainly lead to reductions in harassment of bears. However, that does not necessarily mean that because of this, the presence of unobserved bears near Industry activities must be infrequent, or that it is unlikely that unobserved bears are harassed.

Comment (137): The requester states that polar bears are disturbed at closer distances than the FWS impact area, and therefore this increases the likelihood that disturbance is observed.

Our Response: The FWS agrees that, on average, there is a higher likelihood of a bear being disturbed the closer the source of disturbance is to the bear. However, numerous case studies show that human activity can disturb polar bears within distances considered by our modeling, and we account for this possibility. Additionally, the data the commenter is referring to only reflect the ''closest'' activity that could potentially cause disturbance, but does not account for other activities that were also present at greater distances that could cause disturbance too.

Comment (138): One commenter, referencing a previous opinion by Dr. Whiteman, states that in Woodruff et al. (2022), Data Subset 1 was the most similar data subset to industry AIR surveys and describes a den detection probability of 0.15 with confidence intervals from 0.08 to 0.23. The commenter then states that these specific data were not used in the proposed ITR.

Our Response: The FWS chose to use subset 2 of Woodruff et al. (2022) because industrial surveys are to occur during good weather conditions and if during post-hoc review it was determined that survey conditions were not adequate, a repeat survey of that region is done. So, we viewed this as the most representative metric to use based on how Industry now conducts their

AIR surveys. Additionally, because it was unclear which of the three AIR metrics was most appropriate to use, we chose the middle estimate to guard against using a metric that is biased low or high.

Comment (139): One commenter stated that the standards of ''small numbers'' and ''negligible impact'' were vague and lacked clearly defined thresholds, risking interpretation that would allow more harm than intended over time and across multiple projects. Other commenters recommended FWS define clear, enforceable science-based thresholds for what constitutes ''small numbers'' and ''negligible impact'' or otherwise address stricter limits for allowable take.

Our Response: The FWS is required to process requests under the MMPA using the terms specific to the MMPA itself, such as negligible impact, small numbers, incidental take, harassment, etc. We have provided definitions for these terms in the proposed ITR. We have provided clear descriptions of the potential impacts to polar bears and walruses. It is difficult to define a threshold for small numbers or negligible impact (*e.g.,* no more than X percent or no more than Y takes) because these values would fluctuate with stock conditions. Therefore, we have explained our determinations in the context of stock conditions as opposed to a pre-determined finite number.

Comment (140): One commenter stated the FWS negligible impact analysis included activities that have the potential to cause harm but that have not been documented to always cause harm. They stated these activities are not reasonably expected to cause harm at the rates FWS projected.

Our Response: The comment appears to note that the types of Level A harassment estimated by FWS do not always result in harm to the affected polar bear. This notion is correct in the sense that while early den emergence and early den site departure could potentially result in survival consequences for affected cubs, the probability of that result is rather low in each instance. We stands by our categorization of human-caused early den emergences and early den site departures as indicative of Level A harassment, given the statutory definition of that term. After estimating the anticipated frequency of Level A harassment, the FWS in its negligible impact analysis assessing the extent to which the estimated Level A harassments would affect the SBS stock of polar bears. The rather low probability of survival consequences associated with each instance of estimated Level A harassment is appropriately considered in the negligible impact analysis.

Comment (141): Commenters stated that a 45 percent probability of lethal take is substantial, and it is arbitrary for the FWS to consider this probability to be low enough to ignore in reaching its conclusions. Another commenter stated FWS cannot lawfully read its regulatory language defining ''negligible impact'' to require that the likelihood of harm be more likely than not when the regulation prohibits reasonably likely impacts.

Our Response: The model is complex, so there are many ways to describe the results. Specific model outputs must be considered within the larger context. For example, here, the estimated median number of lethal takes over the relevant 5-year period is 0, and as explained in the proposed ITR, ''[t]he existing dataset contains no definitive evidence that an industry activity caused a maternal den abandonment that in turn resulted in cub mortality.'' An additional way to explain our model results is that of the 2,928,877 simulated dens, 2,923,279, or 99.8 percent, were simulated to not have lethal take via den abandonment. Model outputs are also not the only source of information providing support for our larger conclusions. For instance, the analysis also acknowledges the absence of observed den abandonment and resulting lethal take over the multi-decadal history of similar activities, and our inability to quantify within its modeling the mitigative benefit of certain applicant-committed practices. On balance, the best available scientific evidence supports our finding that lethal take via den abandonment is not anticipated to result from the specified activities.

Comment (142): The requester states the FWS should explain why the result of FWS's analysis of incidental take preceding intentional take is different than those in the Request. They cite the FWS inclusion of records that indicate the potential for incidental take preceding intentional take as a distinct difference between the approaches.

Our Response: The requester is correct that the likely source of differences between requester's estimates of incidental take preceding intentional take and those created by FWS is our inclusion of records that indicate the potential for incidental take preceding intentional take. We felt this was appropriate given the broad definition of Level B harassment in the MMPA (*i.e.,* an act of pursuit, torment, or annoyance that has *the potential to* disturb a marine mammal or marine mammal stock in the wild).

Comment (143): The requester stated the FWS rationale for including predictive modeling estimates is not in line with the MMPA, which they state does not require certainty, or even require FWS to attempt to address uncertainty.

Our Response: The FWS does not characterize its predictive modeling estimates as certain to occur. Our approach for dealing with uncertainties about the extent of future impacts is explained in the preamble.

Comment (144): Several commenters state the FWS has failed to meet the requirements of the MMPA and APA due to an underestimate of potential Level A harassment or lethal take, failure to incorporate key factors into predictive take estimates, and lack of meaningful quantification, and an unlawful and arbitrary failure to evaluate its own modeling using the requirements of the MMPA and the FWS MMPA implementing regulations. The commenters concludes that for these reasons, the FWS cannot lawfully authorize an ITR, and should reject AOGA's petition. They state if changes are made, a revised proposed ITR should be made available for an additional public comment period.

Our Response: We disagree. We have carefully considered the potential impacts to polar bears and Pacific walruses and presented well-supported small numbers and negligible impact determinations.

Comment (145): One commenter stated that the FWS did not analyze their estimate for Level A harassment of denning polar bear cubs in their negligible impact determination.

Our Response: As we have stated in our negligible impact determinations, we do not anticipate loss of a cub through den abandonment. Further, the litters that experience Level A take over a 5-year period are anticipated to have an average 12.6 percent decrease in survival probability. This change in survival probability is not anticipated to have more than a negligible impact on annual rates of recruitment for the SBS stock. The stock exhibits marked natural interannual variation in cub survival rates (Bromaghin et al. 2021) which are much higher than the anticipated effect of potential disturbance. Even with this variation, the most recent science has supported that the population has stabilized (Bromaghin et al. 2021).

Comment (146): One commenter stated that disturbance may be non-negligible because polar bears remain threatened under the ESA due to ongoing sea ice loss and because data on

the global population of polar bears are incomplete.

Our Response: The FWS agrees that the primary threat that led to polar bears being listed as threatened under the ESA are still present. The FWS in its analytical methods, however, does use best available scientific evidence to account for changing patterns (*i.e.,* denning, land use, abundance) in its assessment of negligible impact.

Comment (147): One commenter stated that the FWS artificially distributed the anticipated four Level A takes across 5 years and ignored the possibility of clustered takes within a single denning season, which minimized recognition of threats facing polar bears.

Our Response: The FWS does not artificially distribute the anticipated Level A takes across the 5 years. Those estimates are derived from our analytical methods that incorporate annual variation in take based on polar bear ecology and the specified activities in the Request. By taking into account annual variability in activities and polar bear ecology, our approach already allows for clustered takes within a single denning season.

Comment (148): One commenter stated that the FWS did not explain how a reduction in cub litter survival meets the MMPA's definitions for Level A harassment and Level B harassment and how this reduction in cub litter survival would not be likely to have any long-term impacts on fitness.

Our Response: The FWS's methodologies assign Level A harassment to simulated events where human-caused disturbances cause early den emergence, on the basis that such events entail a potential to injure affected cubs. Early den emergence has been shown to reduce litter survival a short period (approximately < 100 days) in spring. We do not anticipate any longer-term effects to surviving cubs, for two reasons. First, there are no data in the scientific literature to support that assumption otherwise we would have included it. Second, because the impacts of early emergence are thought mostly to contribute to the cubs not being quite ready for life outside/away from the den, it is anticipated that these would be short-term impacts until the cubs grow large enough to have no problems keeping up with their mothers or thermoregulating. Thus, even when accounting for a potential 12.6 percent decrease in litter survival rates, it follows that the number of Level A harassments estimated by FWS's methodologies does not represent, and significantly exceeds, the number of cubs anticipated to experience long-term consequences.

Comment (149): One commenter recommends that the FWS address whether the potential harm of authorizing multiple incidental takes of polar bears within and across years and a 45 percent probability of mortality of a bear from the SBS stock is consistent with the legislative language cited in the proposed ITR advising that the probability of occurrence of impacts must be balanced with the potential severity of harm to the species or stock when determining negligible impact. The commenter further recommends that in its negligible impact analysis, the FWS should also explain how authorizing the proposed Level A and Level B harassments and a 45 percent probability of one or more cub mortalities is consistent with PBR, optimum sustainable population (OSP) and the other applicable goals and standards of the MMPA.

Our Response: We do not expect lethal take as a result of the specified activities. We do not expect the anticipated harassment to contribute to biological removal, thus it will not prevent the population from reaching OSP. We have further demonstrated in our negligible impact determinations that our predictive denning analysis indicates the Level A harassment estimated to occur during the proposed ITR period will result in no more than a negligible shift the rate of litter survival for SBS land-based dens.

Comment (150): One commenter cited Wilson and Durner (2020) when stating any lethal take from the SBS polar bear stock would prevent the FWS from meeting its requirements under the MMPA to make a ''negligible'' impacts determination. Further, the commenter, again citing Wilson and Durner (2020) stated that all dens must remain undisturbed by oil and gas activities during the denning period to meet MMPA requirements. The commenter then states that the FWS must carefully consider its finding regarding den disturbance and lethal take in relation to the attainment of the optimum sustainable population for the stock. The commenter believes the FWS has not properly considered the potential for lethal take, which renders its proposed ITR arbitrary.

Our Response: The conclusions of Wilson and Durner (2020) were drawn for the hypothetical seismic survey in the ANWR (not included in the geographic area of this ITR). While the FWS draws on the core methodology presented in Wilson and Durner in the analysis here, the conclusions of the prior study cannot be transposed here, where the specified activities are in a different location and predominately of a different nature. Also, in the 6 years since that 2020 study, we have additional information to help us better understand the potential differential impact of Level A harassment on polar bear litter survival probabilities and corresponding impacts to the SBS stock.

Comment (151): One commenter stated that the FWS mixes likely impacts on individual polar bears and impacts on the SBS stock of polar bears from the specified activities. They indicated that the FWS's evaluation of Level A harassment and mortality to denning cubs and the FWS's statement about not anticipating lethal take during the specified activities was an example of the mixing of impacts on individual polar bears versus impacts on the SBS stock of polar bears.

Our Response: The FWS has not mixed impacts, rather we have presented both potential outcomes. However, in an effort to present both the potential impacts from lethal take (which is not anticipated) alongside the potential impacts of Level A take, we have presented a revised figure 3 in the final ITR. This figure accounts for both potential impacts when examining the estimated changes in litter survival probability for SBS land-based dens over the 5-year period of the ITR.

Comment (152): One commenter stated that compounding effects of Arctic warming should be fully incorporated in the FWS's negligible impact determination since these factors ''multiply the vulnerability'' of polar bears and walruses. These effects include declines in sea ice, increased land-based polar bear denning near Industry, declines in Beaufort Sea polar bear survival and abundance, and changes in the prey base for both polar bears and walruses.

Our Response: The FWS does consider the effects of climate change on polar bears in its assessments. We consider the more current science on the abundance of the SBS stock which drives how many bears are on shore and denning each year. Further, we consider factors that have been shown to affect polar bears directly as a result of changing sea ice patterns (*i.e.,* increased denning on shore and increased use of land during the summer). Additionally, the denning phenology data we uses in our analyses is derived from empirical data that includes data reflecting how climate change is impacting the SBS stock.

Comment (153): One commenter stated that regulatory compliance under the proposed ITR should not rely on whether impacts are below a static

threshold that is considered to be ''negligible'' but instead should require demonstration that all reasonable and available measures to further reduce disturbance have been implemented.

Our Response: The proposed ITR addresses requirements for incidental take authorizations that are specified in the MMPA. These include a requirement that the total of such taking will have a negligible impact on species or stock, which is defined in 50 CFR 18.27 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival. The MMPA also requires that ITRs prescribe means of effecting the least practicable adverse impact on species or stocks, which we have done in this rule.

Comment (154): One commenter stated that the requested authorization would allow industrial activities across extensive areas of marine and coastal habitat in the Beaufort Sea region and questioned the FWS determination that disturbance resulting from the specified activities would be negligible in light of the large spatial and temporal scale of the activities.

Our Response: ITRs do not authorize the specified activities; they only allow for the incidental take that results from those activities. We considered the spatio-temporal footprint all of these operations in our analytical approach and were still able to reach our conclusions.

Comment (155): One commenter stated the proposed ITR's negligible impact finding fails to properly account for cumulative effects over the full 5-year period, as required by the MMPA and as the Ninth Circuit recently ruled in challenges to the prior Beaufort Sea ITRs. They stated that year-by-year assessments that downplay or re-categorize injurious takes do not satisfy the statute's plain language requiring evaluation of the total authorized take.

Our Response: The FWS has addressed total estimated numbers of Level A harassment and the probability of lethal take aggregated across the 5-year period in its negligible impact determination.

Comment (156): One commenter stated that no lethal take could be considered negligible and allowable under the MMPA.

Our Response: The FWS does not anticipate lethal take of polar bears as a result of the specified activities.

Comment (157): Two commenters stated the FWS discussion about compensatory mortality is unsupported and misleading because Regehr et al. (2017) found in some cases, even a very small decline in the number of yearlings per female (*i.e.,* a decline that could be driven by human-caused mortalities) could change a population trajectory, and that the impacts of such mortalities ranged from negligible to being capable of contributing to population collapse. They stated that the FWS has not met its burden to substantiate with evidence any assumption that cub deaths from the proposed activities would be compensatory rather additive, particularly since current SBS polar bear population estimates include substantial uncertainty.

Our Response: Scientific information concerning the rather limited impact that natural cub mortalities have on the SBS stock is presented to contextualize the extent of impacts from any human-caused mortality.

Regehr et al. (2017) noted that polar bears are capable of stronger compensation for human-caused removals than were previously expected. Additive and compensatory mortality are foundational concepts in wildlife management because they determine how different sources of death affect overall population dynamics. Compensatory mortality is tightly linked to density dependence, because populations experiencing density-dependent regulation can replace some mortality through increased survival or reproduction of the remaining individuals. The SBS stock has likely stabilized since its decline early in the 2000s (Bromaghin et al. 2021), indicating that the stock has likely reached a density in line with its current carrying capacity.

Regehr et al. (2017) found that some loss of polar bears from a stock could be compensated for and mitigate the risk of population declines caused by habitat loss if certain conditions are met. This could either be that climate change affects polar bear stocks primarily through density dependent mechanisms or that management intervals are short enough to respond to potential density-independent reductions in productivity. Evidence for this has been provided for the Western Hudson Bay subpopulation (Lunn et al. 2016) which has exhibited similar declines as the SBS. We believe the SBS fits a similar pattern as studies have shown evidence of reduced prey availability leading to increased periods of fasting (*i.e.,* fewer prey available to support historic numbers of bears; Rode et al. 2018 Global Change Biology). The other condition that Regehr et al. (2017) noted was having management intervals that are short enough to respond to potentially density-independent reductions (*e.g.,* significant oil spill) in their maximum net productivity. This condition is also met because the applicant is required to report all forms of take and polar bear sightings as they occur and the FWS can readily respond to any large changes in the stock. So, the management interval is sufficiently short (*i.e.,* daily) to allow this. We do not consider any potential cub deaths (which are not anticipated) to be additive mortality, but rather compensatory mortality.

Our view that the loss of a cub is less impactful to population dynamics than other age classes is supported by the work of Regehr et al. (2017) that found adult females with yearlings had reproductive values more than twice as large as a 2-year old female because of the need to survive until adulthood before they can reproduce. Thus, a cub-of-the-year's reproductive value would be even less given the lower survival rates expected for cubs (Bromaghin et al. 2021) and the time required until they reach reproductive age (4-years old at a minimum).

Comment (158): One commenter stated that the FWS did not provide data to support their conclusion about implementation of mitigation measures will likely reduce impacts on denning polar bears.

Our Response: We disagree. One of the biggest mitigation measures is the use of FLIR to detect dens so they can be avoided. We account for these detections in our analyses, and thus provide data on how many dens would be detected by FLIR and thus avoid being disturbed (or being disturbed further) if exposed to disturbance causing agents before detected by FLIR. FWS staff also have firsthand experience with the successful implementation of mitigation requirements that arise where a known or suspected den is discovered in the vicinity of Industry activities. These events are reflected in case studies incorporated into FWS's analysis.

Comment (159): One commenter stated that the FWS did not explain whether the FWS's predictive model estimates or estimates described in AOGA's Request were supported by the best available scientific information.

Our Response: We made it clear in our small numbers and negligible impacts determinations that we considered both the results from our predictive modeling estimates and the estimates provided in AOGA's request.

Comment (160): One commenter stated the proposed ITR is flawed in justifying the lethal take of cubs by focusing on the survival of reproductive females when cub survival has a high

correlation to long term population abundance.

Our Response: The FWS does not anticipate lethal take of polar bears as a result of the specified activities and has accounted for the possibility of reduced cub survival in its negligible impact analysis.

Comment (161): One commenter stated no lethal take of polar bears could be considered negligible in light of projected population declines, as any lethal take would accelerate extinction.

Our Response: The FWS does not anticipate lethal take of polar bears as a result of the specified activities and has accounted for the possibility of reduced cub survival in its negligible impact analysis.

Comment (162): Some commenters stated FWS should consider the age, sex, and reproductive viability of polar bears and walruses that will be taken in its negligible impact analysis since impacts on certain age or sex classes are more likely to affect the population. One commenter stated that mortality of even a single reproductive female polar bear risks compounding population decline disproportionately and should not be deemed biologically insignificant. Another commenter stated death or injury of a bull walrus would have a disproportionate effect on the genetic makeup of the next generation.

Our Response: We do not anticipate more than Level B harassment of sows with cubs of the year, even when the cubs are estimated to experience Level A harassment. A comparison of how male and female cubs could influence future recruitment is provided in the negligible impact analysis. Regarding potential walrus impacts, we disagree the death or injury of a bull would have a disproportionate effect on the genetic makeup of the population, particularly due to the panmictic nature of the population and large population size. However, we do not anticipate more than Level B harassment of a very small number of Pacific walruses that are outside their typical home range.

Comment (163): One commenter suggests that just because a number of takes does not exceed the PBR [potential biological removal], it does not automatically provide a rational basis for concluding that the impact on the species is no more than negligible, and FWS must also demonstrate that the taking comports with achieving a sustainable population.

Our Response: The rule explains how FWS reached its negligible impact finding. We did not categorically assume that takes that do not exceed PBR must be no more than negligible.

Comment (164): One commenter states the FWS qualitative assessments of negligible impact are flawed because they discuss the large number of human-polar bear interactions that are not anticipated to result in harassment and the large number of SBS maternal polar bear dens that are not anticipated to be exposed to industrial activity.

Our Response: The FWS has presented a multi-faceted discussion about the potential impacts to the population from the specified activities. The limited impacts of Level B harassment, and the small proportion of SBS polar bear dens that could be disturbed by the specified activities, are relevant aspects of that larger discussion.

Comment (165): One commenter states that the FWS did not consider the potential impacts to polar bears that experience more than one take by Level B harassment.

Our Response: While the FWS does state in the proposed ITR that repeated Level B harassment may rise to the threshold of Level A harassment, we do not anticipate it as a result to SBS polar bears from these specified activities. We anticipate Level B harassment will be limited to short-term, temporary behavioral disruptions. This assumption is based on records from our LOA database, where over more than 20 years we have not documented evidence of repeated Level B harassment events leading to potential injury.

Comment (166): One commenter states FWS has already accounted for the benefit of AIR surveys and buffers around putative dens in their quantitative take estimates, and therefore they cannot reasonably rely on them in qualitative negligible impact analysis.

Our Response: The commenter seems to be mistaken about the inclusion of mitigation measures in our analyses. The FWS is not double counting mitigation measures, however there are some mitigation measures whose efficacy could not be quantified (*e.g.,* staff training, vehicle and hand mounted FLIR). In those instances, we have discussed the benefits of the measures qualitatively.

Comment (167): One commenter states that Congress intended that FWS consider the severity of the potential impact on the population when evaluating what risk would be low enough to reach a negligible impact finding, and that the FWS balance the probability of occurrence with the potential severity of harm. The commenter further states that the FWS did not analyze the severity of the impact from losing one or more cubs given the decline of the SBS population, nor balance this probability with the severity of the impact. Citing the opinion of Dr. Steven Amtrup that any additional injury or loss of a cub is a significant impact to the population due to the already reduced survival of SBS cubs, the commenter suggests that the FWS must better explain how the potential injury or loss of a cub could be considered negligible.

Our Response: As the FWS has stated in our negligible impact determinations, we do not anticipate loss of a cub through den abandonment. Further, the litters that experience Level A take over a 5-year period are anticipated to have an average 12.6 percent decrease in survival probability. This change in survival probability is not anticipated to have more than a negligible impact on annual rates of recruitment for the SBS stock. The stock exhibits marked natural interannual variation in cub survival rates (Bromaghin et al. 2021) which are much higher than the anticipated effect of potential disturbance. Even with this variation, the most recent science has supported that the population has stabilized (Bromaghin et al. 2021), while also accommodating ongoing subsistence harvest. The FWS's negligible impact analysis discusses the possibility of cub mortality and the extent to which it would affect the SBS stock based on a variety of relevant biological factors.

Comment (168): One commenter stated that the FWS is using outdated population data to inform its analyses, noting that the data used to inform the current SBS stock size was collected from 2001–2016. The commenter believes that these data are not sufficient to estimate a current population [stock] size and cannot be used to inform the FWS's negligible impacts determination.

Our Response: The FWS uses the best available science on the current size of the SBS stock. It is not uncommon for updated abundance estimates for polar bear stocks to occur at intervals >10 years. The commenter is incorrect that the SBS stock is in rapid decline. While it's true that the stock did suffer a significant decline in the early 2000s, Bromaghin et al. (2021) found that that decline had largely leveled off and the subpopulation's abundance had likely stabilized. We are not aware of any more recent research that has shown that the subpopulation's decline has likely begun again.

Comment (169): Commenters stated other forms of anthropogenic take must be factored into the baseline for the species in considering whether take will have a negligible impact. One

commenter stated the proposed ITR does not connect essential information on the annual number of human-caused mortalities for SBS polar bears (*e.g.,* polar bear harvest under the Iñupiat-Inuvialuit Agreement) to its analysis of impacts on the SBS stock from oil and gas activities, including impacts to the population and to subsistence uses. They stated the FWS's failure to discuss whether take under the proposed ITR would have a negligible impact (*i.e.,* an impact that is consistent with the stock reaching or maintaining its optimal sustainable population) in light of ongoing take and other mortality events renders the proposed ITR arbitrary and capricious.

Our Response: We have considered impacts to SBS polar bears in light of the environmental baseline, which includes ongoing subsistence harvest. The analysis draws heavily from the stock assessment report for SBS polar bears. This report includes descriptions of the stock and its range, a minimum population estimate, net productivity rate, and current population trend, an estimate of the potential biological removal level, an estimate of human-caused mortality and serious injury, and a categorization of the status of the stock. Through these stock assessment reports, we analyze the baseline impacts to SBS polar bears. We have taken this information into account in small numbers and negligible impact determinations. The most recent draft polar bear stock assessment report is included by reference into the proposed ITR.

Comment (170): One commenter stated that FWS's estimate of 20 walruses being taken per year underrepresents walruses' sensitivity to noise disturbance and that FWS should further assess the extent of harm to Pacific walruses in the Beaufort Sea and account for potential cumulative effects from repeated disturbances.

Our Response: Given the scarcity of walruses in the ITR area and the mitigation measures incorporated into the Request, it is highly unlikely that the specified activities could take more than 20 walruses per year.

Comment (171): One commenter stated that there could be a good opportunity to conduct research in association with the proposed ITR on how repeated takings affect overall health of polar bears and Pacific walruses.

Our Response: Whereas we agree with the commenter that these types of data would be valuable to informing future incidental take authorizations, research to obtain them is outside of the scope of our authorization. We also agree with the commenter that these type of data are not yet available for polar bears or walrus and would thus not be possible to include in our analyses because we don't know if this effect exists, and if it does, what the magnitude of the effect would be.

Comment (172): One commenter states that the FWS does not explain why it used the estimate of 907 polar bears in the SBS stock when the FWS's draft SAR changes that estimate to 819 polar bears in the SBS stock.

Our Response: The FWS does explain its presentation of both 907 and 819 estimates. The draft stock assessment report has not been finalized, thus it would be pre-decisional to use draft numbers for our formal assessment of small numbers. However, we provided the small numbers estimates with respect to 819 as well, in the event the SAR are approved during the ITR period, so that the public may have the information.

Comment (173): One commenter states the FWS has failed to consider whether the total take being authorized over a 5-year period (422 takes by Level B harassment of 199 individual polar bears) can reasonably be considered small numbers.

Our Response: The numbers reported represent a reduction of repeated bears within a year, but we do not have any data to estimate the rate of repeats between years, so the 5-year totals reflected in our estimates are simply derived by adding up the total number of individuals for each year without regard to any of them being potential repeats. The probability that none of these are repeats is extremely low. If we assume 49 individuals per year, the probability of choosing 49 new individuals every year for 5 years is 0.00000000001 (1 e–11). This also supposes that the bears can come randomly from the entire SBS stock of 819 bears. If we presume that only 75 percent (614) of the bears visit land, that probability reduces to 4.8e–16, 50 percent (410) even further to 4.8e–26.

Comment (174): One commenter stated they are concerned the structure of FWS's small numbers determinations are vulnerable and warrant consideration due to the *Loper Bright* v. *Raimondo,* 144 S. Ct. 2244 (2024) decision that ended Chevron deference.

Our Response: The FWS's approach to evaluating small numbers is consistent with the best reading of the MMPA.

Comment (175): Commenters stated that by not considering the age and sex of polar bears that may be taken as part of its small numbers determination, the proposed ITR does not adequately protect the genetic integrity of the SBS polar bear population.

Our Response: Genetic variation of among polar bear stocks, globally, is very low because of the level of gene flow across the Arctic and the general lack of geographic barriers to movement. Thus, concerns about genetic diversity are not significant.

Comment (176): Commenters stated that it is against best scientific practice for FWS reach a small numbers determination while there is a lack of reliable population data for SBS bears within the past decade.

Our Response: The FWS uses the best available scientific evidence to inform its small numbers estimate. While it is true that the most recent polar bear population estimate for the SBS stock used data through 2015, it is not uncommon to have decade or more time lags between polar bear stock estimates given the challenges of studying them. Further, while not specific to the SBS subpopulation, Regehr et al. (2021) found that 10+ year intervals between abundance estimates can be reasonable and not lead to mismanagement of populations. The most recent information from Bromaghin et al. (2021) found evidence that the previously-documented population decline of the SBS had likely stabilized so we are most likely not in a situation where the population has continued to decline since 2010. There is currently an effort led by non-FWS employees to update the SBS abundance estimate with more recent data and that is anticipated to be available by late 2026.

Comment (177): Commenters stated that FWS should consider the impacts of harassment of 20 walruses relative to the total of 49 Pacific walruses that have been observed in the South Beaufort Sea between 1995 and 2023 (40 percent of animals), rather than relative to the full Pacific walrus population stock (0.0008 percent of animals), since the Beaufort Sea represents a specific portion of the walruses' range and effects are experienced by individuals present in the local area.

Our Response: The FWS's small numbers determinations evaluate if the number of marine mammals estimated to be incidentally taken is small relative to the size of the species or stock. Pacific walruses have not been found to have population substructuring, and are one large, panmictic population. As is stated in the supplemental information for the proposed ITR, the walruses found in the Beaufort Sea are extralimital, not a unique subpopulation.

Comment (178): Commenters stated that under 16 U.S.C. 1371(a)(5)(A),

small numbers must be relative to both population size and biological significance, and must account for underlying population trend and status. For a threatened, declining marine mammal population already at less than half its historic abundance, such as SBS polar bears, the killing of four cubs or even one maternal individual, and harassing up to 5.7 percent of the entire population in any single year, cannot be considered small.

Our Response: ''Small numbers'' is not defined in the MMPA, as the commenter suggests. As we stated in the proposed ITR, ''small numbers'' is defined in 50 CFR 18.27. However, we do not rely on that definition as it conflates ''small numbers'' with ''negligible impact.'' Instead, for our small numbers determination, we considered estimates of the likely number of annual takes of polar bears and determined that the estimates were small relative to the size of the SBS stock.

Comment (179): One commenter states the FWS should reassess their small numbers analysis of the Request's estimate of Level B harassment to include both the estimate of 24 bears on the surface and 3 denning bears.

Our Response: Thank you for the suggestion. We have revised the text in the ITR.

Comment (180): Commenters stated that FWS's estimates of the percentage of populations impacted are uncertain because estimates of total population size are changing.

Our Response: The justification for the proposed change in abundance estimate was articulated in the Draft SBS Stock Assessment Report. It had nothing to do with the size being uncertain, but rather accounting for a shift in the SBS boundary which reduced the overall area represented by the SBS stock.

Comment (181): One commenter believes it is irrelevant to consider the size of the specified geographical region in relation to the entire range of polar bears when the FWS makes its ''small numbers'' determination.

Our Response: The FWS qualitative discussion of the size of the specified geographical area in relation to the entire range of SBS polar bears is presented in addition to a quantified estimate of potential take from both AOGAs Request and FWS predictive modeling. We disagree that the discussion is irrelevant, as it helps speak to the proportion of SBS polar bears anticipated to be taken. We also provide additional discussion in the ITR about the number of estimated takes and the size of the SBS stock, supporting the finding that no more than a small number of individuals are estimated to be harassed.

Comment (182): One commenter states that the FWS is conflating its ''small numbers'' finding with it ''negligible impacts'' finding.

Our Response: As we stated in the proposed ITR, while the term ''small numbers'' is defined in 50 CFR 18.27, we do not rely on that definition as it conflates ''small numbers'' with ''negligible impact.'' We recognize ''small numbers'' and ''negligible impact'' as two separate and distinct requirements for promulgating ITRs under the MMPA (see *Ctr. for Biological Diversity* v. *Salazar,* 695 F.3d 893, 904 (9th Cir. 2012)). Instead, for our small numbers determination, we evaluate if the number of marine mammals estimated to be incidentally taken is small relative to the size of the species or stock.

Comment (183): Some commenters stated spatial and temporal restrictions on activities to avoid denning habitat and sensitive denning timing could protect polar bears while also avoiding limitations for projects or briefly limiting project timelines.

Our Response: Spatial restrictions on activities would not be practicable in the existing oil fields because the infrastructure is already established and operating. It would not be possible to shut down those operations annually to allow denning to occur without disturbance. Due to the large amount of potential denning habitat in northern Alaska, spatial restrictions would lead to nearly the entire operations within this application not being possible until after denning, which would not be practicable. Activities outside of the existing oil field can include seismic surveys, exploration drilling, and ice roads. Seismic surveys must necessarily be conducted in certain areas in order to acquire sufficient data to meet project objectives. Exploration drilling must necessarily be conducted within the vicinity of the target reservoir. And ice roads typically cannot be routed to avoid all areas in or near denning habitat, which is prevalent in the ITR area. Meanwhile, environmental and regulatory constraints (such as a limited season for tundra travel) dictate that these activities can only be conducted during seasonal timeframes that largely overlap with the denning season. Categorically imposing spatial and temporal restrictions at the ITR phase would make specified activities unduly burdensome or impossible to undertake and complete. That said, project-specific spatial or temporal restrictions may be imposed, if appropriate, at the LOA phase, when operational plans and specific locations are provided.

Comment (184): One commenter states that the FWS should not rely on mitigation measures to reach a conclusion that the authorized take would have the least practicable adverse impact without accurately assessing the effectiveness of each mitigation measure.

Our Response: We disagree. We have carefully explained the numerous peer-reviewed studies on AIR efficacy. There are several mitigation measures that the FWS knows are beneficial but their efficacy is variable. These include handheld FLIR surveys and personnel training. While the benefits of these measures cannot be quantified, and are therefore not included in quantitative take estimates, they can be included as measures that can go toward meeting the least practicable adverse impact standard. We have also clearly described why other possible mitigation measures may not be practicable. The mitigation measures incorporated into the Request are similar to those implemented under current incidental take authorization and have proven to be successful in minimizing impacts. To ensure the least practicable adverse impact, we evaluated various additional mitigation strategies and imposed one additional mitigation measure in these ITRs.

Comment (185): Some commenters stated mitigation measures are not analyzed or explained enough with supporting data to show that the proposed ITR meets the ''least practicable adverse impact'' requirement.

Our Response: We disagree. We have carefully explained the numerous peer-reviewed studies on AIR efficacy. There are several mitigation measures that we know are beneficial but their efficacy is variable. These include handheld FLIR surveys and personnel training. While the benefits of these measures cannot be quantified, and are therefore not included in quantitative take estimates, they can be included as measures that can go toward meeting the least practicable adverse impact standard. We have also clearly described why other possible mitigation measures may not be practicable. The mitigation measures incorporated into the Request are similar to those implemented under current incidental take authorization and have proven to be successful in minimizing impacts. To ensure the least practicable adverse impact, we evaluated various additional mitigation strategies and imposes one additional mitigation measure in these ITRs.

Comment (186): A commenter stated the proposed ITR does not ensure the least practicable adverse impact and comply with the MMPA's protective intent due to its insufficient restrictions on seismic surveys and drilling operations during sensitive periods such as denning and migration, its inadequate monitoring requirements that rely heavily on unreliable visual detection, and a lack of enforceable, real-time shutdown protocols when animals are detected near operations.

Our Response: A mitigation measure preventing seismic exploration during denning season would not be practicable, as it would completely prevent seismic exploration. Polar bears do not migrate, however during the critical period when sows are headed to the sea ice with their cubs, the FWS requires LOA holders to cease activity to provide the family group with an unimpeded path to the sea ice. We have incorporated measures requiring notification and coordination in the event of polar bear injury or death.

Comment (187): A commenter stated that it seems difficult to guarantee impacts will be minimal given the long-term effects of habitat disruption and increased industrial activity. Another commenter questioned whether the least practicable adverse impact standard could be met, given the current ecological conditions in the Arctic and the scientific evidence regarding the vulnerability of polar bears and walruses.

Our Response: We have presented a multifaceted discussion on the potential impacts to polar bears and walruses from the specified activities. This included a discussion of polar bear and walrus habitat use. The proposed ITR area is outside the range of Pacific walruses. The footprint of the specified activities does overlap with polar bear habitat, however large untouched areas of habitat remain. Thus, we feel potential habitat disruption will not prevent the impacts from being negligible.

Comment (188): One commenter asserts that the FWS treats data deficient areas as if the areas are biologically less significant than areas with greater amounts of data.

Our Response: Our predictive modeling is designed to account for areas where there has been little to no human activity and are therefore data deficient. We use relationships derived from data rich areas, such as harassment rates, spatial impact zones, and encounter rates, as well as data from outside sources such as collar data and satellite-derived habitat maps, to make an informed estimate of the harassment anticipated in newly occupied areas.

Comment (189): One commenter requests that the FWS withdraw or reject the proposed ITR and adopt a more precautionary, science-based approach that ensures enforceable protections for subsistence communities.

Our Response: The FWS's analysis is based on the best available scientific evidence. We do not anticipate the specified activities will overlap with polar bear harvest, because the vast majority of specified activities are located in an active oilfield where hunting is generally prohibited.

Comment (190): A commenter expressed concern about the level of cooperation between the oil and gas industry and Alaska Native communities, stating that without specific rules on what LOA applicants must disclose to potentially affected communities, they may leave out important information. They requested FWS provide specific information on what it will consider to be adequate safeguards in Plans of Cooperation that ensure the least practicable adverse impact on the availability of walruses and polar bears for subsistence use.

Our Response: The requirements for a plan of cooperation are listed in the proposed ITR. The FWS declines to pre-judge what project-specific safeguards are adequate prior to considering Alaska Native community input.

Comment (191): One commenter recommended that the rule fully consider interconnected impacts between wildlife disturbance and Indigenous community food security, cultural practices, and long-standing relationships with the environment when evaluating disturbance thresholds and mitigation requirements.

Our Response: For reasons explained in its analysis, FWS does not anticipate any impacts to Indigenous community food security, cultural practices, or long-standing relationships with the environment.

Comment (192): Commenters stated the proposed ITR does not demonstrate sufficiently that no unmitigatable adverse impacts to subsistence will occur, particularly as distributions of animals shift and spatial use between subsistence users and industrial activity increases. One commenter stated that effects from industry-caused shifts in animal migration routes should be considered, and they suggested more analysis on impacts to subsistence should occur at the proposed ITR stage as opposed to at a later stage when Plans of Cooperation are developed. Another commenter stated subsistence impacts should be evaluated not only in terms of direct displacement, but also in terms of ecological disruption and unpredictability.

Our Response: There is no scientific evidence to suggest shifting distributions of polar bears away from where subsistence harvest occurs. Polar bears are still primarily drawn to subsistence whaling locations each autumn (*i.e.,* Cross Island, Kaktovik) where much of the subsistence harvest of polar bears occurs. The FWS has not noted any changing movement patterns of polar bears along the coast that would indicate their movements have been hindered at the scale of seasonal movements along the coast. Industrial activities have occurred in the region for over 50 years so far and there has been no changes noted in the ability of local communities to harvest polar bears.

Comment (193): One commenter recommended that FWS solicit additional scientific review, local and Indigenous Knowledge, and expertise to refine and validate its assumptions and methodologies to ensure that estimated take levels and potential impacts to polar bears are accurately described and appropriately quantified. The commenter also stated that the FWS's analysis for take is overly precautious and that an overestimate of potential impacts on polar bears could create an unfounded conflict between industry activities and continued subsistence harvest of marine mammals.

Our Response: The FWS has frequently invited comment and discussion concerning its assumptions and methodologies and looks forward to further opportunities to continue these discussions. We does not view our analysis as overly precautious and finds that Industry activities do not conflict with continued subsistence harvest of marine mammals.

Comment (194): One commenter stated that the FWS should require the requester to notify any potentially impacted subsistence community rather than just the subsistence communities that the requester identified in their Request.

Our Response: There are limited subsistence communities in the proposed ITR area. The nearby communities of Utqiagvik, Nuiqsit, and Kaktovik are regularly notified of LOA holders' activities and would be notified when appropriate under these ITRs.

Comment (195): One commenter recommended the FWS seek to promote consistency and predictability in the issuance and administration of LOAs since clear and standardized expectations across operators enhance compliance, facilitate planning, and

reduce the administrative burden associated with case-by-case variation.

Our Response: Each LOA issued pursuant to these ITRs will include ITR-required mitigation measures and monitoring and reporting requirements. FWS works closely with LOA applicants to ensure they have the information needed to submit successful, complete LOA applications.

Comment (196): The requester states 8 Star Alaska, LLC should be eligible for coverage for LOAs under these ITRs regardless of their AOGA membership status.

Our Response: The preamble text specifically identifies that 8 Star Alaska, LLC is an eligible party to request an LOA under these ITRs.

Comment (197): One commenter requested that the FWS withdraw or reject the proposed ITR and adopt a more precautionary, science-based approach that applies conservative thresholds consistent with statutory intent.

Our Response: The FWS has relied on science-based approaches to reach negligible impact and small numbers determinations, as is outlined in its analysis and supplemental information.

Comment (198): One commenter stated that the proposed regulations appear to violate the 1973 International Agreement on the Conservation of Polar Bears.

Our Response: The FWS is not authorizing anything that qualifies as a ''taking'' as that term is defined by the 1973 Agreement on the Conservation of Polar Bears. Article VI.2 of the 1973 International Agreement on the Conservation of Polar Bears states that the Agreement shall not prevent a Contracting Party from maintaining or amending existing legislation or other measures or establishing new measures on the taking of polar bears so as to provide more stringent controls than those required under the provisions of this Agreement. Consequently, the proposed regulations do not violate the terms of the 1973 Agreement.

Comment (199): One commenter stated that the proposed ITR should not move forward until lawsuits related to recent National Petroleum Reserve-Alaska lease sales are resolved.

Our Response: The FWS declines this suggestion. ITRs do not authorize oil and gas activities themselves, they only facilitate the authorization of incidental, unintentional take of small numbers of polar bears and Pacific walruses during certain oil and gas industry activities. Resolution of those lawsuits will neither inform, nor impact the validity of, these ITRs.

Comment (200): One commenter states the FWS should evaluate whether polar bears in the SBS stock are demographically independent from polar bears in adjacent areas, because MMPA authorizations are based on stock boundaries and the stock estimates affect small numbers and negligible impact determinations.

Our Response: The FWS has previously assessed the data that exist to inform stock boundary delineations between the CS and SBS stocks. These were provided in the most recently published CS and SBS stock assessment reports. Further, there is ample evidence from multiple, independent, lines of data to support the current boundary separating the CS and the SBS. These included assessments of movement data (*e.g.,* Scharf et al. 2019), capture data (*i.e.* very limited [*i.e.,* 1–2] recapture of SBS bears in the CS and vice versa), den locations (Rode et al. 2015, Patil et al. 2022), summer land use locations (Rode et al. 2015, Atwood et al. 2016), demography and responses to sea ice loss (Rode et al. 2014, 2018), and stable isotope data (Smith et al. 2022). The commenter is therefore incorrect that the boundaries are largely based on harvest management. Although the boundaries are used for that purpose (one of many purposes), they were not developed for that purpose.

Comment (201): One commenter states there are studies that indicate there is a potential for meaningful dispersal between the SBS and adjacent stocks. They cite studies indicating broad areas of overlap between stocks (Amstrup et al. 2004, Amstrup et al. 2005), SBS bears denning within the bounds of adjacent stocks (Olson et al. 2017), and spatial overlap of GPS-tracked bears (Scharf et al. 2019). They state these studies indicate there are not strong barriers to dispersal between stocks, and there may be relatively high rates of dispersal between the stocks. Finally, they state that if rates of dispersal are high between currently identified stocks, they may not be demographically independent units that should be treated as separate stocks.

Our Response: It is true that there can be overlapping space use between the CS and SBS, but often this overlap is not accurately reflected by static maps (*e.g.,* Amstrup 2004, 2005) because often one group has already moved away from that area before the other arrives in meaningful numbers. This is likely the case for the SBS and CS subpopulations based on sea ice dynamics in the region. Retreating sea ice in the CS causes most bears to move northwest towards Wrangel Island, whereas ice retreat in the SBS tends to move north or northeast, away from the CS bears. There are only rare instances of a collared CS bear moving beyond a ''mixing zone'' into the heart of the SBS stock boundary. The same is true for the SBS moving into the CS stock boundary. Denning (based on animals collared in their respective stock boundaries) in the CS primarily occurs on Wrangel Island (Rode et al. 2015), whereas in the SBS it occurs on the northern Alaska coastal plain or the sea ice north of Alaska. Similarly, land use in summer for bears collared in the CS is largely in Russia, whereas SBS bears collared inside the SBS boundary largely summer on land in northern Alaska. Lastly, only 1–2 bears captured in the CS have been recaptured in the SBS. The same is true for SBS bears being captured in the CS. If there was significant interaction between these two stocks, we wouldn't expect to see this much space use differentiation and would further expect significantly more captures of bears outside of their respective stock boundaries. Thus, based on the commenters own metrics, we do not believe there are high rates of dispersal between the two subpopulations, further supporting their discreteness.

Comment (202): Some commenters stated that the proposed ITR is not consistent with the MMPA objective of preventing stocks from falling below their optimum sustainable population level because of the risk to denning mothers and cubs and ongoing decline of the population. Commenters also stated that an impact that is not consistent with the stock reaching or maintaining its optimum sustainable population cannot rationally be deemed negligible.

Our Response: The best available science indicates the population decline that was noted in the mid-2000s has appeared to stabilize (Bromaghin et al. 2021). The FWS does not anticipate lethal take occurring and thus there would be no anticipated reduction in the population to move the subpopulation away from OSP. Further, we disagree that any additional take of SBS bears obstructs recovery. Regehr et al. (2017) showed that a polar bear population declining due to sea ice loss can still have a level of removal that would not hinder the persistence of the population.

Comment (203): One commenter stated the Endangered Species Act will be violated should the proposed ITR become final.

Our Response: Nothing that could be authorized pursuant to the ITR would violate the ESA.

Comment (204): One commenter states that all authorized and ongoing

take of polar bears, including incidental and subsistence take from the United States and Canada, as well as unknown mortality events, must be incorporated into the environmental baseline for the FWS's analysis of take. The commenter further states that any Level A takes of polar bears resulting from oil and gas activities can reasonably be expected to adversely affect the SBS stock, have a negative population level impact, and adversely impact the availability of the SBS stock for subsistence use.

Our Response: We analyzed the impacts of the specified activities in light of the environmental baseline, which includes the factors noted by the commenter.

Comment (205): One commenter states that for the FWS to comply with its section 7 consultation requirements it must consult on multiple gas and oil related impacts including seismic exploration, construction of oil and gas production and development facilities, as well as impacts from the construction, use, and maintenance of access routes, aircraft and vehicle traffic, field crews and other human activities, and noise disturbance.

Our Response: The FWS has completed intra-service section 7 consultation for the final ITRs. The consultation considered the factors noted by the commenter.

Comment (206): One commenter suggested that the FWS should reassess its take estimate to ensure that AOGA's petition does not take polar bears in violation of Section 9 of the ESA.

Our Response: Through our section 7 consultation and corresponding incidental take statement, the FWS has ensured polar bear harassment will not violate section 9 of the ESA.

Comment (207): One commenter recommended the FWS strengthen protections for polar bear denning habitat and walrus haulouts and prioritize the long-term conservation of Arctic wildlife and ecosystems.

Our Response: The FWS is not aware of any walrus haulouts in the specified project area. Polar bear denning habitat (*i.e.,* areas with suitable terrain to capture snow sufficient for creating a den) is widely distributed across the north slope of Alaska. Even with the proposed activities, a large area of denning habitat will remain available. Only new permanent infrastructure could modify existing denning habitat, but would likely create new habitat through the creation of elevated pads/roads. Denning habitat would not be affected that occurs along tundra travel routes and ice roads because those would be created after denning was initiated by a female and would not be altered such that it couldn't be used in subsequent years. The ITRs include measures to ensure the least practicable adverse impacts on SBS polar bears and walruses and their habitat. We do not view the ITRs as inconsistent with the long-term conservation of Arctic wildlife and ecosystems, and notes that the mitigation, monitoring and reporting requirements prescribed by ITRs have a conservation benefit.

Comment (208): Commenters stated that the proposed ITR did not sufficiently consider potential impacts of repeated disturbances of polar bears or Pacific walruses across years, including potential displacement and loss of functional habitat. One commenter stated that multiple exposures of the same polar bear within and across authorizations and activities can increase the likelihood of a response rising to the level of an incidental take and/or can increase the severity of the response (*e.g.,* making an injury or serious injury and mortality more likely than from a single exposure). Other commenters stated that impacts from repeated disturbances cannot be reasonably considered as negligible. They argued that even low levels of repeated disturbance can lead to long term population consequences, particularly for populations that reproduce slowly and are already facing other pressures, including limited energetic flexibility.

Our Response: The FWS's analyses take into account climate-related changes in the distribution of bears (*i.e.,* during denning and summer land use) as well as the most recent estimate of the size of the subpopulation to reach its negligible impact determination. We consider these types of disturbance in our analyses and they are classified accordingly into Level B and Level A harassments. We are not aware of any scientific literature or data for polar bears that indicated repeated low-level disturbance (*i.e.,* Level B harassment) can have long-term population consequences.

Comment (209): Commenters stated more analysis should be completed on how the proposed ITR will affect polar bears at longer time intervals, possibly through the application of additional climate change projections, extending the regulatory timeframe by 10 to 20 years, and incorporating cumulative impacts analysis into projections.

Our Response: Per the MMPA, FWS cannot issue ITRs for periods exceeding 5 years (outside of the military readiness context). As we describe in our analysis, impacts to polar bears from Level B and Level A harassment are expected to be temporary.

Comment (210): One commenter stated any incidental take estimate included in the proposed ITR should explicitly account for detection limitations, unobserved interactions, environmental conditions that reduce monitoring effectiveness, and the likelihood and consequences of repeated exposures to the same individuals within and across years from the activities within the scope of the proposed ITR and other sources of human-caused impacts.

Our Response: The FWS agrees that accounting for <100 percent detection is important when utilizing observation data. Our analytical methods account for the fact that myriad factors (*e.g.,* weather, darkness) can lead bears and dens to be missed by observers.

Comment (211): One commenter stated that the supplemental analysis does not present analysis supporting its conclusion that apart from a large-scale illegal oil spill, impacts from Industry activity on seals are anticipated to be minor and short-term and these impacts are unlikely to substantially reduce the availability of seals as a prey source for polar bears.

Our Response: This request is to authorize the potential take of polar bears and walruses. FWS does not have authority for authorization of take of seals. Measures to minimize impacts to polar bear habitat are considered in the analysis regarding the means of effecting the least practicable adverse impact. As we stated in the supplemental information, impacts from Industry activity on seals are anticipated to be minor and short-term and these impacts are unlikely to substantially reduce the availability of seals as a prey source for polar bears. Further, the specified activities that will produce in-water sound and vessel traffic, which we have identified as the potential sources for harassment for seals, would occur during the ice-free season, when polar bears rarely hunt in the specified geographical area. Neither the request nor these ITRs contemplate authorization of take from oil spills.

Comment (212): Commenters stated that impacts of the specified activities should be evaluated in the context of cumulative stressors, including climate change, sea-ice loss, increased shipping, past take, and expanding industrial development in the Arctic with multiple operations occurring simultaneously.

Our Response: The FWS adequately considered other stressors while developing this rule. The potential impacts of the requester's specified activities were considered in light of other ongoing factors and activities

affecting the marine mammals stocks at issue.

Comment (213): One commenter states there is no accounting of how many bears FWS is allowing to be taken each year or whether the amount of take is consistent with the agency's findings and determinations because multiple separate take authorizations have been issued on the North Slope. The commenter further questions whether the FWS approach can meet its obligations under the MMPA, as the FWS does not appear to track the number of authorized takes for each permit.

Our Response: The FWS has presented MMPA determinations for each take authorization that has been issued that may impact the SBS stock, and each of these determinations include estimates of total take associated with the specified activities. The authorizations also included monitoring and reporting requirements wherein every polar bear encounter must be documented and reported to us. We report summaries of this LOA database in our supplemental information, where we discuss the spatio-temporal variability of polar bear encounters and polar bear harassment. We considered other sources of impacts to SBS polar bears as part of the baseline of existing impacts when developing these ITRs.

Comment (214): One commenter stated that the draft EA does not indicate the amount of take authorized by previous ITAs or the risk of lethal take associated with each ITA.

Our Response: The number of takes authorized in each respective take authorization can be found in those authorizations. The FWS has not anticipated lethal take as a result of any of the listed authorizations, nor has any lethal take been reported. The impacts of these authorizations are limited to short term, temporary effects of largely Level B and few Level A harassment events.

Comment (215): Some commenters stated that the FWS does not adequately consider the combined effects of habitat loss and industrial disturbances as interacting stressors in its analysis. Commenters stated that industrial disturbance could push polar bears or walruses away from limited productive foraging areas or compromise foraging efficiency. One commenter explained that land-based food sources (*e.g.,* birds, bird eggs, Arctic char, and whale carcasses) are likely to increase in importance to polar bears and help them adapt to low sea ice conditions, but industrial disturbance could limit access to these resources.

Our Response: The FWS considers changes to polar bear habitat use due to changing sea ice conditions (*e.g.,* increased land use in summer/autumn, increased terrestrial denning). Minimal industrial activities are proposed for the offshore region, primarily related to shipping. This is the area where polar bears could be displaced from foraging areas. However, the ice will have retreated from these regions by the time boats are passing through them to support Industry operations. Therefore, there should be no source of marine disturbance to hunting polar bears. While on shore, polar bears only opportunistically use resources such as birds, bird eggs, and Arctic char and there are many other areas along the coast where these resources occur. But they are not known to be important to bears even with increased land use. On the other hand, use of whale carcasses left over from subsistence hunts are an important resource to polar bears on shore in autumn. These occur away from where industrial activity is being proposed (*i.e.,* Cross and Barter islands). Thus, bears would still have access to those resources even with the proposed activities.

Comment (216): One commenter states that ensuring engagement with Alaska Native communities is not only a policy objective but is a statutory requirement. The commenter further states that consultation and coordination [with Alaska Native communities] must be substantive and enforceable, not merely procedural commitments included in operational plans. The commenter specifically recommends that FWS should: (1) require clear documentation demonstrating meaningful consultation with affected Tribal governments and subsistence organizations prior to authorization of activities, (2) establish transparent reporting requirements so that wildlife interactions are publicly documented, (3) require independent monitoring or third-party verification of industry reporting where feasible, and (4) clearly define consequences if operators fail to comply with mitigation measures, monitoring requirements, or consultation obligations. Lastly the commenter states their belief that without enforceable accountability measures, commitments regarding coordination with Tribal governments, subsistence users, and monitoring programs risk becoming aspirational rather than operational safeguards.

Our Response: The process through which LOA recipients must engage with the affected communities and develop a POC as necessary is fully described in the proposed ITR. This process has proven effective over many years at avoiding conflicts between ITR covered activities and subsistence use of marine mammals. We finds that the information that Industry is required to provide pursuant to these provision is sufficient. In prescribing Industry outreach to subsistence users, the FWS recognizes that requests for coordination from Industry may be burdensome to subsistence users, and it is important to strike a careful balance in the degree of communication. Allowing for flexibility in the process can allow for greater agency to subsistence communities that can then dictate the degree and intensity of their coordination with industrial neighbors. For instance recent agreements whereby Industry has agreed to provide transportation to sub users has decreased the probability for human-polar bear conflict.

Comment (217): Commenters stated the FWS did not adequately engage with local Alaska Native groups and consider potential impacts and concerns beyond those directly linked to subsistence harvest. Commenters stated the FWS should have considered how industrial activity will impact cultural sites and practices, incorporating Traditional Ecological Knowledge (TEK) into monitoring and regulatory plans for the area, and specific efforts to include Alaska Natives in decision-making steps, rather than simply inviting comments after the proposal has already been made.

Our Response: The FWS recognizes that TEK and IK can be part of best available scientific evidence. However, the limited degree of available TEK and IK concerning the adverse impact of industrial activities on polar bears and walruses suggests there is not an unmitigable adverse impact on the availability of these species for subsistence use. The FWS welcomes the incorporation of TEK and IK in our take authorizations through future coordination with knowledge holders.

Comment (218): Multiple commenters expressed concern that the 30-day public comment period was insufficient to time for the public to review the proposed ITR and associated documents and engage with scientific experts.

Our Response: We believe that we provided the public sufficient time to understand our approach, while still processing the Request in a timely manner. While several methods have been updated, we have used the same general methodological framework presented in the 2021–2026 Beaufort Sea ITR and its revision.

Comment (219): One commenter stated that the FWS has not undertaken a concerted effort to thoroughly engage

with the subsistence community and polar bear hunters when compiling and evaluating the scientific and other information informing its proposed ITR. They stated that early, meaningful engagement with IK holders, the North Slope Borough, its Department of Wildlife Management, and the Alaska Nannut Co-Management Council (ANCC)—all of whom have extensive knowledge of polar bears and their environment and are willing to work with the FWS—could have led the FWS to develop a more realistic forecast of potential incidental takes. They stated knowledge reflecting decades of observational data, the outcomes from real world applied approaches to mediating take, and a very long-term understanding of the behavior of polar bears within the region could have served as supporting data and observations to parameterize and validate models and assumptions utilized by the FWS, which instead adopted overly conservative estimations. The commenter stated the FWS usually only engages with Indigenous subsistence-based communities and Alaska Native co-management organizations on inputs to proposed ITRs when requesting public comment and the development process is almost complete.

Our Response: The FWS has a strong working relationship with our co-management partner, ANCC. We recognize that TEK and IK can be an important part of best available scientific evidence. However, the limited degree of available IK indicating the adverse impact of industrial activities on polar bears and walruses suggests there is not an unmitigable adverse impact on the availability of these species for subsistence use. We welcome the incorporation of TEK and IK in our take authorizations through future coordination with knowledge holders.

Comment (220): One commenter suggested FWS failed to meet an obligation for meaningful consultation with Alaska Native Tribes or corporations, as mandated by the Alaska Native Claims Settlement Act (ANCSA) and E.O. 13175. They stated FWS must require third-party Indigenous oversight of mitigation plans and halt activities where subsistence conflicts are identified.

Our Response: The FWS has complied with its Government-to-Government and Government-to-ANCSA Corporation consultations obligations and incorporated Plan of Cooperation requirements into the ITRs. The POC process provides potentially affected subsistence users and opportunity to work with operators concerning mitigation plans and any circumstances under which activities should be halted to avoid conflicts with subsistence activities.

Comment (221): One commenter states that FWS is required to consider the transboundary impacts on polar bears in the context of international obligations under the 1973 Agreement on the Conservation of Polar Bears and the 1988 Inuvialuit-Inupiat Polar Bear Management Agreement in the Southern Beaufort Sea, while assessing the effects of AOGA's petition. The commenter further states that the FWS has failed to consider how take of polar bears from the activities described in the proposed ITR will affect the quotas and management protocols established through the Inuvialuit-Inupiat Polar Bear Management Agreement.

Our Response: We are not authorizing anything that qualifies as a ''taking'' as that term is defined by the 1973 Agreement on the Conservation of Polar Bears. The Inuvialuit-Inupiat Polar Bear Management Agreement is a user-to-user agreement between the Inuvialuit of Canada and the Inupiat of the North Slope of Alaska; no other entities are signatories. The Inuvialuit-Inupiat Agreement focuses on harvest management, with only one mention of commercial activities: II.e lists 'To minimize detrimental effects of human activities, especially commercial activities, on important bear habitat' as an objective. The ITR process is designed to ensure that detrimental effects are minimized, which is consistent with the objectives listed in the Agreement. Further, the FWS believes this ITR would not result in population-level impacts on the SBS subpopulation that would impact harvest quotas or management in Canada.

Comment (222): Commenters stated the proposed ITR would have negative economic impacts by harming ecotourism or by preventing more profitable oil and gas development later in the future.

Our Response: The FWS does not anticipate any lethal take or adverse impacts to tourism. Potential impacts of the proposed ITR on the socio-economic environment are addressed in the associated EA.

Comment (223): One commenter suggests that overestimated incidental take of polar bears from the FWS's predictive modeling, especially of lethal take and Level A harassment of polar bear cubs, will impede future development of oil and gas resources and result in substantial economic losses.

Our Response: The FWS does not agree that its approach to estimating take will impede future development of oil and gas resources or result in substantial economic losses. The FWS's predictive estimates, along with the requester's estimates and qualitative factors, support issuance of these ITRs. These ITRs do not apply outside their defined geographic area and do not establish any general thresholds for what constitutes non-''small numbers'' or a non-''negligible impact'' under the MMPA. Any future requests for incidental take authorizations will be analyzed as they are submitted and we will approve such requests if we make required MMPA determinations.

Comment (224): Some commenters indicated that the proposed ITR is not sufficiently protective of polar bears and walruses because the precautionary principle should guide management decisions for species already under environmental stress. One commenter stated that proceeding with expanded or continued authorization of incidental take in the context of uncertainty surrounding climate projections, species resilience, and industrial impacts in the Arctic reflects a risk-tolerant approach that is inconsistent with conservation mandates under the MMPA.

Our Response: The FWS uses the currently best available scientific information to inform its analyses which includes information on how polar bears in the SBS stock are responding to changing sea ice conditions (*e.g.,* increased summer/autumn land use, increased terrestrial denning). The FWS uses neither a precautionary principle nor risk-tolerant approach for assessing negligible impact. Instead, we rely on scientific data to inform its decisions.

Comment (225): Commenters stated that that proposed ITR's reliance on projections, modeling, and assumptions raises serious concerns about whether a precautionary approach is being implemented.

Our Response: Under the process established by the MMPA, FWS's decisions on whether to issue requested ITRs are guided by prospective findings concerning the anticipated impacts of the specified activities. To account for uncertainties with respect to the extent of future impacts, we utilize predictive modeling, heavily informed and parameterized by data from peer-reviewed science or other empirical datasets, such as observation reports from prior analogous activities.

Comment (226): Commenters stated that not enough information was provided on potential impacts of in-water noise on polar bears, walruses, or

their prey and that is not realistic to assume that animals will move away from sources of underwater noise.

Our Response: The FWS has described potential impacts to polar bears and walruses from in-water sound in the proposed ITR and supplemental information. As we stated, the most common reaction to in-water sound is anticipated to be a behavioral response, which we also anticipate may occur due to human-polar bear or human-walrus interaction. All of the estimated walrus harassment is due to water noise, and polar bear harassment due to vessel and in water activity has been factored into take estimates as well. The vast majority of polar bear foraging occurs outside the area of specified activities. Subsistence harvested whale carcasses are also located outside the footprint of the specified activities.

Comment (227): One commenter expresses doubt on the viability of the FWS's analysis of repeat bear encounters derived from GPS location data by stating that the timing of the location data (mid-August to October) does not correspond with periods of busy onshore industrial activity and whether the sample size of 35 bears is sufficient. The commenter recommends that the FWS assumes that each take would occur to a different individual polar bear.

Our Response: The reason for limiting data to this time period and to specific hours of the day was to ensure the possibility that such encounters would have the highest probability of being seen and recorded, the metric for which we are attempting to estimate a correction factor. There were more bears with tracking data but they never came close enough to be considered an encounter by our criteria, similarly we only expect a portion of the total SBS population to visit areas with industrial activity during any given year. Because these bears are presumed to be randomly chosen from the population, even a small sample size can provide us an unbiased estimate, albeit one with a potentially higher variability than an estimate with a larger sample size. Assuming all takes are on different bears is definitely an assumption that we know is untrue given our limited data, and such an assumption would certainly introduce bias.

Comment (228): One commenter states that it is unclear how the FWS derived a 45 percent estimate when aggregating the probability of take over the 5-year period or how it developed its estimate for the median over the 5-year period.

Our Response: While the 95 percent CI for a given year may include values of concern, that doesn't necessarily mean those values are highly probable. For example, for 2026–2027 the 95 percent CI for lethal take is 0–2, but if one looks at the distribution behind that CI, we see that 88.1 percent of the values are 0, and only 7.2 percent are 2. Clearly 0 is by far the most likely outcome.

Comment (229): One commenter notes that the literature suggests polar bears utilizing terrestrial habitats for pre-denning foraging and subsequent denning on land has increased over the previous decades. They state that there is expected to be 37 land-based dens in the ITR area but they also believe that there could be more (albeit no data or sources are provided to support this specific assertion). The commenter continued on to suggest that the FWS should acknowledge that estimating current numbers of dens from historic observations could result in significant underestimates.

Our Response: The commenter incorrectly cites the results in Durner den catalogue. It is not appropriate to just look at the number of dens in that catalogue at different time intervals to show an increase in land-based denning. This is because most of the dens in the catalogue do not have any information about the search effort required to find each den. As such, the majority of dens just reflect those that were discovered as people were going about their activities on the North Slope. Thus, dens are going to be biased towards those able to be seen by humans, and thus will reflect the increasing industrial footprint rather than a 1:1 rate of increased use of dens on land. This is why we only utilize a subset of the den catalogue for our analyses (*i.e.,* those from GPS collared bears or those with VHF collars that were detected from a systematic survey of the SBS range). It is true that denning on land has increased in the last few decades for the SBS stock (*i.e.,* Olson et al. 2017), but their estimate (based on collared bears) is much lower, approximately 30 percent of dens now occurring on land. Our analytical methods incorporate this increased use of land-based dens in our analysis.

Comment (230): The requester suggests the FWS incorporate their discussion of potential impacts to marine mammals in water, which was provided in their Request. They state the FWS use of 2018 National Marine Fisheries Service (NMFS) technical guidance will be subject to much public scrutiny and is not the best available scientific information.

Our Response: The FWS has not decided whether we will adopt NMFS's updated 2024 technical guidance for assessment of potential impacts to marine mammals due to anthropogenic noise. The updates are largely focused on the effects of cumulative sound exposure, which is of less concern to polar bears and walruses than the National Oceanic and Atmospheric Administration (NOAA) trust species. Polar bears in particular rarely have their ears under water for extended periods. Using cumulative sound exposure thresholds for polar bears may result in the overestimate of take. For these reasons, we will continue to use previously established thresholds.

Comment (231): The requester points of a discrepancy between how the FWS defines the coastal and offshore zones, which they feel leads to a 0.4 km overlap in habitat zones, and asks for clarification to be provided.

Our Response: Thank you for this recommendation for clarification. The offshore zone begins 2 km offshore of the shoreline. There is no overlap in the coastal and offshore zones.

Comment (232): One commenter called into question the accuracy of using a 1.6 km buffer because it was based on the two studies that examined polar bear response distances to aircraft aerial surveys and to approaching snowmobiles. The commenter suggests that the application of the 1.6-km buffer area is scientifically flawed and contrary to observations by local residents, subsistence hunters, and industry observers. They additionally provided the example that polar bears enter local communities on their own initiative and travel through streets and between buildings with no observed behavioral response. And, in its petition, AOGA includes data from industry observations demonstrating that of 1,145 polar bears reported within 402.5 meters of industrial activities, only 103 (9 percent) had a behavioral reaction. The commenter suggested that this low reaction rate is unsurprising to them because location and occupancy of Industry (or other) structures are significantly less disruptive than the low altitude aerial overflights and approaching snow machines used to derive the 1.6-km response distance that FWS relies on to establish its presumed impact area. The commenter stated that it is not clear how or if FWS accounts for the frequency of polar bears approaching Industry facilities on their own volition. Lastly, the commenter stated their belief that the passive existence of a structure cannot cause harassment under the MMPA, and any assumptions to the contrary further skew and overestimate the amount of incidental take that may be occurring.

Our Response: The FWS disagrees with the commenter that low altitude aerial overflights or approaching snow machines are more impactful than any activities the applicant has proposed (*e.g.,* hovercrafts operating over the sea ice) thus still believes there is sufficient support in the scientific literature to justify considering a 1-mi potential disturbance distance. This is supported by our own database of encounters, which indicates bears can and do exhibit behavioral reactions past 805 m. We do not consider the passive existence of a structure as capable of causing harassment. This is why we use site occupancy rates from AOGA to inform its analysis. We do differentiate for polar bears approaching Industry facilities on their own volition as this would represent every encounter with active (*i.e.,* non-denning) polar bears. Even if bears enter facilities on their accord, they can still be disturbed by industrial activities. Further, a bear could decide to avoid entering a facility, but still be disturbed if they passed by close enough to the source of disturbance.

Comment (233): The requester stated that the FWS should list the locations with 24-hour occupancy that were used to generate polar bear encounter rates.

Our Response: Thank you for this suggestion. We have added the list.

Comment (234): One commenter suggested that the FWS's review of polar bear observation records to determine the rate at which incidental harassment proceeds intentional take overestimates the rate of incidental harassment proceeding intentional take by taking a default position that take did occur.

Our Response: The commenter is incorrect regarding the FWS's reevaluation of intentional take records to document the rate of incidental take proceeding intentional take. The default position was not to assume that incidental take occurred as stated by the commenter.

Comment (235): One commenter noted that different types of industry activities create different levels of sounds and different type of activities have different probabilities of polar bear behavioral reactions.

Response: The commenter is correct that different types of activity create different noise profiles that can be detected at different distances and thus presumably have different disturbance profiles as well. Including this level of detail, however, would require two pieces of information that we currently do not have. First, it would require AOGA companies to provide very explicit descriptions of the type of activities that could occur at every facility and piece of infrastructure because the noise profiles differ considerably on how impactful they would be to polar bears. AOGA companies have not provided that information in their application. Second, it would require activity-specific disturbance rates which do not currently exist, except for fixed-wing and helicopter overflights.

Comment (236): One commenter noted that the FWS uses occupancy of buildings, pads, and roads to estimate Level B harassment of non-denning polar bears in their predictive modeling. The commenter suggests the FWS considers a person inside a building as an exposure to a polar bear and a road being used once a day as the road being occupied. Furthermore the commenter believes that FWS's method of using occupancy in this way is overly conservative and leads to overestimations of take.

Our Response: The ''occupied''/''unoccupied'' dichotomy incorporated into FWS's methodologies provides a basis for distinguishing between facilities, roads, etc. that are being actively used and those that are not. This promotes a more accurate assessment of where and when human acts that can constitute take would or would not occur. For example, where we are informed that a given facility will not be occupied during a certain timeframe, we can reasonably assume that no human acts that constitute take would occur at that facility during the unoccupied period.

The ''exposure'' concept reflects a spatial and temporal overlap between a polar bear and the disturbance zone associated with an occupied area. An ''exposure'' is not assumed as a take. Rather, FWS applies a ''disturbance rate'' that accounts for data indicating that only a small subset of exposures result in take.

With respect to the commenter's hypothetical scenarios (a facility occupied by one person, and a road used just once a day), we agree with the general notion that an occupied Industry area featuring very limited human activity would tend to entail less potential for take than an occupied Industry area with intensive human activities (assuming equal prevalence of polar bears in the area). We could theoretically account for such differences were it to be provided with more detailed information concerning the extent of human activities in each occupied area described in the ITR request. Lacking such information, we will continue to apply general disturbance rates that account for varying intensities of human activities.

Comment (237): One commenter suggests that the 2-km coastal zone is too broad and leads to overestimates of harassment.

Our Response: We have discussed the relationship between polar bear encounters and the coastline, and acknowledge the number of encounters decreases with increased distance from the coastline. As we have stated in past comment responses, the coastal zone was established at 2 km to completely capture the large number of polar bear encounters near the shore and delineate the area between a higher rate of encounters and a very low rate of encounters in the inland zone.

Comment (238): One commenter suggests that the FWS's evaluation of the LOA database records uses an over precautionary approach which results in an overestimation of harassment.

Our Response: The MMPA does not require, nor does FWS use, a precautionary approach. However, we do calculate rates of Level B harassment, which is defined as an act of pursuit, torment, or annoyance that has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns. Our use of the 99th quantile ensures we capture the rate at which an act of pursuit, torment, or annoyance that has the potential to disturb occurs. Using the mean would only supply us with an estimate of how frequently, on average, a bear exhibits an observable harassment response.

Comment (239): One commenter notes that Industry surface activities such as exploratory drilling, gravel mining and blasting, ice and snow road construction and use, pipeline and other facility construction and maintenance, comprise the bulk of the authorized takes but are not individually analyzed. The commenter suggests that because these activities are analyzed in aggregate and not individually they feel that the analysis is too coarse to be meaningful and should be considered arbitrary.

Our Response: The scientific literature does not provide estimates of disturbance to bears for all of the different types of disruptive activities that they could encounter. As such, the FWS utilizes responses of polar bears to a range of activities while on the surface to estimate its impact. This pool of encounter records includes harassment from very intensive activities (*e.g.,* blasting) as well as less intensive activities (*e.g.,* pipeline maintenance). The rates of potential harassment from these activities will therefore average in one representative harassment rate. If we felt the specified activities in the proposed ITR were of a meaningfully

different composition than those represented in the dataset, our harassment rate would not be applicable. However, the activities are of the same general type and intensity as past ITRs. Thus, we believe this not an arbitrary decision but one that reflects the available data and likely outcomes.

Comment (240): One commenter notes that in the proposed ITR, the FWS acknowledges that Level B harassment could occur to non-denning bears. However, the commenter states that the ITR only addresses surface impacts from aircraft, vessel traffic, and other offshore noises. The commenter believes that the FWS has not addressed impacts to cubs and mothers moving across areas where seismic activity may be occurring as the bears move towards the sea. The commenter suggests that these type of exposures could create the potential for injury or mortality too and therefore, should be counted as Level A harassment or lethal take. Continuing on, the commenter asserts that not considering this potential should render the proposed ITR arbitrary and capricious.

Our Response: The FWS predictive modeling estimates of impacts to surface bears includes impacts to sows and cubs of the year. The LOA database captures observations of sows and cubs of the year as they head to the sea ice, and therefore the surface analysis predictive estimates sufficiently address their potential harassment.

Comment (241): One commenter noted that in the opinions of Dr. Whiteman and Geoff York, not all Level B harassment may be detectable. The commenter cites a statement by Dr. Whiteman and Geoff York that indicates that there is clear evidence of physiological responses of bear to humans even if there is no outward behavioral change. The commenter further states that the FWS did not consider the impacts of these physiological responses on the health of polar bears.

Our Response: The MMPA defines Level B harassment as an act of pursuit, torment, or annoyance that has the potential to disturb the marine mammal by causing disruption of behavioral patterns. While physiological responses may result in a change in behavioral patterns, simple physiological response to humans does not reach the threshold of Level B harassment. If a physiological stress response were to lead to a disruption of behavioral patterns, it may be difficult to observe and subsequently estimate. We attempt to capture the potential for this unobservable harassment using predictive modeling estimates. However, without empirical studies of behavioral observations of wild polar bears fitted with heart rate monitors, we will not be able to quantitatively estimate this value. The literature cited by the commenters does not appear to be readily applicable, as it describes the physiological responses of black bears.

Comment (242): One commenter states that the FWS's method of calculating encounter and harassment rates from polar bear observations at stationary location may not be representative of encounters or harassment throughout the entire ITR area.

Our Response: The FWS has used stationary, 24-hour occupied facilities to calculate polar bear encounter rates because it would be exceedingly difficult to determine the amount of search effort associated with mobile activities. However, harassment rates were calculated using all encounter records, including those from mobile activities.

Comment (243): The requester suggests that by homogenizing spits and island habitat types with other land and nearshore waters the FWS overestimates encounters throughout their coastal zone. The requester further recommends that the FWS uses more granularity in patterns of habitat use by polar bears.

Our Response: We appreciate the recommendation. The FWS predictive surface impact model is not stagnant and is updated as new information becomes available (*e.g.,* an offshore polar bear encounter zone was recently added). Although we may consider incorporating the requester's recommendation in the future, we do not feel the current zones create overestimates of potential polar bear encounters.

Comment (244): The requester suggests the FWS state there is a drop in the distance at which polar bears are incidentally harassed at roughly 805 m.

Our Response: The FWS has acknowledged the change in number of harassment events at and past 805 m in the supplemental information. Specifically, we state that when using a subset of our LOA database records that include distance to bear, the records indicate two incidental takes occurring past 805 m (0.5 mi) and one past 1610 m (1 mi) (figure 2). However, because the amount of missing data per year is equally distributed, we can easily extrapolate that numerous unaccounted for takes that occurred but could not be included here because the information was not properly recorded or provided to us.

Comment (245): The requester states the FWS should adopt the analyses presented in the Request, which they claim are better suited than those produced by FWS.

Our Response: The FWS has chosen to retain their predictive model estimates in the ITR alongside the estimates presented in the Request and qualitative factors.

Comment (246): The requester states that because the FWS has stated that 1.6 km is a reliable sighting distance for determining encounter rate, it is not appropriate to estimate unobserved take within 1.6 km of operations. They also state the FWS should use their suggested impact area of 805 m.

Our Response: The FWS has not indicated that every polar bear within 1.6 km is seen, rather, we have indicated polar bears can be reliably seen up to 1.6 km away. On the contrary, we discuss at length the potential for polar bears to go unidentified on the landscape when discussing the potential uncertainties with estimation of harassment. The FWS has chosen to retain our impact area of 1.6 km as we do not think encounters beyond 805 m can be discounted.

Comment (247): The requester states that they feel there is sufficient evidence to reject the structure of seasonally independent harassment rates. The requester suggests a single harassment rate that is applied year-round.

Our Response: The FWS has presented support for maintaining seasonally independent harassment rates in the supplemental information presented in the proposed ITR. In short, when simply comparing open water and ice season harassment rates, the distributions look similar, and appear to lack support for distinction between the seasons. However, this is likely due to the sheer difference in sample size for the two seasons. When we subsample within the ice season encounters to create a sample size similar to the open season, we see a distinct differentiation between the distributions. Thus, FWS has chosen to maintain seasonally distinct harassment rates. Additionally, Miller et al. (2025; 10.1002/wsb.1589) found behavioral differences in how SBS polar bears respond to deterrents depending on what time of year the encounter occurred, likely related to levels of satiation. Thus, there is additional support for bears responding differently to sources of disturbance depending on the time of year a bear is encountered.

Comment (248): The requester states the FWS predictive estimates of Level B

harassment incorporate a harassment rate that is too high.

Our Response: The FWS further recognizes that its predictive models contribute to annual take estimates that have exceeded (and are expected to exceed) the number of events where biological consequences indicative of take are observed to result from Industry activities. One reason is that the predictive models are based on annual activities forecast for 5 years of Industry activity in advance, and the annual activities, and thus the corresponding take, have historically been of a smaller scope than that analyzed.

Additionally, the predictive models are one way to account for any unobserved take and account for certain acts which have ''the potential to'' result in certain biological consequences. Accounting for unobserved take and ''the potential for'' certain consequences involve a level of scientific uncertainty. When addressing uncertainties, the models incorporate assumptions that attempt to strike a balance between potential overestimates and potential underestimates, but, overall, are more likely to contribute to an overestimate, rather than an underestimate, of the incidental take of polar bears.

We recognize the continuing uncertainty about the scope of unobserved take and ''the potential to'' result in certain biological consequences, because these components, definitionally, do not avail themselves of an opportunity to evaluate the estimates against observations. Therefore, in evaluating the Request, we have avoided giving our predictive models, and quantification of take in general, undue weight in evaluating the Request. More specifically, we considered two separate predictive methodologies and resulting sets of take estimates, as well as qualitative factors, when making our small numbers and negligible impact determinations. The FWS thus did not rely solely on any single source of numerical estimates.

Comment (249): The requester states that changing the impact area for estimating harassment of polar bears on the surface dramatically changes the model results and cites the sensitivity analysis in the Request.

Our Response: The FWS acknowledges changing the area in which potential impact may occur in our predictive denning model will change the model results. However, we disagree the changes in output values are dramatically different. Further, changes in model inputs must be driven by best available scientific evidence that points to a need for a change in that variable. There are several points of evidence indicating polar bears may exhibit a behavioral response to activity up to a mile away.

Comment (250): The requester states the FWS double counts take associated with hazing events by assuming that incidental harassment also occurs before the hazing activity.

Our Response: Counting the number of instances where incidental harassment occurs prior to intentional harassment (*i.e.,* hazing) is not a double count as the requester suggests. The FWS effort to understand the rate at which incidental harassment occurs before a hazing event has shown that incidental harassment can occur prior to hazing, but that sometimes only hazing occurs. The FWS has lowered the potential harassment rates as a result of this effort. Further, this authorization does not count the number of estimated hazing events, nor are they taken into account in our small numbers or negligible impact determinations. Therefore, there is no double counting.

Comment (251): The requester states FWS should not add additional small vessel trips to their analysis of the impact of vessel traffic.

Our Response: The FWS has revisited its vessel analysis in response to the requester's comment. We noted an error in total number of days for small vessel activities, which accidently added additional take to small vessel activities. The error has been corrected and the total number of take attributed to vessel activities has been updated.

Comment (252): One commenter stated the proposed ITR and supplemental analysis do not identify which activities are likely to expose polar bears to noise, describe how likely sound levels are to exceed established harassment thresholds, or provide an estimate of resulting incidental take. They stated the FWS does not provide analysis supporting its stated conclusion that sound exposure is not anticipated to result in any lethal take or Level A harassment of non-denning bears.

Our Response: The FWS discussed the potential harassment of polar bears and walruses by underwater sound in both the proposed ITR and supplemental information. As we discussed, anthropogenic sound in the water can lead to harassment of polar bears or walruses, and in extreme cases, temporary or permanent hearing loss. But as we explain, polar bears rarely swim with their head underwater, effects are estimated to be limited, and behavioral reactions to human presence have been incorporated into our surface bear and vessel take estimates.

Comment (253): The requester stated any inferences made by the FWS in their analysis of vessel traffic is likely in error. They further state that analysis of operations in nearshore in-water habitat should be separated from that in islands and spits, and that the harassment rate should be different than that used for surface activities.

Our Response: We appreciate the recommendation. The FWS predictive surface impact model is not stagnant and is updated as new information becomes available (*e.g.,* an offshore polar bear encounter zone was recently added). Although we may consider incorporating the requester's recommendation in the future, we do not feel the current zones create overestimates of potential polar bear encounters.

Comment (254): One commenter suggests that using the results of Quigley et al. (2024) as a basis to estimate the amount of harassment attributable to industry aircraft operations leads to overestimates of take because they believe that the methodology implemented by Quigley et al. (2024) to study aircraft disturbance to polar bears differs from typical industry aircraft operations.

Our Response: It is never possible to conduct a study that addresses every issue for every circumstance. While the commenter is correct that the way the Quigley study was designed is not 100 percent representative of how Industry operates their aircraft, to our knowledge, this is the only study that has specifically looked at harassment rates to polar bears from aircraft overflights. Even if Industry generally avoids flying directly over polar bears, there is no way to ensure this will not happen, especially when weather is less than ideal. There is also nothing that would preclude an aircraft from flying directly over a bear multiple times if it did not detect the bear and they were conducting an ''out-and-back'' type flight. We agree that the repeated overflights for individual bears in the Quigley study might lead to a higher response rate than might be expected from Industry. However, the study identifies altitudes that aircraft can be flown such that they avoid disturbing bears under a variety of conditions, including instances where Industry may inadvertently fly over a bear multiple times.

Comment (255): One commenter stated that the proposed AIR survey requirements and 1.6 km operational buffers fail to ensure the least practicable adverse impact to polar bears because they permit activities to proceed in high-risk denning zones with

inadequate detection reliability and overly narrow protective radii, exposing a declining SBS population to avoidable harassment and repeated noise from surveys during the most vulnerable of life stages.

Our Response: The FWS predictive denning impact model considers AIR efficacy, denning phenology, and polar bear reactions to sources of disturbance. We have determined after reviewing hundreds of hours of AIR survey footage across many years that no polar bears were disturbed by the AIR surveys. Lastly, the most current science on the abundance of the SBS stock does not suggest that it is declining, but has most likely stabilized since its decline in the early 2000s.

Comment (256): The requester states the mitigation measure requiring vessels to ''maintain the maximum distance possible from concentrations of polar bears or walruses'' is too vague, and should be revised to ''avoiding concentrations of polar bears or walruses.''

Our Response: Thank you for the suggestion. We have revised this section of the proposed ITR to require vessels maintain the ''maximum distance practicable (805 m (0.5 mi) or greater).''

Comment (257): The requester stated that skirting around elevated facilities is not current practice, is not necessary, and is not operationally possible.

Our Response: Thank you for this feedback. We have removed the reference to facility skirting.

Comment (258): Some commenters stated mitigation and monitoring measures were insufficient and alternatives should be considered, such as mandatory thermal or infrared surveys to locate polar bear dens, expanded buffer zones around denning areas and walrus haul-outs, seasonal restrictions on certain activities during sensitive breeding or denning periods, and stricter reporting requirements when wildlife encounters. One commenter stated the FWS or the requester should study behaviors of local wildlife populations and learn how to adapt human behavior to avoid interactions. Another commenter stated FWS should strengthen requirements so that disturbance is avoided rather than minimized.

Our Response: The current proposed authorization would require thermal surveys to locate dens. Denning habitat is identified through the use of GIS looking for areas with sufficient slopes to allow snow accumulation sufficient for a bear to dig a den. These landscape features occur throughout the proposed project area and putting buffer zones around denning habitat would remove all areas from availability operation outside of the denning season. There are no known walrus haulouts in the proposed project area. The FWS and partners have conducted research on how polar bears behave when encountering various forms of human disturbance and these studies have been integrated into this analysis. Where practical (*e.g.,* aircraft overflight height), we have set thresholds where disturbance is likely to be avoided. However, it is not possible to avoid all forms of disturbance to polar bears.

Comment (259): One commenter stated that implementation of the proposed ITR should continue to prioritize ''biologically meaningful impacts'' so that regulatory effort is not ''diffused across low-impact or transient events.''

Our Response: The FWS summarizes all forms of potential take. However, when making negligible impact determinations, we rely most strongly on those forms of take that could have more biologically meaningful impacts (*i.e.,* litter survival of cubs).

Comment (260): One commenter stated that the mitigation framework should preserve operational flexibility given dynamic and unpredictable Arctic conditions.

Our Response: The FWS understands the operational constraints the oil and gas industry faces in northern Alaska. We have a history of working with the applicant to develop alternative, effective mitigation strategies where unique circumstances preclude the safe and effective implementation of standard mitigations.

Comment (261): One commenter stated that the FWS should continue to evaluate the utility and efficiency of monitoring and reporting systems and focus data collection on decision-making needs and adaptive management. They stated that regular respective reviews of the ITR regulatory framework could help ensure its effectiveness and efficiency.

Our Response: The FWS works closely with LOA holders to ensure they meet monitoring and reporting requirements, and improve reporting where possible.

Comment (262): One commenter stated the FWS should encourage the use of proven, well-understood mitigation techniques and require operators to demonstrate that mitigation strategies are selected based on effectiveness in reducing harm, not ease of implementation or cost efficiency alone.

Our Response: The vast majority of mitigation techniques required by the proposed ITR have been used by industrial LOA holders for years. Human-polar bear interaction plans and employee training programs are consistently updated when new information is available. The FWS is open to new mitigation methods as they become available, but always strives to understand the potential effects to trust species before adopting them as required or recommended measures.

Comment (263): One commenter stated the proposed 805-m exclusion zone and AIR survey requirements are insufficient given the difficulty of detecting dens under arctic conditions (darkness, snow, fog). They stated the FWS should require a third AIR survey, a minimum mandatory 1-km exclusion zone around confirmed or suspected dens, and suspension of activities within high-density denning zones from at least November through April. Other commenters generally suggested the buffer zones and den detection surveys were not sufficiently protective. One commenter stated these mitigation measures did not eliminate risk of negative impacts to the population, given documented failures under prior ITRs and accelerating Arctic warming.

Our Response: The 805 m threshold is being misinterpreted by the commenter. The commenter implies or assumes that the 805 m distance is the mitigation requirement for the no-disturbance buffer put around a den when it is located by Industry. However, the 805 m threshold is only used in our analytical techniques to estimate the potential impact of the proposed activities on denning polar bears and it only applies to the early denning period. We noted that upon reviewing disturbance case studies we found that no dens during the early den period were disturbed beyond this distance. In response we reduced the impact area in our current analysis. However, if Industry were to find a den during the early denning period (*e.g.,* while creating an ice road), they would still be required to create a 1610 m (*i.e.,* 1 mi) no disturbance buffer around the den. Given operational constraints, the oil and gas industry would be unable to suspend all activities within the high-density denning zones for the period the commenter indicated.

Comment (264): One commenter stated that in light of rapid Arctic ecosystem change, the FWS should conduct a formal review of regulations within 2.5 years of their issuance, with the authority to modify LOA conditions if monitoring data reveals harm to the protected species. Another commenter said 5 years between assessments is too long, creating risk of harmful impacts. Multiple commenters recommended the

FWS ensure more frequent review and adaptive management over the authorization period.

Our Response: LOA holders are required to submit annual reports with detailed information on polar bear interactions, staff training, and communication with subsistence communities. These reports are reviewed by FWS staff. The MMPA's ITR provisions already speak to the circumstances under which permission to take marine mammals is to be re-considered.

Comment (265): One commenter stated the proposed ITR should not be finalized because it does not include building wildlife corridors to mitigate impacts of habitat loss and fragmentation on polar bears.

Our Response: The FWS is not aware of any data that identifies widely-used movement corridors by polar bears that would support the creation of wildlife corridors. The only corridor we are aware of is the coastline itself, but it would be impractical to build a corridor when the bears could simply swim around the infrastructure if they chose not to move through it. There is no evidence to suggest that polar bears are avoiding moving across different areas of the landscape due to disturbance. Further, LOAs include a mitigation measure that requires cessation of activities in a path between sows and cubs of the year and the sea ice, effectively creating a temporary corridor for their movement to the sea ice.

Comment (266): Some commenters stated that careful early, site-specific planning is important for developing protocols for temporary shutdowns that the proposed ITR requires following injury or death of a polar bear or walrus.

Our Response: We do not believe there is a level of early planning that can make it possible for all operations to shut down immediately in the event of a polar bear injury or fatality. The operations on the North Slope are highly variable, with the most complex locations containing multiple high pressure processing facilities that are fed by numerous remote wellheads. In these cases, operations likely cannot be shut down immediately in a safe way. In the rare event that a polar bear is injured or killed, LOA holders will contact the FWS immediately, and we will discuss the options with them.

Comment (267): One commenter stated that it is difficult to evaluate how FWS requiring a 1-mile operational mitigation zone around known polar bear dens contributes to activities having the least practicable adverse impact on the SBS stock of polar bears and their habitat. They stated automatically applying a 1-mile exclusion zone around all dens, with a process for emergency exceptions, would be more consistent with past ITRs and more appropriate than FWS working cooperatively with LOA holders on identifying mitigation measures to apply within the mitigation zone around a den. This commenter suggested implementing a 1-mile operational exclusion zone around known dens would be practicable because only a few polar bears are estimated to be exposed to the specified activities each year. They suggested that the FWS was flawed in concluding that it is not practicable to implement an operational exclusion zone within 1 mile of denning habitat.

Our Response: In the analysis of potential mitigation measures that is a part of the Least Practicable Adverse Impact determination, FWS discusses an operational exclusion zone around hotspots, putative dens, and known dens. We explain in that analysis that rigid operational exclusion zones are difficult to maintain in an active oilfield, and therefore not practicable. For example, when past dens have been identified through AIR roughly half a mile from a drilling island causeway, a full, rigid 1.6 km exclusion zone would require wellhead operation and maintenance on the island cease because traffic could not continue down the causeway. This would not be practicable, safe, or operationally possible. Instead, we worked closely with the LOA holder who established traffic limitations, speed limits, additional staff training and communication, and remote monitoring of the den site. This type of coordination is what we are requiring.

Comment (268): Some commenters stated they were concerned that motorized vehicles would be used to observe polar bear dens, as this could cause distress to denning polar bears and put personnel sent out to evaluate dens in a dangerous situation. They suggested using drones or other less invasive methods to monitor polar bear dens.

Our Response: Using vehicles, parked as far as practical but ideally a mile away, are a better way to monitor dens than drones as a drone flying nearer a den would cause more disturbance than a parked vehicle further away. Human safety is always a priority, therefore observers would not be located directly adjacent to dens and individuals would remain in their vehicles. For these reasons, we feel disturbance of denning polar bears from observations would be minimal.

Comment (269): Several commenters questioned whether Industry operators could be trusted to implement monitoring and mitigation measures accurately and effectively. Some commenters recommended FWS mandate real-time, third-party monitoring rather than industry self-reporting and mandate frequent wildlife monitoring throughout the entire operational period. One commenter recommended requiring operators to have a biologist on site to advise on minimizing or avoiding impacts to polar bears. An additional commenter recommended ensuring that disturbance data is collected consistently and transparently and requiring adaptive responses if observed impacts exceed expectations.

Our Response: LOA holders are required to submit human-polar bear interaction plans and meet detailed polar bear encounter reporting requirements. The nature of the activities (*i.e.,* active oil and gas exploration, production, and transport) are significantly different from offshore operations, and may not be conducive to third party observers due to safety considerations. While not a requirement, a number of LOA holders have a wildlife biologist on staff who advise on minimizing or avoiding impacts to polar bears.

Comment (270): The requester has suggested a revision of the mitigation measures around putative polar bear dens from an ''exclusion zone or buffer around the suspected den site'' to an ''appropriate mitigation zone'' because they state exclusion zones are not always necessary.

Our Response: The FWS has chosen to modify the language to a ''mitigation zone.''

Comment (271): The requester has suggested small changes in the description of monitoring at polar bear dens to reflect their ability to stream data in remote locations. They have also suggested a revision that states the monitoring would occur at distances ''deemed unlikely detectable by denning bears.''

Our Response: The FWS has chosen to retain the original text, as the inclusion of ''a distance unlikely detectable by denning bears'' is somewhat ambiguous and difficult to enforce.

Comment (272): The requester states they do not feel a third FLIR survey is necessary in the high density denning zone. They state two surveys are sufficient.

Our Response: After further review, we agree. For the reasons explained in

the preamble, the final ITR does not require a third FLIR survey.

Comment (273): The requester states timing restraints for FLIR surveys are unnecessary, and logistically challenging.

Our Response: The required timing of these surveys increases detection rates. By having specific time windows, it allows the applicant to detect more dens that may have been initiated after the previous FLIR flight. This is especially true for the FLIR that occurs after the initial FLIR survey. The timing of FLIR surveys is considered in the den disturbance model which accounts for the phenology of den establishment, such that some dens are not discoverable by AIR if all AIR occurred early in the denning period. Operators' implementation of similar timing requirements has been successful.

Comment (274): One commenter stated data regarding wildlife encounters, disturbance events, and mitigation effectiveness should be made readily available to the public and affected communities. They state this transparency and independent verification is needed to help regulators, researchers, and the public assess whether the authorized activities are meeting mitigation standards.

Our Response: The FWS has summarized the spatial and temporal trends of polar bear encounters in our supplemental information. We will continue to strive to make data available to the public.

Comment (275): One commenter recommended that reporting requirements tier off from the ITR to fill critical information gaps and track effort as a proxy for incidental take estimates. The commenter also recommended that because the FWS uses Industry observation data in calculating take estimates and support for its small number and negligible impacts conclusion that a more robust research coordination section be included in the Request. The commenter provides working with AOGA to explore the potential for a dedicated observer program for all types of activities included in the classes of oil and gas activities in the Request to accurately and completely document interactions and account for unobserved interactions as suggested example.

Our Response: The FWS is committed to research targeted at filling the knowledge gaps discussed in the proposed ITR and supplemental information. We work with State and local governments, Industry members, and academic institutions to further our understanding of the potential impacts to polar bears from human activity. We have also created standardized reporting platforms for LOA holders to document polar bear encounters.

Comment (276): The requester commented on a difference in the percentage of polar bear sighting records in the FWS database and the AOGA database that have distance to the polar bear. Specifically, the requester highlights a higher percentage of their records that report distance to bear.

Our Response: The FWS LOA database is comprised of data taken from initial polar bear encounter reports. If distance to bear was not included in the initial report, it is not in our database. AOGA has noted in their Request that they have undergone an effort to determine and record distance to bear for encounters that were missing it. This is the likely source of the difference in the datasets.

Comment (277): One commenter stated seismic exploration occurring without timing or geographic restrictions could have lethal impacts to denning cubs and their mothers through potential den abandonment and crushing in the den. They state the 45 percent chance of lethal take of cubs could have potential population-level effects.

Our Response: The FWS has analyzed the potential impacts to denning polar bears from the specified activities using our predictive modeling methods and the spatio-temporal data provided by AOGA upon our request. Our analyses account for the requesters proposed timing and locations.

Comment (278): One commenter recommends that the FWS should include additional mitigation measures into the Final ITR for sound-producing offshore activities, such a mitigation zones for polar bears based on specific received pulsed sound levels; adaptive mitigation measures including ramp-up procedures, power downs, and shutdowns in the event the power down operation could not reduce the received pulsed sound level to certain thresholds. They also suggest that the FWS should consider measures to reduce noise from pile driving, such as bubble curtains.

Our Response: While shutdown and mitigation zones are valuable mitigation measures for many marine mammals, they are not always ideal for polar bears due to the potential for negative human-polar bear interactions. For example, if a whale were approaching a pile driving activity, the driving would stop to allow the whale to inhabit the area free of human-caused noise. Should a polar bear approach a pile driving activity from the water, it may be prudent to continue driving unless there is a danger of physically harming the animal thereby serving as a deterrent measure for the bear, and preventing a dangerous, close human-polar bear interaction. Noise reduction methods such as bubble curtains are not broadly applicable to all operations, and often aren't practicable in the Beaufort Sea.

Comment (279): One commenter suggests that the FWS take more concrete steps to ensure the effectiveness of mitigation measures discussed in the proposed ITR. They continue on to specifically suggest considering whether an additional FLIR survey is necessary, if certain areas of the North Slope such as polar bear denning habitat and corridors between onshore denning habitat and the coast should be off-limits to oil and gas activities during denning season.

Our Response: For the reasons explained in the preamble, the FWS does not view requiring more than two AIR surveys of the same areas as practicable at this time. We do not feel creating off-limit zones in certain areas of the North Slope as the commenter suggested would be practicable, as it would significantly limit travel through existing oil fields and prevent location-dependent activities from being conducted and completed.

Comment (280): One commenter stated that the FWS violated the MMPA by failing to consider spatial and temporal restrictions on AOGA's activities.

Our Response: Under the MMPA, the FWS has a requirement to ensure the specified activities have no more than a negligible impact on small numbers of a marine mammal stock, and in doing so imparts the least practicable adverse impact. We have made the required findings and determinations under the small numbers, negligible impact and least practicable adverse impact requirements. We did not identify any practicable measures that involve limiting the specified activities spatially and temporally, other than a mitigation zone around a suspected or known den site for the remainder of the denning season.

Comment (281): One commenter states that before finalizing the proposed ITR the FWS should ensure enforceable Tribal coordination and monitoring requirements.

Our Response: POC and monitoring and reporting requirements for LOA holders were listed in the proposed ITR and retained in the Final ITR.

Comment (282): Some commenters stated that the proposed ITR is not consistent with the MMPA objective of preventing stocks from falling below their optimum sustainable population

level because of the risk to denning mothers and cubs and ongoing decline of the population. Commenters also stated that an impact that is not consistent with the stock reaching or maintaining its optimum sustainable population cannot rationally be deemed negligible.

Our Response: Penalties are governed by separate MMPA provisions and implementing regulations and are not established in individual ITRs. The monitoring and reporting requirements required in these ITRs are sufficient to facilitate enforcement in the event that unauthorized take occurs.

Comment (283): One commenter requested clarity on the FWS's mitigation measure regarding a 1-mile operational mitigation zone compared to the FWS's 1-mile operational exclusion zone, which has been required in previous authorizations. They further stated that the FWS should provide their rationale for reducing protection to polar bear dens and analyze the consequences of their decision. They also state FWS should consider the impacts of an LOA holder declining to implement a 1-mile operational exclusion zone around a polar bear den in their analysis and address how this type of take would meet the definition of incidental take being infrequent, unavoidable or accidental as stipulated by the MMPA.

Our Response: As is stated in the ITR, potential actions may range from cessation or modification of work to conducting additional monitoring, and the holder of the LOA must comply with any additional measures specified. These are not reduced protections. In the past, FWS has worked with LOA holders to mitigate their impact to putative or previously undiscovered dens. As we have stated in the supplemental information, our predictive denning model accounts for disturbance and a subsequent behavioral reaction even if a den has been disturbed, located, and mitigated for in the late denning period. We were clear in the proposed ITR that while AOGA requested an 805 m buffer, FWS was proposing to require a 1.6 km (1 mi) buffer. That larger buffer is retained in the final rule.

Comment (284): One commenter suggests that the applicant's request for an ITR does not meet the adequate and complete standards under 50 CFR 18.27(d). The commenter recommends that the FWS should not consider the applicant's request for an ITR adequate and complete and should rescind its adequate and complete determination. The commenter further suggests the FWS return the Request to the applicant with clear, written direction identifying the information gaps that must be addressed prior to resubmission.

Our Response: The FWS has maintained their finding that AOGA's request for an incidental take regulation is adequate and complete.

Comment (285): One commenter stated that neither the FWS nor the requester provided sufficient information to support a negligible impact finding.

Our Response: The FWS has used empirical data from peer-reviewed publications and decades of polar bear encounter records to generate thorough estimates of incidental take and associated impacts. We also have the requester's take estimates and qualitative factors. All of which support a negligible impact finding. We do not feel there is insufficient scientific information to make negligible impact finding.

Comment (286): One commenter recommended the FWS ensure that compliance requirements are clearly explained and accessible to farmers and landowners, promote voluntary conservation programs and partnerships with agricultural producers, consider economic impacts on rural communities when implementing protections, and provide education and outreach so stakeholders understand how to meet regulatory requirements.

Our Response: While no farmers or agricultural producers would be affected by these ITRs, FWS believes that it has complied with the remainder of the commenter's recommendations.

Comment (287): One commenter stated that the incidental take regulations could lead to issues by forcing denning polar bears out of their habitual areas and causing them to move into an area with more people or businesses, negatively impacting livelihoods.

Our Response: The geographic area of the specified activities encompasses much of the North Slope of Alaska. This area is extremely remote and largely made up of oil and gas facilities and their support staff. The village of Nuiqsit is within the geographical area as well. As we described in the proposed ITR, an average of 6 polar bear dens are expected to overlap with the specified activities annually. This represents a small portion (10 percent) of the roughly 60 polar bear dens on land in the SBS stock each year. We do not anticipate the issuance of take regulations to cause this limited number of bears to move into more populated areas.

Comment (288): One commenter stated that Non-lethal method Temporary Confinement/Hunger reset, a method used in Canada to respond to polar bears and prevent human-polar bear conflict in specific scenarios, is a much better option compared to killing polar bears.

Our Response: These ITRs do not authorize any form of intentional or lethal take.

Comment (289): Commenters recommended keeping strong protections for the ANWR.

Our Response: These ITRs do not pertain to the Arctic National Wildlife Refuge.

Comment (290): A commenter stated businesses should be banned from using lethal methods of any kind in dealings with wildlife if they are ''not willing and able to learn how to work in the presence of wildlife and how to use non-lethal methods to deal with wildlife in areas where humans will be.''

Our Response: Safety of humans and polar bears is of paramount importance to the FWS. As such, we will continue to encourage those operating in polar bear habitat carry both less-than-lethal and lethal deterrents.

Comment (291): One comment listed many supposed components and environmental impacts of oil and gas activities on the North Slope, including a statement that ''extractor fans send food smells out. This and trash attracts polar bears, which then get shot.''

Our Response: The FWS works closely with the oil and gas industry to ensure that even if a bear is attracted to food odors from camp kitchens, that they do not receive a food ''reward'' by ensuring trash is stored in bear-proof containers. Human-polar bear interaction plans that include waste management plans are required as a part of LOA applications. When intentional take (hazing) is authorized under a separate part of the MMPA, hazing plans outline the escalation of hazing strategies that do not begin with lethal measures.

Comment (292): Some commenters stated the rule should be rewritten in clearer terms or plain language. Some stated that wording made it difficult for the public to understand that activities will disturb and potentially harm protected wildlife and made the rule ''easier to approve.'' One comment stated ''Phrases like ''incidental take'' and ''negligible impact'' make it sound like what's being authorized is rare, harmless, and unavoidable'' when that is not an ''honest description.'' '' Another comment stated that terms including ''take,'' ''harassment, ''and ''disturbance'' were euphemisms used to describe lethal impacts and that the rule allows ''Level A harassment''

(which includes injury or death) but frames it as ''temporary behavioral disturbance.'' They recommended that the FWS use plain language in the final regulations to explicitly state that den abandonment equals cub mortality and vessel strikes equal lethal take.

Our Response: The FWS utilizes certain phrases used in the statute and regulations (*e.g.,* ''small numbers'' and ''negligible impact'') to help demonstrate that its analysis and findings address the applicable standards. We attempt to describe potential impacts in clear terms and plain language to the extent possible, but not at the expense of scientific precision.

Comment (293): One commenter stated polar bears are a fundamental part of Alaskan culture and iconography, and allowing these vulnerable populations to be killed risks destroying a culturally significant species.

Our Response: The FWS does not anticipate lethal take of polar bears as a result of the specified activities.

Comment (294): One commenter stated it is unlikely that sufficient government resources are available to adequately review incidental take authorization requests.

Our Response: The FWS is committed to reviewing and analyzing incidental take authorization requests as required by the MMPA.

Comment (295): One commenter stated that a 5-year window is far too long a timeframe for the rule, the mechanisms to adjust policy within the timeframe are not robust enough, and the burden of evidence required to initiate an action is not strong enough.

Response: The MMPA, not FWS, establishes the maximum duration of ITRs.

Comment (296): One commenter stated they opposed the proposed ITR because it would permit oil workers to ''shoot and kill'' an orphaned polar bear cub rather than contacting authorizes for a rescue response (bringing the cub into captivity).

Our Response: The commenter is incorrect. ITRs do not authorize intentional take.

Comment (297): One commenter argued that the FWS cannot accurately model incidental take baselines or establish meaningful take limits without accounting for systematic underreporting of marine mammal bycatch and prohibited take by forced labor fishing operations in overlapping waters. They recommended that the FWS (1) evaluate whether incidental take baseline data incorporates reporting from vessels or fleets documented under DOL TVPRA, NOAA IUU, or UFLPA forced labor findings; (2) coordinate with NOAA Fisheries, CBP, and DOL ILAB to cross-reference forced labor vessel lists against take monitoring datasets; (3) require that LOAs issued under this rule include supply chain and vessel labor compliance certifications for commercial fishing operations; (4) revise the environmental baseline to account for systematic underreporting risk from forced labor fleets in overlapping geographic areas. They stated that the Foundations for Evidence-Based Policymaking Act (44 U.S.C. 3520) requires that Federal data support sound causal analysis, and incidental take modeling that does not account for systematic reporting suppression in forced labor fishing environments cannot support valid causal conclusions about polar bear and walrus population impacts.

Our Response: There are no commercial fisheries in the specified geographic area of the proposed activities.

Comment (298): Some commenters expressed concerns about the overall environmental impacts of the specified activities. Commenters referenced the impacts of potential oil spills, increased vessel and aircraft traffic, and habitat fragmentation on Arctic ecosystems and the effects of carbon emissions resulting from fossil fuel development on climate change that affects polar bear and walrus populations. One commenter stated the proposed ITR ignored effects on numerous other organisms and numerous sensitive components of the Arctic environment.

Our Response: In these ITRs, the FWS evaluates the potential impacts to our trust species (polar bears and walruses) from the specified activities. We conduct this evaluation while considering the baseline of existing impacts, which takes into account current stressors on the stocks.

Comment (299): Several commenters expressed concern with the potential for industrial activities to run over maternal polar bear dens, thereby crushing polar bear families.

Our Response: The FWS's analytical methods incorporate information on the likely distribution of dens and their phenology to assess the likelihood of maternal dens being negatively affected. We have also considered the possibility of dens being run over by high-intensity seismic operations and found the probability of den being run over to be extremely low (*i.e.,* <=0.005).

Comment (300): Many commenters stated that the proposed ITR would result in deaths of walruses and polar bears and expressed their opposition to any animals being killed for the sake of oil and gas activities.

Our Response: The FWS does not anticipate lethal take of polar bears or walruses as a result of the specified activities.

Comment (301): Some commenters believed the term ''take'' meant only ''kill'' and interpreted incidental take estimates as estimates of mortality that would result from the specified activity.

Our Response: The FWS refers to ''take'' in a manner consistent with the MMPA's definition of that term. The only form of take anticipated to result from the specified activities is harassment, the effects of the anticipated harassment are predominately limited to disruptions to behavioral patterns.

Comment (302): One commenter stated that because the proposed authorization originates from a request by extractive industries seeking regulatory approval to disturb protected marine mammals, it is essential that the FWS apply the MMPA's conservation standards with independence, scientific rigor, and precaution.

Our Response: Regardless of the source of an incidental take authorization request, the FWS must comply with MMPA statutory requirements when authorizing incidental take.

Comment (303): The requester suggests that the FWS used a precautionary approach, which they suggest is contrary to the mandates of the MMPA.

Our Response: The FWS renders its MMPA finding based on best available scientific evidence, not a precautionary principle. Here, the best available scientific evidence includes qualitative considerations and reporting data from analogous North Slope oil and gas activities.

Required Determinations

National Environmental Policy Act (NEPA)

The FWS has prepared an EA in accordance with the NEPA (42 U.S.C. 4321 *et seq.*). The FWS has concluded that the proposed action of issuing the ITRs would not significantly affect the quality of the human environment, and, thus, preparation of an environmental impact statement for these ITRs is not required by section 102(2) of NEPA or its implementing regulations. A copy of the EA can be obtained from the locations specified above in **ADDRESSES**.

Endangered Species Act (ESA)

Under the ESA (16 U.S.C. 1536(a)(2)), all Federal agencies are required to

ensure the actions they authorize are not likely to jeopardize the continued existence of any threatened or endangered species or result in destruction or adverse modification of critical habitat. Prior to finalizing these ITRs, the FWS completed intra-Service consultation under section 7 of the ESA on our proposed issuance of the ITRs.

Government-to-Government Consultation

It is our responsibility to communicate and work directly on a Government-to-Government basis with federally recognized Alaska Native Tribes and organizations in developing programs for healthy ecosystems. We seek their full and meaningful participation in evaluating and addressing conservation concerns for protected species. It is our goal to remain sensitive to Alaska Native culture and to make information available to Alaska Natives. Our efforts are guided by E.O. 13175, ''Consultation and Coordination With Indian Tribal Governments,'' 512 DM 5, ''Procedures for Consultation with Indian Tribes,'' 512 DM 6, ''Department of the Interior Policy on Consultation with Alaska Native Claims Settlement Act Corporations,'' 510 FW 1, ''The Service's Native American Policy,'' and 510 FW 2, ''The Service's Alaska Native Relations Policy.''

The FWS has evaluated possible effects of the specified activities on federally recognized Alaska Native Tribes and organizations. The applicant has presented a communication process, culminating in POCs if needed, with the Alaska Native organizations and communities most likely to be affected by their work. The FWS does not anticipate impacts to Alaska Native Tribes or Alaska Native Claims Settlement Act corporations and does not anticipate requesting consultation; however, we invite continued discussion, either about the project and its impacts or about our coordination and information exchange throughout the ITR/POC process.

Regulatory Planning and Review—E.O.s 12866, 14192, and 13563

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the OMB will review all significant rules. OIRA has determined that this rule is significant under section 3(f) of E.O. 12866.

E. O. 14192 aims to reduce the cost and burden of Federal regulations by requiring agencies to identify ten prior regulations for elimination for each new regulation issued. This final rule is an E.O. 14192 deregulatory action. The promulgation of incidental take regulations under MMPA section 101(a)(5)(A) of the MMPA allows an otherwise prohibited action (*i.e.,* the incidental taking of marine mammals), which increases flexibility and reduces burden.

DOI has considered the impacts of the rule. The MMPA prohibits the harassment of marine mammals. Therefore, the baseline without these regulations would be the full regulatory burden of the MMPA, including enforcement of prohibited take. Upon promulgation of these regulations, applicants may apply for letters of authorization that would ease the regulatory burden of the MMPA prohibition of harassment, allowing the LOA holder to incidentally harass polar bears and walruses during their specified activities. Costs for Industry will be related to but not necessarily limited to: the development of requests for LOAs; monitoring, recordkeeping, and reporting activities conducted during year-round oil and gas industry activities; development of activity- and species-specific marine mammal monitoring and mitigation plans; and coordination with Alaska Natives to minimize effects of operations on subsistence hunting.

Implementing the mitigation measures and monitoring and reporting requirements identified in the proposed ITR may have economic impacts on AOGA. Oil and gas exploration, production, or development activities may need to be halted, postponed, or modified to prevent impacts to polar bears or walruses. For example, tundra travel may need to be diverted if a polar bear den is located nearby. The specific impacts and the associated costs are dependent on the activity and cannot be determined in advance. Typically, project modifications due to mitigation measures would constitute only a small portion of the cost of operations.

Issuance of an ITR may also avoid some negative economic impacts to AOGA. With this ITR, AOGA members companies avoid costs from pursuing individual Incidental Take Authorizations, which could include separate Incidental Take Regulations or Incidental Harassment Authorizations. Incidental take occurring without an ITR in place would be in violation of the MMPA (and perhaps the ESA, if the elements of take as defined under the ESA are also met). AOGA could incur the penalties allowed by these laws, including financial damages. Issuance of an ITR will authorize incidental take that occurs in compliance with the ITR and therefore limits potential ESA and MMPA violations and associated penalties.

We expect issuance of the ITR to have no significant impacts on Pacific walruses or the SBS stock of polar bears for the following reasons: (1) the take of only a small number of walruses (*i.e.,* up to 20 annually; up to 100 over 5 years) and SBS polar bears (*i.e.,* up to 49 annually; up to 209 over 5 years) would be authorized; (2) these takes are anticipated to cause only short-term, temporary, and minor impacts on individual polar bears and walruses; (3) these takes are not anticipated to adversely affect the SBS polar bear stock or the Pacific walrus population through effects on annual rates on recruitment or survival, and would not have population-level effects on Pacific walruses or the SBS stock of polar bears; and (4) any adverse impacts caused by implementing ITR-required mitigation, monitoring and reporting would be negligible. Other wildlife may benefit from some of the measures included by AOGA in their project design, but such beneficial impacts would be negligible.

The actual costs to develop the petition for promulgation of regulations and LOA requests fall short of the threshold under section 3(f)(1) of E.O. 12866 that would require preparation of a regulatory impact analysis under section 6(a)(3)(C) of E.O. 12866.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13563 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. The FWS has developed this rule in a manner consistent with these requirements.

Small Business Regulatory Enforcement Fairness Act

OIRA has determined that this rule is not a major rule under 5 U.S.C. 804(2), subtitle E of the Small Business Regulatory Enforcement Fairness Act.

Regulatory Flexibility Act

The FWS has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory

Flexibility Act (5 U.S.C. 601 *et seq.*). The AOGA and their affiliated parties conducting oil and gas industry activities in the Beaufort Sea and North Slope of Alaska are the only entities subject to these ITRs. Therefore, neither a regulatory flexibility analysis nor a small entity compliance guide is required.

Takings Implications

This rule does not have takings implications under E.O. 12630 because the ITR process is voluntary and serves to exempt applicants from certain civil liability under the MMPA as long as they operate in compliance with the terms of their LOAs. Therefore, a takings implications assessment is not required.

Federalism Effects

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 13132. The MMPA gives the FWS the authority and responsibility to protect polar bears and walruses.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), this rule will not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. The FWS has determined and certifies pursuant to the Unfunded Mandates Reform Act that this rulemaking will not impose a cost of $100 million or more, adjusted for inflation, in any given year on local or State governments or private entities. This rule also will not produce a Federal mandate of $100 million or greater, adjusted for inflation, in any year, *i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform

The Departmental Solicitor's Office has determined that this rule will not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of E.O. 12988.

Paperwork Reduction Act

This rule does not contain any new collection of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). All information collections under the PRA require OMB approval. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB previously approved the information collection requirements associated with incidental take in the identified subparts and assigned the following control numbers:

- 1018–0070, Incidental Take of Marine Mammals During Specified Activities (50 CFR 18.27 and 50 CFR 18, Subpart J) (expires 08/31/2028), and
- 1018–0203, Incidental Take of Marine Mammals During Specified Activities (50 CFR 18.27 and 50 CFR 18, Subpart L) (expires 08/31/2028).

Energy Effects

E.O. 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. This rule provides exceptions from the MMPA's taking prohibitions for entities engaged in specified oil and gas industry activities in the specified geographic region. By providing certainty regarding compliance with the MMPA, this rule will have a positive effect on the oil and gas industry activities. Although the rule requires an applicant to take a number of actions, these actions have been undertaken by oil and gas industry activities for many years as part of similar past regulations. Therefore, this rule is not expected to significantly affect energy supplies, distribution, or use and does not constitute a significant energy action. No statement of energy effects is required.

References

For a list of the references cited in this rule, see Docket No. FWS–R7–ES–2026–0694, available at *https://www.regulations.gov.*

List of Subjects in 50 CFR Part 18

Administrative practice and procedure, Alaska, Imports, Indians, Marine mammals, Oil and gas exploration, Reporting and recordkeeping requirements, Transportation.

Signing Authority

Kevin Lilly, Assistant Secretary for Fish and Wildlife and Parks, approved this action on August 25, 2026, for publication. On October 14, 2026, Kevin Lilly authorized the undersigned to sign the document electronically and submit it to the Office of the Federal Register for publication as an official document of the U.S. Fish and Wildlife Service.

Regulation Promulgation

For the reasons set forth in the preamble, the FWS amends part 18, subchapter B of chapter 1, title 50 of the Code of Federal Regulations as set forth below.

PART 18—MARINE MAMMALS

■ 1. The authority citation of 50 CFR Part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

■ 2. Amend part 18 by adding subpart J to read as follows:

Subpart J—Taking of Marine Mammals Incidental to Oil and Gas Exploration, Development, and Production Activities in the Beaufort Sea and Adjacent Northern Coast of Alaska

Sec.

18.119 Specified activities covered by this subpart.
18.120 Specified geographic region where this subpart applies.
18.121 Dates this subpart is in effect.
18.122 Procedure to obtain a letter of authorization (LOA).
18.123 How the FWS will evaluate a request for an LOA.
18.124 Authorized take allowed under an LOA.
18.125 Prohibited take under an LOA.
18.126 Mitigation.
18.127 Monitoring.
18.128 Reporting requirements.
18.129 Information collection requirements.

§ 18.119 Specified activities covered by this subpart.

This subpart applies to the incidental, but not intentional, take of small numbers of polar bears and Pacific walruses (hereafter walruses) by certain U.S. citizens while engaged in oil and gas exploration, development, production, and transportation activities in the Beaufort Sea and adjacent northern coast of Alaska. A letter of authorization (LOA) from the FWS is required to authorize incidental take that may occur during the specified activities. The entities described in § 18.122 may request an LOA pursuant to the regulations in this subpart.

§ 18.120 Specified geographic region where this subpart applies.

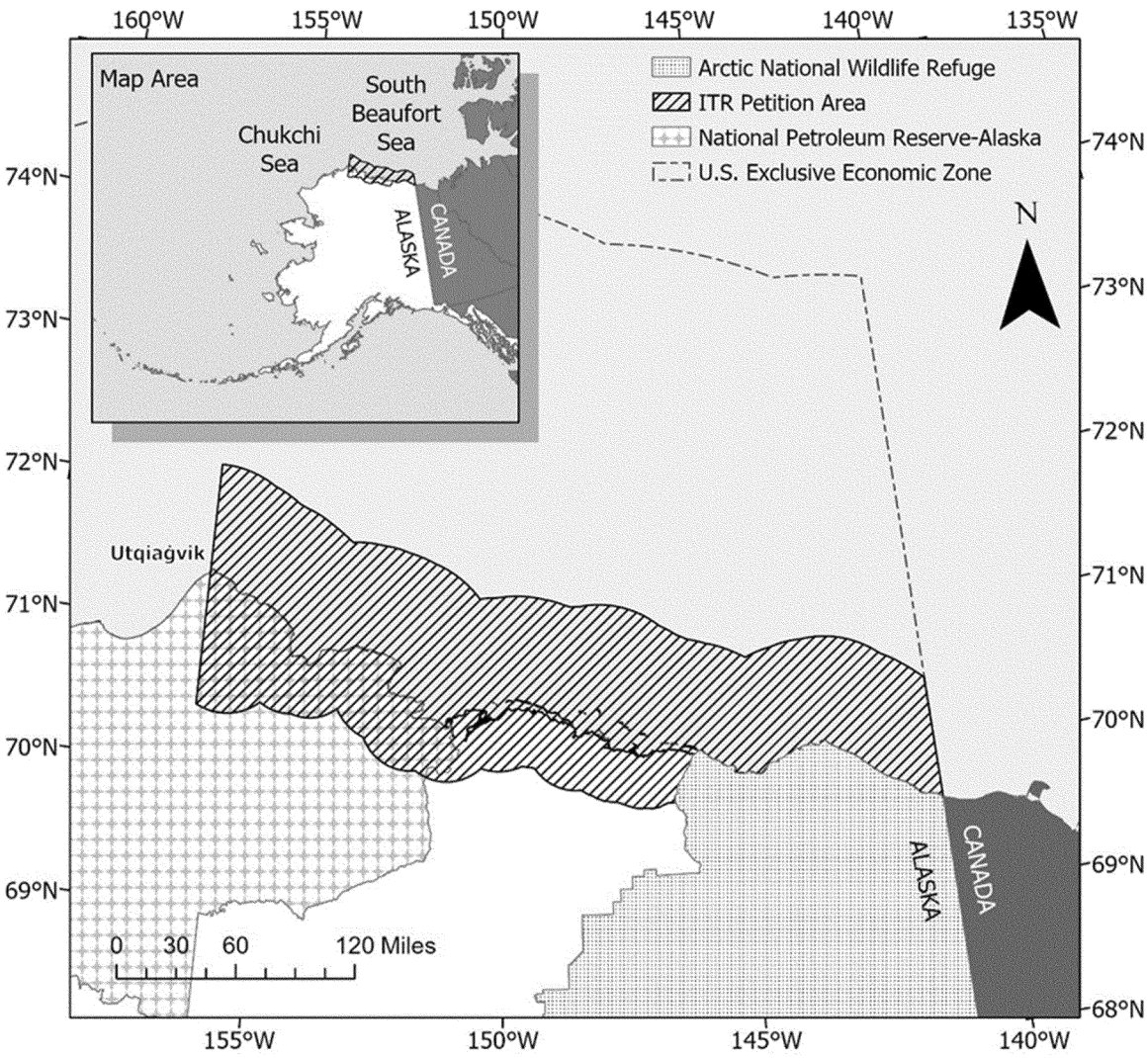
This subpart applies to the specified geographic region that encompasses all Beaufort Sea waters east of a north-south line through Point Barrow, Alaska (latitude 71.39139° N, longitude 156.475° W; Board on Geographic Names (BGN) 1944), and 80.5 kilometer (km) (50 miles (mi)) north of Point Barrow, including Alaska State waters and Outer Continental Shelf waters, and east of that line to the Canadian border.

(a) The offshore boundary of the Beaufort Sea incidental take regulations (ITR) region extends 80.5 km (50 mi) offshore. The onshore region is the same north/south line at Utqiagvik, 40.2 km (25 mi) inland and east to the Canning River.

(b) Lands and waters within the exterior boundaries of the Arctic National Wildlife Refuge are not included in the Beaufort Sea ITR region. Figure 1 shows the area where this subpart applies.

BILLING CODE 4333–15–P

Figure 1 to § 18.120—Map of the Beaufort Sea ITR Region



BILLING CODE 4333–15–C

§ 18.121 Dates this subpart is in effect.

This subpart is effective from October 19, 2026, through October 19, 2031, for year-round oil and gas exploration, development, production, and associated transportation activities.

§ 18.122 Procedure to obtain a letter of authorization (LOA).

(a) An applicant must be a U.S. citizen as defined in § 18.27(c) and among:

(1) Those entities specified in the request for this rule as set forth in paragraph (b) of this section;

(2) Any of their corporate affiliates; or

(3) Any of their respective contractors, subcontractors, partners, owners, co-lessees, designees, or successors-in-interest.

(b) The entities specified in the request (as modified) are the Alaska Oil and Gas Association, which includes Alyeska Pipeline Service Company; BlueCrest Energy, Inc.; Chevron Corporation; ConocoPhillips Alaska, Inc. (CPAI); ExxonMobil Alaska Production, Inc. (ExxonMobil); Finnex; Furie Operating Alaska, LLC; Glacier Oil and Gas Corporation (Glacier); Hilcorp Alaska, LLC and Hilcorp North Slope, LLC (Hilcorp); Marathon Petroleum Corporation; Petro Star Inc.; Repsol; Santos; Shell Exploration and Production Company (Shell); APA Corporation; and 8 Star Alaska, LLC (a non-member company).

(c) Request for LOAs must be submitted to the FWS's Alaska Region Marine Mammals Management (MMM) Office, MS 341, 1011 East Tudor Road, Anchorage, Alaska 99503, at least 90 days prior to the start of the activity.

(d) The request for an LOA must comply with the requirements set forth in §§ 18.126 through 18.128 and must include the following information:

(1) An operational plan that describes in detail the activity (*e.g.,* type of project, methods, and types and numbers of equipment and personnel), the dates and duration of the activity, and the specific locations affected by the activity;

(2) A site-specific walrus and polar bear safety, awareness, and interaction plan; the plan for each activity and location will detail the policies and procedures that will provide for the safety and awareness of personnel, avoid interactions with walruses and

polar bears, and minimize impacts to these animals;

(3) A site-specific marine mammal monitoring and mitigation plan to monitor and mitigate the effects of the activity on walruses and polar bears; and

(4) If necessary, a plan of cooperation (POC) to mitigate potential conflicts between the activity and subsistence hunting.

(i) In a POC, applicants must provide documentation of communication with potentially affected subsistence communities along the Beaufort Sea coast (*i.e.,* Kaktovik, Nuiqsut, and Utqiagvik) and appropriate subsistence user organizations (*i.e.,* the Alaska Nannut Co-Management Council, the Eskimo Walrus Commission, or North Slope Borough) to discuss the location, timing, and methods of activities and identify and mitigate any potential conflicts with subsistence walrus and polar bear hunting activities. Applicants must specifically inquire of relevant communities and organizations if the activity will interfere with the availability of walruses and/or polar bears for the subsistence use of those groups.

(ii) Documentation must include a summary of any concerns identified by community members and hunter organizations and the applicant's responses to identified concerns.

§ 18.123 How the FWS will evaluate a request for an LOA.

We will evaluate each request for an LOA based on the specific activity and the specific geographic location. We will determine whether the level of activity identified in the request exceeds that analyzed by us in considering the number of animals estimated to be taken and evaluating whether there will be a negligible impact on the species or stock and an unmitigable adverse impact on the availability of the species or stock for subsistence uses. If the level of the operator's activity is within the level of activity already analyzed by us, we will grant the LOA without further analysis. If the level of activity is greater, we may request further information but will not require additional data requirements beyond those required by § 18.22(d). We will reevaluate our findings to determine if those findings continue to be appropriate based on the combined estimated take of the greater level of activity that the applicant has requested and all other activities proposed during the time of the activities in the LOA request. Depending on the results of the evaluation, we may grant the LOA, add further conditions, or deny the LOA request.

§ 18.124 Authorized take allowed under an LOA.

(a) To incidentally take marine mammals pursuant to this subpart, the applicant must apply for and obtain an LOA in accordance with §§ 18.27(f) and 18.122.

(b) An LOA issued under this subpart allows for the incidental take, as defined under section 3 of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1362), of walruses and/or polar bears during activities specified in § 18.119 within the Beaufort Sea ITR region described in § 18.120.

(c) Each LOA will set forth:

(1) Permissible methods of incidental take;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

§ 18.125 Prohibited take under an LOA.

(a) Any incidental take that fails to comply with the regulations in this subpart or with the terms and conditions of an LOA remain prohibited. This subpart does not authorize any intentional take.

(b) If specified activities cause unauthorized take, the holder of an LOA must:

(1) Cease activities immediately (or reduce activities to the minimum level necessary to maintain safety) and report the details of the incident within 48 hours to the FWS MMM office at 1–907–786–3800 (business hours); and

(2) Suspend further activities until the FWS has reviewed the circumstances, determined whether additional mitigation measures are necessary to avoid further unauthorized taking, and notified the LOA holder that project activities may resume.

§ 18.126 Mitigation.

(a) *Mitigation measures for all LOAs.* Holders of an LOA must implement policies and procedures to conduct activities in a manner that effects the least practicable adverse impact on walruses and/or polar bears, their habitat, and the availability of these marine mammals for subsistence uses. Adaptive management practices, such as temporal or spatial activity restrictions in response to the presence of marine mammals in a particular place or time or the occurrence of walruses and/or polar bears engaged in a biologically significant activity (*e.g.,* resting, feeding, denning, or nursing, among others), must be used to avoid interactions with and minimize impacts to these animals and their availability for subsistence uses. All holders of an LOA must:

(1) Cooperate with the FWS's MMM Office and other designated Federal, State, and local agencies to monitor and mitigate the impacts of activities on walruses and polar bears. Where information is insufficient to evaluate the potential effects of activities on walruses, polar bears, and the subsistence use of this species, holders of an LOA may be required to participate in joint monitoring and/or research efforts to address these information needs and ensure the least practicable adverse impact to these resources.

(2) Designate trained and qualified personnel to monitor for the presence of walruses and polar bears, initiate mitigation measures, and monitor, record, and report the effects of the activities on walruses and/or polar bears.

(3) Have an approved walrus and polar bear safety, awareness, and interaction plan on file with the FWS's MMM Office and onsite and provide polar bear awareness training to certain personnel prior to their participation in the activities. Interaction plans must include:

(i) The type of activity and where and when the activity will occur (*i.e.,* a summary of the plan of operation);

(ii) A food, waste, and other ''bear attractants'' management plan;

(iii) Personnel training policies, procedures, and materials;

(iv) Site-specific walrus and polar bear interaction risk evaluation and mitigation measures;

(v) Walrus and polar bear avoidance and encounter procedures; and

(vi) Walrus and polar bear observation and reporting procedures.

(b) *Mitigation measures for onshore activities.* Holders of an LOA must undertake the following activities to limit disturbance around known polar bear dens:

(1) *Attempt to locate polar bear dens.* Holders of an LOA seeking to carry out onshore activities during the denning season (November–April) must conduct surveys for occupied polar bear dens in all denning habitat within 1.6 km (1 mi) of specified activities using aerial infrared (AIR) imagery. The applicant must conduct at least two such surveys in high and medium density denning zones and at least one such survey in other onshore project areas.

(i) Where one or two AIR surveys are required, the first survey must occur between November 25 and December 25 and the second survey must occur between December 15 and January 15. At least 24 hours must pass between the

completion of a required survey and the beginning of a subsequent required survey.

(ii) AIR surveys will be conducted during darkness or civil twilight and not during daylight hours. Ideal environmental conditions during surveys would be clear, calm, and cold; AIR detection should not be conducted when precipitation or other atmospheric conditions substantially degrade thermal imaging quality or the ability to reliably detect polar bear dens. Flight crews will record and report environmental parameters including air temperatures, dew point, wind speed and direction, cloud ceiling, and percent humidity, and a flight log will be provided to the FWS within 48 hours of the flight.

(iii) A scientist experienced in interpreting AIR imagery will be on board the survey aircraft to analyze the AIR data in real-time. The data (infrared video) will be made available for viewing by the FWS immediately upon return of the survey aircraft to the base of operations.

(iv) All observed or suspected polar bear dens must be reported to the FWS prior to the initiation of activities.

(2) *Observe 1-mile operational mitigation zone around known polar bear dens.* Operators must observe a 1.6-km (1-mi) operational mitigation zone around all known or suspected polar bear dens during the denning season (November–April, or until the female and cubs leave the areas). Should previously unknown occupied dens be discovered within 1.6 km (1 mi) of activities, the FWS must be contacted for guidance. The FWS will evaluate these instances on a case-by-case basis to determine the appropriate action. Potential actions may range from cessation or modification of work to conducting additional monitoring, and the holder of the LOA must comply with any additional measures specified.

(3) *Use the den habitat map developed by the U.S. Geological Survey (USGS).* To determine the areas that require surveys, operators must use the map of suitable coastal polar bear denning habitat developed by USGS: *https://data.usgs.gov/datacatalog/search?otherKeyword=%5B%22Denning%20habitat%22%5*. Doing so will inform LOA holders of the potential locations of polar bear dens for consideration when conducting activities in the coastal areas.

(4) *Observe polar bear den restrictions.* Restrict the timing of the activity to limit disturbance around known or suspected dens.

(5) *Observe den emergence restrictions.* If a female and cubs of the year are observed during the den emergence period (February–April), LOA holders must immediately halt or delay any activities that could impede the polar bears' path to the sea ice. LOA holders must also notify the FWS and personnel conducting operations between the female and cubs and the coastline.

(c) *Mitigation measures for operational and support vessels.* Holders of an LOA must implement the following measures:

(1) Operational and support vessels must be staffed with dedicated marine mammal observers to alert crew of the presence of walruses and polar bears and initiate adaptive mitigation responses.

(2) At all times, vessels must maintain the maximum distance practicable (805-meter (m) (0.5 mi) or greater) from concentrations of walruses or polar bears. Under no circumstances, other than an emergency, should any vessel approach within an 805-meter (m) (0.5-mi) radius of walruses or polar bears observed on land or ice.

(3) Vessel operators must take every precaution to avoid harassment of concentrations of feeding walruses when a vessel is operating near these animals. Vessels should reduce speed and maintain a minimum 805-m (0.5-mi) operational exclusion zone around feeding walrus groups. Vessels may not be operated in such a way as to separate members of a group of walruses (*i.e.,* greater than two) from other members of the group. When weather conditions require, such as when visibility drops, vessels should adjust speed accordingly to avoid the likelihood of injury to walruses.

(4) All vessels must avoid areas of active or anticipated walrus or polar bear subsistence hunting activity as determined through community consultations.

(5) In association with marine activities, we may require trained marine mammal monitors on the site of the activity or onboard ships, aircraft, icebreakers, or other support vessels or vehicles to monitor the impacts of oil and gas industry activity on polar bears and walruses.

(d) *Mitigation measures for aircraft to avoid disturbance.* Holders of an LOA must implement the following measures:

(1) *Follow aircraft elevation and flight path restrictions.* Operators of support aircraft shall, at all times, conduct their activities at the maximum distance practicable from concentrations of walruses or polar bears.

(i) Aircraft operations within the project area will maintain a minimum altitude of 457 m (1,500 feet (ft)) above ground level when safe and operationally possible.

(ii) Under no circumstances, other than an emergency, will aircraft operate at an altitude lower than 457 m (1,500 ft) within 805 m (0.5 mi) of known or suspected polar bear dens or walruses or polar bears observed on ice or land measured in a straight line between the animal and the ground directly underneath the aircraft. Helicopters may not hover or circle above such areas or within 805 m (0.5 mi) of such areas. Aircraft may be operated below 457 m (1,500 ft) only when necessary to avoid adverse weather conditions or when operationally necessary. However, when weather conditions necessitate operation of aircraft at altitudes below 457 m (1,500 ft), the operator must avoid areas of known walrus and polar bear concentrations and should take precautions to avoid flying directly over or within 805 m (0.5 mi) of these areas.

(iii) Operators must plan all aircraft routes to minimize any potential conflict with active or anticipated walrus or polar bear hunting activity as determined through community consultations.

(2) *Follow aircraft landing and take-off spatial restrictions.* Aircraft will not land within 805 m (0.5 mi) of walruses or polar bears. If a polar bear is observed while the aircraft is grounded in remote areas, personnel will board the aircraft and leave the area. The aircraft operator will also avoid flying over the polar bear if possible. Operators should avoid making any sudden maneuvers, especially when traveling at lower altitudes, even if such maneuvers are intended to avoid walruses or polar bears. If a polar bear is observed within the landing zone or work area, operators should travel away from the site and slowly increase altitude to 457 m (1,500 ft) or a level that is safest and viable given current traveling conditions. Aircraft may not be operated in such a way as to separate individual walruses or polar bears from a group (*i.e.,* two or more animals).

(e) *Mitigation measures for the subsistence use of walruses and polar bears.* Holders of an LOA must conduct their activities in a manner that, to the greatest extent practicable, minimizes adverse impacts on the availability of walruses and polar bears for subsistence uses.

(1) *Community consultation.* Prior to receipt of an LOA, applicants must consult with potentially affected communities and appropriate subsistence user organizations to discuss potential conflicts with subsistence walrus and polar bear

hunting caused by the location, timing, and methods of operations and support activities. If community concerns suggest that the activities may have an adverse impact on the subsistence uses of these species, the applicant must address conflict avoidance issues through a POC as described in paragraph (e)(2) of this section.

(2) *Plan of cooperation.* Based on community consultations, the holder of an LOA will be required to modify their POC as needed if directed by the FWS.

(i) The POC must include a description of the procedures by which the holder of the LOA will work and consult with potentially affected subsistence hunters and a description of specific measures that have been or will be taken to avoid or minimize interference with subsistence hunting of walruses and polar bears and to ensure continued availability of the species for subsistence use.

(ii) The FWS will review the POC to ensure that any potential adverse effects on the availability of the animals are minimized. The FWS will reject or require modification of POCs if they do not provide adequate safeguards to ensure the least practicable adverse impact on the availability of walruses and polar bears for subsistence use.

§ 18.127 Monitoring.

Holders of an LOA must develop and implement a site-specific, FWS-approved marine mammal monitoring and mitigation plan to monitor and evaluate the effectiveness of mitigation measures and the effects of activities on walruses, polar bears, and the subsistence use of these species and provide trained, qualified, and FWS-approved onsite observers to carry out the activities identified in the marine mammal monitoring and mitigation plan.

§ 18.128 Reporting requirements.

Holders of an LOA must report the results of monitoring and mitigation activities to the FWS's MMM Office via email at: *fw7_mmm_reports@fws.gov.*

(a) *In-season monitoring reports*—(1) *Activity progress reports.* Holders of an LOA must:

(i) Notify the FWS at least 48 hours prior to the onset of activities;

(ii) Provide the FWS weekly progress reports of any significant changes in activities and/or locations; and

(iii) Notify the FWS within 48 hours after ending of activities.

(2) *Walrus observation reports.* Holders of an LOA must report, on a weekly basis, all observations of walruses during any industry activity. Upon request, monitoring report data must be provided in a common electronic format (to be specified by the FWS). Information in the observation report must include, but is not limited to:

(i) Date and time of the observation;

(ii) Locations of the observer and walruses (GPS coordinates if possible);

(iii) Number of walruses;

(iv) Sex and age class of walruses (if known);

(v) Observer name and contact information;

(vi) Weather, visibility, and if at sea, sea state, and sea-ice conditions at the time of the observation;

(vii) Estimated distance of walruses at closest approach;

(viii) Industry activity at time of the observation;

(ix) Walrus behavior;

(x) Description of the observation;

(xi) Duration of the observation; and

(xii) Mitigation actions taken.

(3) *Polar bear observation reports.* Holders of an LOA must report, within 48 hours, all observations of polar bears and potential polar bear dens, during any industry activity. Upon request, monitoring report data must be provided in a common electronic format (to be specified by the FWS). Information in the observation report must include, but is not limited to:

(i) Date and time of the observation;

(ii) Locations of the observer and polar bears (GPS coordinates if possible);

(iii) Number of polar bears;

(iv) Sex and age class of polar bears (if known);

(v) Observer name and contact information;

(vi) Weather, visibility, and if at sea, sea state, and sea-ice conditions at the time of the observation;

(vii) Estimated closest distance of polar bears from personnel and facilities;

(viii) Industry activity at time of the observation;

(ix) Possible attractants present;

(x) Polar bear behavior;

(xi) Description of the observation;

(xii) Duration of the observation; and

(xiii) Mitigation actions taken.

(b) *Notification of LOA incident report.* Holders of an LOA must report, as soon as possible, but within 48 hours, all LOA incidents during any industry activity. An LOA incident is any situation in which specified activities exceed the authority of an LOA, a mitigation measure was required but not enacted, or injury or death of a walrus or polar bear occurs.

(1) Reports must include all information specified for an observation report, a complete detailed description of the incident, and any other actions taken.

(2) Injured, dead, or distressed walruses or polar bears that are clearly not associated with the specified activities (*e.g.,* animals found outside the project area, previously wounded animals, or carcasses with moderate to advanced decomposition or scavenger damage) must also be reported to the FWS immediately, and not later than 48 hours after discovery. Photographs, video, location information, or any other available documentation must be included.

(c) *Final report.* The results of monitoring and mitigation efforts identified in the marine mammal monitoring and mitigation plan must be submitted to the FWS for review within 90 days of the expiration of an LOA. Upon request, final report data must be provided in a common electronic format (to be specified by the FWS). Information in the final report must include, but is not limited to:

(1) Copies of all observation reports submitted under the LOA;

(2) A summary of the observation reports;

(3) A summary of monitoring and mitigation efforts including areas, total hours, total distances, and distribution;

(4) Analysis of factors affecting the visibility and detectability of walruses and polar bears during monitoring;

(5) Analysis of the effectiveness of mitigation measures;

(6) Analysis of the distribution, abundance, and behavior of walruses and/or polar bears observed; and

(7) Estimates of take in relation to the specified activities.

§ 18.129 Information collection requirements.

OMB has approved the collection of information contained in this subpart and assigned OMB control number 1018–0070. We 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. Direct comments regarding the burden estimate or any other aspect of this requirement to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, at the address listed in 50 CFR part 2.1.

Brian Nesvik,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2026–21371 Filed 10–16–26; 8:45 am]

BILLING CODE 4333–15–P



FEDERAL REGISTER

Vol. 91 Monday,
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Part III

The President

Notice of October 15, 2026—Continuation of the National Emergency With Respect to Significant Narcotics Traffickers Centered in Colombia
Notice of October 15, 2026—Continuation of the National Emergency With Respect to Sudan
Notice of October 15, 2026—Continuation of the National Emergency With Respect to the Democratic Republic of the Congo

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Title 3—

The President

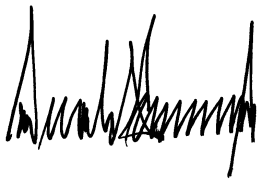
Notice of October 15, 2026

Continuation of the National Emergency With Respect to Significant Narcotics Traffickers Centered in Colombia

On October 21, 1995, by Executive Order 12978, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions of significant narcotics traffickers centered in Colombia and the extreme level of violence, corruption, and harm such actions cause in the United States and abroad.

The actions of significant narcotics traffickers centered in Colombia continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and cause an extreme level of violence, corruption, and harm in the United States and abroad. For this reason, the national emergency declared in Executive Order 12978 of October 21, 1995, must continue in effect beyond October 21, 2026. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to significant narcotics traffickers centered in Colombia declared in Executive Order 12978.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
October 15, 2026.

[FR Doc. 2026–21430
Filed 10–16–26; 11:15 am]
Billing code 3395–F4–P

Presidential Documents

Notice of October 15, 2026

Continuation of the National Emergency With Respect to Sudan

On November 3, 1997, by Executive Order 13067, the President declared a national emergency with respect to Sudan pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and took related steps to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States posed by the actions and policies of the Government of Sudan. On April 26, 2006, by Executive Order 13400, the President determined that the conflict in Sudan's Darfur region posed an unusual and extraordinary threat to the national security and foreign policy of the United States, expanded the scope of the national emergency declared in Executive Order 13067, and ordered the blocking of property of certain persons connected to the Darfur region. On October 13, 2006, by Executive Order 13412, the President took additional steps with respect to the national emergency declared in Executive Order 13067 and expanded in Executive Order 13400. In Executive Order 13412, the President also took steps to implement the Darfur Peace and Accountability Act of 2006 (Public Law 109–344).

On January 13, 2017, by Executive Order 13761, the President found that positive efforts by the Government of Sudan between July 2016 and January 2017 improved certain conditions that Executive Orders 13067 and 13412 were intended to address. Given these developments, and in order to encourage the Government of Sudan to sustain and enhance these efforts, section 1 of Executive Order 13761 provided that sections 1 and 2 of Executive Order 13067 and the entirety of Executive Order 13412 would be revoked as of July 12, 2017, provided that the criteria in section 12(b) of Executive Order 13761 had been met.

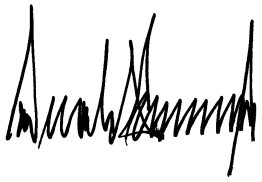
On July 11, 2017, by Executive Order 13804, the President amended Executive Order 13761, extending until October 12, 2017, the effective date in section 1 of Executive Order 13761. On October 12, 2017, pursuant to Executive Order 13761, as amended by Executive Order 13804, sections 1 and 2 of Executive Order 13067 and the entirety of Executive Order 13412 were revoked.

On May 4, 2023, by Executive Order 14098, the President further expanded the scope of the national emergency declared in Executive Order 13067, finding that the situation in Sudan, including the military's seizure of power in October 2021 and the outbreak of inter-service fighting in April 2023, constituted an unusual and extraordinary threat to the national security and foreign policy of the United States.

The crisis that led to the declaration of a national emergency in Executive Order 13067 of November 3, 1997; the expansion of the scope of that emergency in Executive Order 13400 of April 26, 2006; the taking of additional steps with respect to that emergency in Executive Order 13412 of October 13, 2006, Executive Order 13761 of January 13, 2017, and Executive Order 13804 of July 11, 2017; and the further expansion of the scope of that emergency in Executive Order 14098 of May 4, 2023, has not been resolved. The policies and actions of the Government of Sudan, and the situation in Sudan and Darfur, continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared in Executive Order 13067,

as expanded by Executive Orders 13400 and 14098, must continue in effect beyond November 3, 2026.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
October 15, 2026.

[FR Doc. 2026–21431
Filed 10–16–26; 11:15 am]
Billing code 3395–F4–P

Presidential Documents

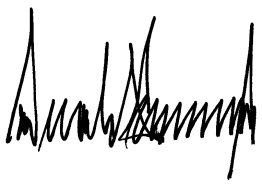
Notice of October 15, 2026

Continuation of the National Emergency With Respect to the Democratic Republic of the Congo

On October 27, 2006, by Executive Order 13413, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the situation in or in relation to the Democratic Republic of the Congo, which has been marked by widespread violence and atrocities that continue to threaten regional stability. The President took additional steps to address this national emergency in Executive Order 13671 of July 8, 2014.

The situation in or in relation to the Democratic Republic of the Congo continues to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, the national emergency declared in Executive Order 13413 of October 27, 2006, as amended by Executive Order 13671 of July 8, 2014, must continue in effect beyond October 27, 2026. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo declared in Executive Order 13413, as amended by Executive Order 13671.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
October 15, 2026.

[FR Doc. 2026–21432
Filed 10–16–26; 11:15 am]
Billing code 3395–F4–P

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