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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 25

**[Docket No. FAA–2026–9408; Special Conditions No. 25–897–SC]**

## Special Conditions: Gulfstream Aerospace Corporation, Model GVII–G400 Airplane; Flight Envelope Protection: Takeoff Stall Protection

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions; request for comments.

**SUMMARY:** These special conditions are issued for the Gulfstream Aerospace Corporation (Gulfstream) Model GVII–G400 airplane. This airplane will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. This design feature is an envelope protection function to protect the airplane from over- and rapid-rotation on takeoff. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** This action is effective on Gulfstream on November 10, 2026. Send comments on or before December 28, 2026.

**ADDRESSES:** Send comments identified by Docket No. FAA–2026–9408 using any of the following methods:

- *Federal eRegulations Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

*Docket:* Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Troy Brown, Flight Performance and Human Factors Section, AIR–687, Certification Standards Division, Aircraft Certification Service, Federal Aviation Administration, 1801 S Airport Rd., Wichita, KS 67209–2190; telephone and fax 405–666–1050; email *troy.a.brown@faa.gov.*

**SUPPLEMENTARY INFORMATION:** The substance of these special conditions has been published in the **Federal Register** for public comment in several prior instances with no substantive comments received. Therefore, the FAA finds, pursuant to 14 CFR 11.38(b), that new comments are unlikely, and notice and comment prior to this publication are unnecessary.

### Privacy

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in title 14, Code of Federal Regulations (14 CFR) 11.35, the FAA will post all comments received without change to *www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about these special conditions.

### Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to these special conditions contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to these special conditions, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and the indicated comments will not be placed in the public docket of these proposed special conditions. Send submissions containing CBI to the individual listed in the For Further Information Contact section above. Comments the FAA receives, which are not specifically designated as CBI, will be placed in the public docket for these proposed special conditions.

### Comments Invited

The FAA invites interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

The FAA will consider all comments received by the closing date for comments. The FAA may change these special conditions based on the comments received.

### Background

On December 1, 2022, Gulfstream applied for an amendment to Type Certificate No. T00021AT to include the new Model GVII–G400 airplane. The Gulfstream Model GVII–G400 airplane, which is a derivative of the Gulfstream Model GVII–500 (currently approved under Type Certificate No. T00021AT), is a twin engine transport category airplane with seating for 19 passengers and 2 crew, and has a maximum takeoff weight of 73,500 pounds.

### Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Gulfstream must show that the Model GVII–G400 airplane meets the applicable provisions of the regulations listed in Type Certificate No. T00021AT, or the applicable regulations

in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*e.g.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Gulfstream Model GVII–G400 airplane because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Gulfstream Model GVII–G400 airplane must comply with the exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with 14 CFR 11.38, and they become part of the type certification basis under § 21.101.

**Novel or Unusual Design Features**

The Gulfstream Model GVII–G400 airplane will incorporate the following novel or unusual design feature:

An envelope protection function within the electronic flight control system (EFCS) to protect the airplane from over- and rapid-rotation on takeoff.

**Discussion**

The Gulfstream Model GVII–G400 series airplanes are equipped with an envelope protection function within the EFCS that is designed to provide an enhanced takeoff stall protection (TSP) function. This feature protects against excessive pitch rate and pitch attitude during takeoff using a limitation in the electronic flight controls. It is designed to provide conventional behavior using a normal takeoff technique, including ''performance'' takeoffs. The on-ground mode is a pitch rate command with a pitch attitude limit. The functionality in on-ground mode is that pitch rate command is proportional to stick input. The limit to pitch attitude will indirectly limit the angle of attack.

The TSP involves a control law update in the on-ground control mode only. The Model GVII–G400 series airplane's pitch control behavior, with regard to rotation rates and attitudes for normal takeoffs, will be similar to other Gulfstream airplanes equipped with side sticks; however, takeoffs with rapid rotation rates and over-rotation will be influenced by the TSP.

The current regulations in Subpart B of 14 CFR part 25 do not address envelope protections for electronic flight control systems as this technology is novel or unusual for transport category airplanes. These special conditions are specific to Gulfstream airplanes incorporating TSP function. These conditions are necessary to ensure that the TSP function supports safe operation and does not interfere with required maneuvering in normal and emergency operations and in foreseeable atmospheric conditions. These conditions also ensure that the structural limits of the airplane are not exceeded. Furthermore, failure of the TSP function must not create hazardous flight conditions.

The special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**Applicability**

As discussed above, these special conditions are applicable to the Gulfstream Model GVII–G400 airplane. Should Gulfstream apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well.

**Conclusion**

This action affects only a certain novel or unusual design feature on GVII–G400 series of airplanes. It is not a rule of general applicability.

**List of Subjects in 14 CFR Part 25**

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

**Authority Citation**

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(f), 40113, 44701, 44702, and 44704.

**The Special Conditions**

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Gulfstream Model GVII–G400 series airplanes, and will be applied by the FAA to the extent necessary to certify the envelope protection function within the electronic flight control system (EFCS) that protects the airplane from over- and rapid-rotation on takeoff.

For airplanes that employ envelope protection functions:

1. Envelope protection functions must not unduly limit the maneuvering capability of the airplane nor interfere with its ability to perform maneuvers required for normal and emergency operations.

2. Onset characteristics of each envelope protection function must be appropriate to the phase of flight and type of maneuver and must not conflict with the ability of the pilot to satisfactorily control the airplane flight path, speed, or attitude.

3. Excursions of a limited flight parameter beyond its nominal design limit value due to dynamic maneuvering, airframe and system tolerances, and non-steady atmospheric conditions must not result in unsafe flight characteristics or conditions.

4. Operation of envelope protection functions must not adversely affect aircraft control during expected levels of atmospheric disturbances, nor impede the application of recovery procedures in case of windshear.

5. Simultaneous activation of envelope protection functions must not result in adverse coupling or adverse priority.

6. In case of abnormal attitude or excursion of any flight parameters outside the protected boundaries, operation of envelope protection functions must not hinder airplane recovery.

Issued in Des Moines, WA, on October 29, 2026.

**Paul R. Siegmund,**

*Manager, Transport Airplane and Turbine Engine Standards Branch, Certification Standards Division, Aircraft Certification Service.*

[FR Doc. 2026–22951 Filed 11–9–26; 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; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; correction.

**SUMMARY:** The FAA is correcting an airworthiness directive (AD) that was published in the **Federal Register**. That AD applies 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. As published, a paragraph reference specified in the regulatory text is incorrect. This document corrects that error. In all other respects, the original document remains the same.

**DATES:** This correction is effective November 23, 2026. The effective date of AD 2026–21–03 remains 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 (91 FR 65952, October 19, 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; correction, 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 in the AD docket 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**

AD 2026–21–03, Amendment 39–23492 (91 FR 65952, October 19, 2026) (AD 2026–21–03), requires repetitive leak checks of certain fuel low pressure shut-off valves (LPSOVs) and replacement of an affected part if any discrepancy is detected. AD 2026–21–03 also allows the installation of an affected part under certain conditions. That AD applies 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.

**Need for the Correction**

As published, a paragraph reference specified in the regulatory text of AD 2026–21–03 is incorrect. Paragraph (h)(4) of AD 2026–21–03 inadvertently references paragraph (4) of EASA AD 2026–0060R1 instead of paragraph (2) of EASA AD 2026–0060R1.

**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.

**Correction of Publication**

This document corrects an error and correctly adds the AD as an amendment to 14 CFR 39.13. Although no other part of the preamble or regulatory information has been corrected, the FAA is publishing the entire rule in the **Federal Register**.

The effective date of this AD remains November 23, 2026.

Since this action only corrects a paragraph reference, it has no adverse economic impact and imposes no additional burden on any person. Therefore, the FAA has determined that notice and public comment procedures are unnecessary.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the FAA amends part 39 of the Federal Aviation Regulations (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 [Corrected]**

■ 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 (2) 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 (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 this AD specifies otherwise.

(3) The following material was approved for IBR on November 23, 2026 (91 FR 65952, October 19, 2026).

(i) European Union Aviation Safety Agency (EASA) AD 2026–0060R1, dated June 9, 2026.

(ii) [Reserved]

(4) 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.*

(5) 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.

(6) 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 November 6, 2026.

**Lona C. Saccomando,**

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

[FR Doc. 2026–22907 Filed 11–9–26; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2026–2729; Project Identifier MCAI–2025–00726–T; Amendment 39–23513; AD 2026–22–11]**

**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 certain Airbus SAS Model A350–941 airplanes. This AD was prompted by a report of a missing main landing gear (MLG) brake rod center pin nut sub-assembly detected during an inspection. This AD requires, depending on airplane configuration, inspection of the MLG brake rod center pin nut, lock ring, and end plate, inspection of the MLG brake rod center pin and nut, and applicable corrective actions. This AD also requires additional work for certain airplanes. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective December 15, 2026.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 15, 2026.

**ADDRESSES:**

*AD Docket:* You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–2729; 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–2026–2729.

**FOR FURTHER INFORMATION CONTACT:** Andrew Younglove, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3644; email: *andrew.e.younglove@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 Airbus SAS Model A350–941 airplanes. The NPRM was published in the **Federal Register** on March 30, 2026 (91 FR 15569). The NPRM was prompted by EASA AD 2025–0150, dated July 14, 2025 (EASA AD 2025–0150) (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 occurrence was reported of a missing MLG brake rod center pin nut sub-assembly detected during an inspection. Further investigation revealed severe corrosion on the threads and splines of the MLG brake rod center pin and nut sub-assemblies that could have led to the detachment of the MLG brake rod center pin nut sub-assembly. This condition, if not addressed, could prevent the extension of the MLG, possibly resulting in damage to the airplane and injury to occupants.

In the NPRM, the FAA proposed to require, depending on airplane configuration, inspection of the MLG brake rod center pin nut, lock ring, and end plate, inspection of the MLG brake rod center pin and nut, and applicable corrective actions, as specified in EASA AD 2025–0150. The proposed AD also required additional work for certain airplanes, as specified in EASA AD 2025–0150. 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–2026–2729.

**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 additional comments from Delta Air Lines (Delta). The following presents the comments received on the NPRM and the FAA's response to each comment.

**Request To Allow Alternative Subtasks**

Delta requested the FAA add an exception in paragraph (h) of the proposed AD to allow use of the applicable subtasks to Aircraft Maintenance Manual (AMM) Task A350–A–32–11–62–01001–720A–A, instead of requiring only Subtask 321162–40100060004 to Task A350–A–32–11–62–01001–720A–A. Delta stated the referenced subtask is not applicable to all affected Airbus SAS Model A350–941 airplanes. Delta also stated that the referenced steps to Subtask 321162–40100060004 are correct, so using only the step references will allow operators to use the applicable subtask.

The FAA agrees and has added a new exception in paragraph (h)(4) of this AD accordingly.

**Request To Allow Other Paint Repair Procedures**

Delta requested the FAA add an exception in paragraph (h) of the proposed AD to specify that the note in Airbus Alert Operators Transmission (AOT) A32P034–24, Revision 01, dated May 27, 2025 (the AOT), for repairing any paint damage, provides an accepted procedure, not a required procedure. Delta stated the procedure in that note requires using paint and primer products that are not available to Delta, and that Airbus clarified that the note directing the operator to use certain vendor service information for repairing any paint damage is a general repair instruction and is intended only to guide operators in restoring paint damage. Delta also stated that Airbus confirmed operators may follow standard repair processes via other documentation and that they have no objections to Delta's approved external paint repair process.

The FAA disagrees with this request. The FAA reviewed Airbus's response to Delta and determined that an alternative method of compliance (AMOC) is required to repair paint damage using other methods not specified in the vendor service information referenced in the AOT. Although Airbus has no objection to Delta restoring the paint damage using its approved repair process, the note in the AOT resides under a paragraph designated as Required for Compliance (RC), and that note specifies to repair any damage to paint ''in accordance with'' certain vendor service information. Additionally, the FAA does not consider it appropriate to include provisions in an AD applicable only to a single operator's unique maintenance practices. However, under the provisions of paragraph (i)(1) of this AD, an alternative method of compliance (AMOC) may be requested for a deviation to any procedures identified as required for compliance in the service information. The FAA has not changed the AD in this regard.

**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 2025–0150 specifies procedures for detailed visual inspection of the right-hand (RH) and left-hand (LH) MLG brake rod center pin nut, lock ring, and end plate for discrepancies (which include damage to the painted surface, the sealant, or the lockwire; gaps or separations in the sealant; or external corrosion) and applicable corrective actions; and detailed visual inspection of the RH and LH MLG brake rod center pin and nut for discrepancies (which include corrosion of the pin or nut threads, damage or distortion of the threads and splines, deep gouges or scratches penetrating the surface protection, exposure of base material, or need for repair of the cadmium plating), and applicable corrective actions. Corrective actions include replacement of the brake rod pin sub-assembly.

EASA AD 2025–0150 introduces additional work for airplanes with any MLG brake rod pin sub-assembly that has been reinstalled without reinstalling lockwire and applying sealant. The additional work is contacting Airbus for instructions and accomplishing those instructions. EASA AD 2025–0150 also specifies reporting the results of the inspections (including no findings) to the manufacturer.

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.

**Interim Action**

The FAA considers that this AD is an interim action.

**Costs of Compliance**

The FAA estimates that this AD affects 3 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 7 work-hours × $85 per hour = $595 | $0 | Up to $595 | Up to $1,785. |

The FAA estimates the following costs to do any necessary on-condition action 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 this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

| Labor cost | Parts cost | Cost per product |
|---|---|---|
| 20 work-hours × $85 per hour = $1,700 | $30,399 | $32,099 |

**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 currently 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**

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:

**2026–22–11 Airbus SAS:** Amendment 39–23513; Docket No. FAA–2026–2729; Project Identifier MCAI–2025–00726–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective December 15, 2026.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Airbus SAS Model A350–941 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2025–0150, dated July 14, 2025 (EASA AD 2025–0150).

**(d) Subject**

Air Transport Association (ATA) of America Code 32, Landing gear.

**(e) Unsafe Condition**

This AD was prompted by a report of a missing main landing gear (MLG) brake rod center pin nut sub-assembly detected during an inspection. The FAA is issuing this AD to address discrepancies of the MLG brake rod center pin and nut that could lead to detachment of the MLG brake rod center pin nut sub-assembly. This condition, if not addressed, could prevent the extension of the MLG, possibly resulting in damage to the airplane and injury to occupants.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2025–0150.

**(h) Exceptions to EASA AD 2025–0150**

(1) Where EASA AD 2025–0150 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2025–0150 refers to May 9, 2025 (the effective date of EASA AD 2025–0095), this AD requires using the effective date of this AD.

(3) This AD does not adopt the ''Remarks'' section of EASA AD 2025–0150.

(4) Where the material referenced in EASA AD 2025–0150 specifies ''Subtask 321162–40100060004'', this AD requires replacing that text with ''Subtask 321162–40100060004 or the Subtask applicable to your airplane configuration''.

**(i) Additional AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: *AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material referenced in EASA AD 2025–0150 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.

**(j) Additional Information**

For more information about this AD, contact Andrew Younglove, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 206–231–3644; email: *andrew.e.younglove@faa.gov.*

**(k) Material Incorporated by Reference**

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2025–0150, dated July 14, 2025.

(ii) Reserved.

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

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on November 6, 2026.

**Lona C. Saccomando,**

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

[FR Doc. 2026–22897 Filed 11–9–26; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Parts 91, 125, 135, 137, and 145

**[Docket No.: FAA–2024–0025 Amdt. Nos. 91–385, 125–78, 135–150, 137–18, and 145–34]**

**RIN 2120–AL20**

# Inspection Programs for Single-Engine Turbine-Powered Airplanes and Unmanned Aircraft; and Miscellaneous Maintenance-Related Updates

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** The final rule updates the maintenance inspection requirements for single-engine turbine-powered airplanes and unmanned aircraft. Aircraft owners and operators now have more inspection program options to choose from and more relaxed mechanical reliability reporting requirements. It also clarifies various maintenance-related regulations. This final rule relieves aircraft owners, operators, maintenance providers, and FAA of certain workload burdens by facilitating a more efficient workload for these individuals without compromising aviation safety.

**DATES:** Effective January 11, 2027.

**ADDRESSES:** For information on where to obtain copies of rulemaking documents and other information related to this final rule, see ''How to Obtain Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action, contact Bryan B. Davis, Airmen & Special Projects Branch, AFS–320, Aircraft Maintenance Division, Flight Standards Service, Federal Aviation Administration, United CMO (HOU), GL33 2625 Bay Area Boulevard, Suite 400, Houston, Texas 77058–1568; telephone: (281) 929–7013; email: *bryan.davis@faa.gov.*

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## I. Executive Summary

### *A. Overview of the Final Rule*

This final rule revises 14 CFR part 91 to make maintenance requirements for certain aircraft more flexible. To begin, it expands the maintenance inspection program options for owners and operators of single-engine turbine-powered airplanes and unmanned aircraft. Specifically, single-engine turbine-powered airplane owners and operators can now use an inspection program recommended by the manufacturer, or one created by the registered owner or operator, provided it is approved by the Administrator. Existing inspection options, such as the annual, 100-hour, or progressive inspection programs, remain available as alternatives.

In addition, for unmanned aircraft operating under 14 CFR part 135, the rule now allows these aircraft owners and operators to follow inspection rules under part 91. This means they can choose either a manufacturer-recommended inspection program or one established by the registered owner or operator, as long as it receives Administrator approval.

Beyond inspection programs, the final rule amends subpart K of part 91 by extending the reporting interval for aircraft mechanical reliability reports from 72 hours to 96 hours. It also provides the option to submit these reports electronically, simplifying the submission process.

Finally, this final rule clarifies and streamlines maintenance-related regulations in various parts of 14 CFR, including parts 125, 135, 137, 145, and additional subparts of part 91. By addressing confusing or ambiguous language, these updates help aircraft owners, operators, and maintenance providers comply with regulations more easily. Overall, the rule supports FAA's mission of efficiency by enabling greater flexibility for owners, operators, and maintenance providers in meeting maintenance requirements, all while ensuring that aviation safety remains uncompromised.

### *B. Summary of the Costs and Benefits*

This rule's manned aircraft maintenance programs include a 10-year estimate of costs and savings. These estimates are based on the assumption that all manufacturers of single-engine turbine-powered aircraft would develop and make available their manufacturer inspection programs to owners and operators of that aircraft type. Using a seven percent discount rate, the result is an annualized net cost savings of $57.02 million.

## II. Authority for This Rulemaking

FAA's authority to issue rules on aviation safety, such as the rules governing the inspection, maintenance service, and overhauling of aircraft, aircraft engines, propellers, and appliances, as well as the equipment and facilities, the timing of and manner of such activities, is found in title 49 of the United States Code (49 U.S.C.). Subtitle I, section 106 grants the FAA Administrator the authority to issue rules on aviation safety. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority, including the authority to issue regulations.

This rulemaking is issued under 49 U.S.C. 44701(a)(2)(A) and (B), which directs FAA to prescribe regulations and minimum standards in the interest of safety for:

(1) inspecting, servicing, and overhauling aircraft, aircraft engines, propellers, and appliances; and (2) equipment and facilities for, and the timing of and manner of, the inspecting, servicing, and overhauling FAA finds necessary for safety in air commerce. In addition, 49 U.S.C. 44701(a)(5) charges FAA with promoting the safe flight of civil aircraft by prescribing regulations and minimum standards for other practices, methods, and procedures FAA finds necessary for safety in air commerce and national security.

Finally, 49 U.S.C. 44707 authorizes FAA to examine and rate repair stations and shops that repair, alter, and maintain aircraft, aircraft engines, propellers, and appliances. Specifically, under 49 U.S.C. 44707(2), FAA is charged with inspecting and rating repair stations and shops on the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of the individuals doing the work or giving instruction in the work.

## III. Background

### *A. Statement of the Problem*

Previously, single-engine turbine-powered airplanes were not authorized to use the inspection options listed in 14 CFR 91.409(f) as alternatives to the annual or 100-hour inspection requirements. These options listed under § 91.409(f) included a continuous airworthiness inspection program under a part 121 or part 135 operator's Continuous Airworthiness Maintenance Program (CAMP), an approved aircraft inspection program under part 135, a manufacturer-recommended inspection program, and a program created by the owner or operator and approved by FAA.

In 1989, FAA updated § 91.409(e), introducing more inspection options for turbine-powered rotorcraft. This allowed operators to schedule inspections in a way that optimized the time between inspections, resulting in more efficient operations. However, single-engine turbine-powered airplanes were excluded from this update because they were less common compared to rotorcraft at the time. Today, that is no longer the case—there are now more than 4,500 single-engine turbine-powered airplanes registered in the U.S. Moreover, the increasing integration of unmanned aircraft systems (UAS) into the National Airspace System since 2016 has added further context to the need for regulatory updates. To accommodate and support UAS operations under parts 91 and 135, FAA has granted exemptions and waivers, generally requiring UAS to adhere to the manufacturer's inspection instructions or incorporate those instructions in an operator's approved maintenance inspection program.

Given these developments, FAA sees no safety concerns that justify denying single-engine turbine-powered airplanes and UAS the same regulatory flexibility as turbine-powered rotorcraft when it comes to part 91 inspection options. Manufacturer-recommended inspection programs for turbine-powered rotorcraft have consistently proven to be safe and effective alternatives to annual or 100-hour inspections. FAA anticipates similarly positive outcomes for single-engine turbine-powered airplanes and UAS that use manufacturer recommended programs, or ones established by the owner or operator and approved by the Administrator.

Lastly, there is a pressing need to address ambiguities in part 145 related to maintenance documentation and contract maintenance. FAA has received numerous questions and requests for legal interpretations pertaining to these matters, underscoring the importance of providing clearer regulatory language.

### *B. Summary of the NPRM*

The notice of proposed rulemaking (NPRM), which published in the **Federal Register** on January 31, 2024, with the comment period closing on May 1, 2024, proposed several amendments. First, it proposed expanding the availability of maintenance inspection program options under 14 CFR 91.409(e) to

single-engine turbine-powered airplanes and unmanned aircraft (excluding part 107 aircraft) operating under parts 91 or 135. This change enables owners and operators to use inspection programs under § 91.409(f), offering greater flexibility. In addition, the NPRM proposed relaxing the mechanical reliability reporting requirements found under § 91.1415(d). The new reporting timeframe, from 72 to 96 hours, would align with §§ 121.703, 125.409, 135.415, and 145.221. It proposed changing the section heading from ''Mechanical reliability reports'' to ''Service difficulty reports'' for consistency. The NPRM also proposed clarification of part 145 requirements. Specifically, the proposed changes to § 145.217 would clarify that FAA approval of contract maintenance applies only when a certificated repair station assumes responsibility for outside maintenance and approves it for return to service. In addition, § 145.201(a)(2) would remove ''for which the certificated repair station is rated,'' allowing repair stations to arrange contract maintenance on articles they are not rated for. Other reorganization changes to part 145 were proposed to reduce administrative burdens and clarify contract maintenance regulations.

Moreover, the NPRM proposed numerous miscellaneous updates to 14 CFR parts 91, 125, 135, and 137. The proposed amendments aim to clarify and streamline inspection program options and submission processes for aircraft owners and operators. Subtitles ''Annual Inspection'' and ''100-Hour Inspection'' were added to § 91.409 at (a) and (b), respectively, to improve consistency in labeling across 14 CFR. Proposed changes to § 91.409(e) included reorganizing it into two subparagraphs: one for large airplanes, multiengine turbine-powered airplanes, and unmanned aircraft, and another for turbine-powered rotorcraft and single-engine turbine-powered airplanes.

Proposed amendments to 14 CFR 91.409(f) involved simplifying terminology, such as replacing ''[a] continuous airworthiness inspection program that is part of a continuous airworthiness maintenance program [CAMP] . . .'' with ''*an inspection program* that is part of a continuous airworthiness maintenance program . . .'' and revising other phrases throughout the subsection for consistency and clarity (emphasis added). The NPRM aimed to reduce administrative burdens by removing the requirement under § 91.409(f)(4) to list the name and address of the person responsible for scheduling inspections. Proposed revisions to § 91.401 (the applicability section for subpart E of part 91) offered to reorganize the section and incorporate certain applicability provisions that are found in other sections of subpart E. Revisions were also proposed to § 91.403(c) to enhance clarity by dividing the alternative compliance options that were located in a single paragraph, into three new paragraphs—(c)(1), (c)(2), and (c)(3).

Finally, the NPRM proposed revisions to 14 CFR 91.405 to clarify maintenance requirements for correcting aircraft discrepancies that are discovered through inspection. Revisions to paragraph (a) proposed to clarify that ''repair'' of an aircraft discrepancy is not the only maintenance action that owners and operators may take. The revision proposed to list other types of maintenance actions that may be taken, such as inspection, preservation, or replacement of parts. The revision was proposed to add a reference to § 91.213 (''Inoperative instruments and equipment'') in paragraph (a), to inform that deferral of qualifying instruments and equipment under specific conditions and limitations is permitted. The NPRM further proposed to change § 91.405(c) to clarify that there is no time limitation regarding how long the inoperative instrument or equipment item could remain inoperative as long as it is inspected at each required inspection and there is no adverse effect on the aircraft's continued safe operation. Revisions to paragraph (d)'s introductory text were proposed to add the phrase ''. . . marking it 'Inoperative' '' to enhance clarity and maintain consistency with §§ 43.11(b) and 91.213(d)(3)(ii). Lastly, the NPRM proposed to clarify that all maintenance programs referenced in § 135.411(a)(2) refer to a CAMP, and to reorganize § 137.53(c) (Operation over congested areas: Pilots and aircraft). It proposed to relocate the § 137.53(c)(1)(i) inspection requirement, which mandates a 100-hour or annual inspection or inspection under a progressive system for most aircraft, to § 91.409 to consolidate it with other 100-hour or annual inspections for aircraft operated for hire or flight instruction. In addition, it proposed to remove paragraph (c)(1)(ii) entirely, which specifies inspection requirements for turbine-powered multiengine civil airplanes, since § 91.409(e) already governs inspections for such aircraft. Overall, the NPRM's proposal aimed to ensure consistency and reduce confusion across regulations.

### *C. General Overview of Comments*

FAA received 21 comments in total, including one duplicate and two submitted after the deadline. However, the two late comments were from individuals who were supportive of the rule without any suggested changes. Eight of the comments were from individuals, and the remaining 13 comments were from business entities. Eight commenters supported the rule but suggested additional changes. The commenters' suggested changes are discussed more fully in the 'Discussion of Comments and the Final Rule' section below. Two comments were outside the scope of the rule.

## IV. Discussion of Comments and the Final Rule

### *A. Support for Changes to Parts 91, 125, 135, 137, and 145*

FAA received only supportive comments regarding the proposed amendments to 14 CFR parts 91, 125, 135, and 137. There was no opposition or suggested changes to these proposed amendments. Accordingly, FAA is adopting the final rule for these parts as proposed in the NPRM. Though the proposed amendments to part 145 were received well by the public, there were several comments that presented, recommended, or suggested changes to the proposed amendments of this part. As a result of these suggested changes to the proposed amendment regarding part 145, this final rule deletes the word ''current'' from § 145.211(c)(1)(v) in order to minimize confusion regarding the data that repair stations must maintain. Under § 145.217(a), the final rule inserts the phrase ''outside source'' in order to clarify the issue of when § 145.217 is applicable. Lastly, part 145 certificated repair stations are included in the Regulatory Impact Analysis (RIA) of this final rule.

### *B. Suggestions for Removal of Current Technical Data Terminology at § 145.211(c)(1)(v)*

Section 145.211(c)(1)(v) requires the quality control manual to contain a description of the system and procedures for ''[e]stablishing and maintaining current technical data.'' The NPRM invited the public to comment on whether to remove the current requirement that a repair station must maintain the specified documents and that the documents be ''current'' and accessible when the relevant work is being done.

Five commenters wrote and suggested that the term ''current'' causes confusion, and it would be beneficial if the word ''current'' were replaced with another word, or completely removed, in the regulation when referring to Instructions for Continued

Airworthiness (ICA). One individual commenter reasoned that the use of the word ''current'' is irrelevant to the intent of the rule because repair stations are already required to maintain all technical data regardless of whether it is current or not. The individual further commented that keeping the word would make the requirement confusing because repair stations would think that they only have to maintain current data and not all data, which is not accurate. The individual also suggested amending § 43.13(a) by removing the phrase ''Instructions for Continued Airworthiness,'' reasoning that the current maintenance manuals are considered instructions for continuous airworthiness, therefore making the term ''Instructions for Continuous Airworthiness'' redundant.

The other four commenters, likewise, stated that the § 145.211(c)(1)(v) language should be adjusted to accommodate the proposal's requirement that the appropriate technical data be available when the work is performed. They reasoned the NPRM's objective could be achieved by using their recommended language of: ''[e]nsuring appropriate technical data is available and used when work is being performed.''

FAA agrees with the suggestion regarding deleting the word ''current'' from § 145.211(c)(1)(v). However, FAA does not agree with the other changes suggested. Concerning the individual commenter's requested change to § 43.13(a) and assertion that the manufacturer's maintenance manuals are essentially ICA, FAA disagrees because ICA may not always be included in manufacturers' maintenance manuals. Sometimes ICA are found in service bulletins, service letters, and other service documents. Therefore, the current regulatory language is accurate and not redundant. Accordingly, FAA is adopting the rule as proposed, without this suggested omission.

Concerning the four commenters' collective new language at § 145.211(c)(1)(v), FAA believes that the suggested new language creates more ambiguity because that language does not inform or define what ''appropriate'' technical data means or includes. As such, FAA partially accepts these suggestions and removes the word ''current'' at § 145.211(c)(1)(v) in the final rule to enhance the clarity of the regulation. Incorporating the suggestions, the text would read as follows: ''Establishing and maintaining [deleted] technical data for maintaining articles.''

*C. Suggestions for Consistency of Terminology at § 145.217*

Two commenters suggested that FAA use the term ''outside source'' consistently throughout § 145.217. The commenters noted that the term is introduced at § 145.217(a) but then changes to the phrase ''non-certificated person'' or ''outside facility.'' For purposes of continuity and because ''outside source'' may include a noncertificated person, FAA agrees with the two commenters and amends § 145.217 at (a)(1), (a)(2)(i), and (a)(2)(ii) to reflect these suggestions. These suggestions are aligned with the purpose of the rule to streamline and clarify various maintenance regulations, so there is a better understanding of how to comply with them.

In addition, four commenters suggested amending the proposal at § 145.217(a)(1) to make it clear that § 145.217 applies only when the certificated repair station that is contracting for the function will issue an approval for return to service for the work performed by the contractor. To clarify this applicability issue, the commenters suggested removing the phrase ''. . . to the outside source'' so that subsection (a)(1) can simply read: ''[t]he Administrator approves the maintenance function to be contracted.''

FAA agrees with the intent of this suggestion because this change is needed for further clarity, which is the purpose of the proposal. However, instead of accepting the commenters' suggested language, FAA has made the suggested changes at § 145.217(a) for easier readability instead of at § 145.217(a)(1) as the commenters initially suggested. The final rule will read as follows: ''[a] certificated repair station may approve the work for return to service following the maintenance, preventive maintenance, or alterations performed on an article by an outside source under contract or other arrangement, in accordance with § 145.201(a)(2), provided all the following conditions are met:.''

*D. Suggestions Regarding Clarification of the Work Performed on an Article at § 145.201*

Four commenters, collectively, wrote a recommendation in support of the proposed changes to 14 CFR 145.201. However, they noted that additional changes should be made ''[t]o align section 145.201 with § 43.9(a)(4) and make [§ 145.201] more comprehensive . . .'' Specifically, they noted that the proposal perpetuated an inconsistency with the § 43.9 privilege of approving work for return to service. When maintenance or alteration is performed, the maintenance provider approves *the work* on the article, rather than the article itself, for return to service. To align § 145.201 with § 43.9(a)(4), the commenters made the following suggestions: (1) add additional text to § 145.201(a)(1) to read as: ''[t]he certificated repair station may approve for return to service the work on any article for which the certificated repair station is rated after it has performed maintenance, preventive maintenance, or alteration in accordance with part 43; (2) replace the phrase ''an article'' with the phrase ''the work'' at § 145.201(a)(2); and (3) change subparagraphs § 145.201(c)(1), (2), and (3) to reflect correctly that the repair station only approves for return to service ''the work'' performed on an article.

Commenters suggested that similar conforming changes should be made to §§ 145.219(c) and 145.223(c), because § 145.219(a) currently requires that records be kept for two years from the date an article was approved for return to service. The commenters also suggested that the paragraph should be changed to two years from the date ''the work'' was approved for return to service. For the same reason, they suggested that § 145.223(c) should be revised to clarify that a non-certificated source must allow FAA to inspect its work before a certificated repair station may approve for return to service the work performed by the non-certificated source.

FAA partially agrees with the suggestions to amend § 145.201(a)(2) and (c) to replace the term ''an article'' with the term ''the work.'' In addition, FAA partially accepts this recommendation and amends the text at § 145.201(c) to include the phrase ''the work performed on—''. FAA decided to amend the text at § 145.201(c) introductory paragraph instead of amending at § 145.217(a)(1), (a)(2)(i), and (a)(2)(ii), like the commenters suggested, because this option makes the text more concise and helps with readability. FAA declines the suggested amendment to §§ 145.219(c) and 145.223(c), because these changes exceed the proposed language and interested parties could not have reasonably anticipated the final rule to have such changes.

*E. Miscellaneous Issues*

1. Comments on the Omission of Part 145 Repair Stations From the NPRM's Regulatory Impact Analysis

Four commenters, collectively, suggested that part 145 repair stations need to be included in the RIA section.

They stated the removal of the requirement that repair stations must keep ''current'' data when it may not be needed or used represents potentially millions of dollars in savings for certificated repair stations that comply with the current mandate.

They also state that 14 CFR 145.217 only applies when the certificated repair station approves another person's work for return to service. This amendment clarifies existing regulations, helping both the agency and the industry avoid hours of unnecessary back-and-forth. By reducing continuous changes to repair stations' quality manuals, it minimizes the need for repeated agency reviews, streamlining the process. Furthermore, four commenters, collectively recommended that part 145 repair stations be included in the Paperwork Reduction Act (PRA) analysis, though it acknowledged that the proposed rule does not impact current reporting and collection requirements for repair stations or certificate holders.

FAA acknowledges the inadvertent omission of part 145 repair stations and accepts the suggestion to include certificated repair stations in the final rule's RIA. The final rule creates no additional information collection obligations. Thus, the omission of part 145 repair stations has no impact on the PRA analysis, and repair stations have not been included in the PRA analysis of the final rule.

2. Commenter's Request for More Transparency Regarding FAA's Oversight Process for Manufacturer-Recommended and Registered Owner/Operator's Inspection Programs

One commenter suggested that FAA needed to be more transparent regarding the safety data collected and more openly document FAA's acceptance standards for inspection programs with industry stakeholders. Specifically, the commenter requested that FAA share UAS safety data and the process for approval for proposed UAS maintenance inspection programs with industry stakeholders. In addition, the commenter suggested that FAA perform a more complete and thorough oversight and safety review of each manufacturer-recommended inspection program or the program established by the registered owner or operator.

FAA believes the commenter's suggestion is outside the scope of the rule's proposal. The intent of the rule was to lessen the burden on owners, operators, maintenance providers, and FAA without compromising safety. FAA believes it has struck that balance here and that the oversight and review it performs is sufficient to ensure the safety of these inspection programs. Though the commenter is correct that additional disclosure would increase transparency, FAA does not believe, and the commenter has provided no evidence to support, that doing so would increase safety. Further, FAA is concerned that the process outlined by the commenter would likely result in heavily redacted disclosures, reducing even that transparency benefit. Finally, FAA notes that this process only applies to UAS operations under part 135, which comprise a minority of such operations that will only decline in number when the agency's rulemaking to establish a new part 108 for Beyond Visual Line-of-Sight (BVLOS) operations is completed.

3. Commenters' Request To Add Terminology at § 145.217

Four commenters, collectively, recommended adding additional descriptive language to 14 CFR 145.217(b) to list the specific maintenance functions that a certificated repair station may contract out to a noncertificated person.

FAA is adopting the final rule as proposed, without adding the requested language, because it is widely understood that the phrase ''maintenance functions'' also encompasses maintenance, preventative maintenance, and alterations. Accordingly, additional language is not needed.

4. Suggestion To Remove Terminology at §§ 145.201 and 145.217

One commenter recommended replacing the term ''contract maintenance'' with another term throughout 14 CFR 145.201 and 145.217, but the commenter offered no suggestions for the replacement term. The commenter's reasoning for recommending the change in terms is twofold. First, they stated the ''term is not specific enough to distinguish itself.'' Second, they reasoned, the definition of contract maintenance causes a lot of confusion within the industry because it has several different meanings throughout 14 CFR. Specifically, they stated 14 CFR provides ''vastly different definitions of 'contract maintenance' in §§ 121.368, 135.426, and 145.217 . . . .'' In the alternative, the commenter suggested adding a second category clarifying that certificated repair stations that perform return to service on articles contracted to them by another certificated repair station are not considered contract maintenance under § 145.217.

FAA notes that the commenter made this suggestion, but did not recommend any viable options for replacing the term. FAA analyzed the issue raised and determined it did not require a change. Accordingly, FAA is adopting the rule as proposed, without the requested omission of the term.

Another commenter suggested changing the requirements for the information that certificated repair stations collect, under § 145.217(a)(2)(ii), when it contracts out maintenance functions to an outside source. The rule currently requires certificated repair stations to collect the outside source's name, and the type of certification and rating(s), if any, held by the outside source. The commenter believes that only the name should be required to be collected.

FAA disagrees with this suggestion because the type of certification and rating(s) of an outside source who is performing contract maintenance work is vital information that FAA needs. Accordingly, FAA is adopting the rule as proposed, without the requested omission.

5. Miscellaneous Changes to § 145.201(a)(2)(i)

Four commenters, collectively, suggested adding language to 14 CFR 145.201(a)(2)(i) because they believe there is conflicting language between §§ 145.5(a) and 145.201(a)(1). They suggested the following language to § 145.201(a)(2)(i): ''[t]he maintenance, preventive maintenance, or alterations on the article is within the scope of the certificated repair station ratings and limitation in its operations specifications; and . . . .''

FAA is adopting the final rule as proposed, without the suggested additional language, because the additional terms the commenters suggested adding to § 145.201(a)(2)(i) are already found in the introductory paragraph (a), as well as at §§ 145.53(a) and 145.109(a), which already requires the certificate holder to operate within their issued operations specifications.

6. Other Miscellaneous Suggestions for Changes Not in the Proposal

Four commenters, collectively, suggested an additional 23 changes be made to various sections of part 145 that were not proposed in the NPRM.

FAA is adopting the final rule as proposed, without the suggested changes, except for the aforementioned changes that were explained throughout this section. Incorporating these changes in the final rule would not be a logical outgrowth of the NPRM; therefore, they are out of scope.

Though FAA is making no further changes to this final rule in response to

these comments, the agency values this feedback and will consider it for future regulatory actions.

## V. Regulatory Notices and Analyses

### *A. Summary of the Regulatory Impact Analysis*

Executive Order (E.O.) 12866 (''Regulatory Planning and Review'') and E.O. 13563 (''Improving Regulation and Regulatory Review'') require agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' The Office of Management and Budget (OMB) has determined this rule is not a significant regulatory action as defined in section (3)(f)(1) of E.O. 12866. Accordingly, FAA has prepared a RIA for this rule, summarized in this section and available in the docket. E.O. 14192 (''Unleashing Prosperity through Deregulation'') issued January 31, 2025, instructs agencies to ''alleviate unnecessary regulatory burdens.'' FAA has determined this is an E.O. 14192 deregulatory action.

The final rule will revise the aircraft maintenance rules primarily in the area of manned and unmanned aircraft maintenance and inspections. The most substantial change is the addition of more inspection program options for owners and operators of single-engine turbine-powered airplanes and unmanned aircraft. Currently, owners and operators of these types of aircraft are limited to annual, 100-hour, or progressive inspection programs. The final rule also amends 14 CFR part 145 to clarify and simplify various maintenance-related regulations in areas with confusing or ambiguous language. These areas include maintenance and inspection requirements for parts 91 and 125 operators and document retention. Furthermore, the rule clarifies part 145 regulations pertaining to repair station maintenance documentation and contract maintenance.

For single-engine turbine-powered airplanes, this final rule will increase these options to include, among others, a manufacturer-recommended inspection program, or an inspection program established by the registered owner or operator and approved by the Administrator. For unmanned aircraft, including unmanned aircraft operating under 14 CFR part 135 that are authorized to use the inspection rules in part 91, this final rule will allow the selection of one of those inspection programs. The added inspection programs will afford aircraft owners more flexibility in performing aircraft inspections as they will have more options and will likely reduce inspection costs incurred by owners and operators. These programs will provide owners and operators of single-engine turbine-powered airplanes and unmanned aircraft more options for inspecting their aircraft without reducing safety and potentially increasing the current frequency or cycle of inspections.

Repair stations will see cost savings from this final rule by decreasing their cost of maintenance manuals. Currently they must keep ''current'' data for maintenance manuals they are certificated to repair. With this final rule repair stations will not be required to pay for manuals and maintenance subscriptions for aircraft they are not working on.

This will also enable manufacturers to implement more efficient and effective inspection programs for new and existing fleets of aircraft, which will bolster safety while also controlling associated costs, and will be attractive to new and existing owners. This final rulemaking will not create a burden for owners/operators of single-engine turbine-powered airplanes since the decision to switch aircraft inspection programs is voluntary. Nor will this final rule create a burden for owners/operators of unmanned aircraft because the use of manufacturers' recommended inspection programs is, in general, already required under existing exemptions and will be a less burdensome alternative to FAA-approved inspection programs for part 135 operators.

One manufacturer estimated that inspecting aircraft under a Maintenance Steering Group—3rd Task Force (MSG–3) (used by manufacturers to develop initial scheduled maintenance/inspection requirements) inspection program could save owners/operators approximately $7,974 per aircraft in 2020 US dollars ($9,492 in 2024 US dollars) compared to an annual inspection program.

Manufacturers will incur costs to update inspection programs, but these costs will be voluntary, as the rule will not require manufacturers to develop new inspection programs. However, most manufacturers will likely choose to do so, given the relatively low associated costs compared to potential benefits in terms of safety and customer satisfaction. Furthermore, even if a manufacturer does not choose to create an inspection program for a specific type of aircraft, this rule still provides a benefit to aircraft owners in that it also allows aircraft owners to develop their own inspection program.

Because a manufacturer-developed inspection program or one created by the aircraft owner will be customized to the specific aircraft, improved safety is anticipated to be one of the benefits of this rulemaking. This is due to the utilization of more relevant and appropriate inspection tasks and intervals. A manufacturer-developed program likely will be less invasive compared with the annual or 100-hour inspection. For example, high utilization operators performing a 100-hour inspection frequently generate maintenance issues due to frequent disassembly, inspection, and reassembly of components. Aircraft safety will be improved by having a less invasive scheduled maintenance process. Safety benefits for single-engine turbine-powered airplanes were not quantified; and costs and benefits for unmanned aircraft were not quantified.

Table 1 below presents a summary of estimated cost savings for this final rule's manned aircraft maintenance programs over a 10-year time-period. These estimates are based on all single-engine turbine manufacturers offering the manufacturer inspection program. The annualized net cost savings are $57.02 million using a seven percent discount rate and $54.32 million using a three percent discount rate.

TABLE 1—SUMMARY OF NET COST SAVINGS

[2024 U.S. dollars]

| Cost savings 7% present value | Annualized cost savings 7% | Cost savings 3% present value | Annualized cost savings 3% |
|---|---|---|---|
| $400,459,726 | $57,016,456 | $487,964,345 | $54,323,376 |

Repair stations will also experience some cost savings, that are not included in the estimated cost savings above, due to not having to pay for maintenance manuals they do not need. However, there is uncertainty in how many repair stations may benefit from this, the price of varying maintenance manuals, and how many maintenance manuals for which a repair station may be able to forgo paying. Nonetheless, FAA finds that the most probable annual savings per station will fall between $1,000 and $34,159.

This final rule will benefit owners/operators of single-engine turbine-powered airplanes by allowing them the option to choose a program that may be less costly and more effective for inspecting their aircraft. It will further benefit operators because their aircraft could be out of commission for shorter periods. As these are mostly small aircraft, the owner may not be regaining a revenue stream but will have use of the aircraft for longer periods of time. This analysis does not quantify this efficiency gain due to a lack of data.[1] The final rule will also affect manufacturers who will voluntarily incur costs to develop and maintain the new inspection programs.

Other changes clarify and simplify the regulations, lengthen the reporting time for mechanical reliability reports for aircraft operating under part 91 fractional ownership rule, and update the language for electronic submissions. These changes have not been quantified and are expected to have minimal impact.

*B. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) of 1980, (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) and the Small Business Jobs Act of 2010 (Pub. L. 111–240), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

FAA has determined this rule will not have a significant impact on a substantial number of entities for the following reasons:

- The final rule will not impose mandatory costs on small entities or result in any new costs to maintain the manufacturer inspection program.
- It is likely to result in cost savings on the order of about $9,255 per aircraft for those small entities who voluntarily choose to use a manufacturer inspection program on their aircraft.

Therefore, for the reasons provided, FAA certifies that this rule will not result in a significant economic impact on a substantial number of small entities.

FAA solicited comments regarding this determination and did not receive any comments.

*C. International Trade Impact Assessment*

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for the U.S. standards.

FAA has assessed the potential effect of this rule and determined it ensures the safety of the American public and will only have a domestic impact. As a result, FAA does not consider this rule as creating an unnecessary obstacle to foreign commerce.

*D. Unfunded Mandates Assessment*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal Government or the private sector to incur direct costs without the Federal Government having first provided the funds to pay those costs. FAA determined that this final rule will not result in the expenditure of $193,000,000 or more ($100,000,000 adjusted for inflation using the most current Implicit Price Deflator for the Gross Domestic Product) by State, local, or Tribal Governments, in the aggregate, or the private sector, in any one year.

*E. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FAA consider the impact of paperwork and other information collection burdens imposed on the public. FAA determined this rule will not result in any new information collection requirements.

The final rule will lengthen the reporting interval for mechanical reliability reports, for aircraft operating under part 91 subpart K fractional ownership rules, from 72 to 96 hours, and allow electronic report submissions. This increase in the reporting interval will align the requirement with similar reporting requirements in other regulations, such as 14 CFR 121.703, 135.415, and 145.221.

Currently, the general aviation public, including part 91 subpart K owners and operators, use FAA Form 8010–4, Malfunction and Defect Report, to submit voluntary reporting of occurrences or detection of failure, malfunctions, or defects. Approval to collect such information was previously granted by the OMB under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and was assigned OMB Control Number 2120–0663.

The supporting statement submitted to OMB for renewal of the Collection of Information 2120–0663 in October 2020 estimated that 2,000 respondents from the general aviation public each year will use Form 8010–4 by spending 10 minutes each, for an annual 334 total burden hours. This change will simply align the required reporting interval from 72 hours to 96 hours with similar requirements for parts 121, 135, and 145 operators and will neither decrease nor increase the current burden hours on the 2,000 respondents.

Therefore, FAA determined that there will be no new information collection requirements associated with the rule, which will increase the reporting timeframe for mechanical reliability reports under 14 CFR 91.1415 from 72 hours to 96 hours and allow for electronic submissions.

*F. International Compatibility*

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

*G. Environmental Analysis*

The Department has analyzed the environmental impacts of this final rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). FAA has determined this rule is categorically excluded pursuant to FAA Order 1050.1G. Categorical exclusions are categories of actions FAA has determined normally do not significantly affect the quality of the human environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS).[2] In analyzing the applicability of a categorical exclusion, FAA must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS.[3] This rulemaking, which relieves FAA, aircraft owners, operators, and maintenance providers of certain workload burdens by establishing flexible inspection program options for single-engine turbine-powered and unmanned aircraft, extending mechanical reliability reporting intervals, and streamlining ambiguous maintenance regulations without compromising aviation safety, is categorically excluded pursuant to FAA Order 1050.1G, Appendix B, Paragraph B–2.6(f), which categorically excludes issuance of regulatory documents. FAA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

## VI. Executive Order Determinations

*A. Executive Order 13132, Federalism*

FAA has analyzed this final rule under the principles and criteria of E.O. 13132, Federalism. FAA has determined this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, will not have federalism implications.

*B. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

Consistent with E.O. 13175, Consultation and Coordination with Indian Tribal Governments,[4] and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures,[5] FAA ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to have substantial direct effects on one or more Tribes, on the relationship between the Federal Government and Tribes, or on the distribution of power and responsibilities between the Federal Government and Tribes; or to affect uniquely or significantly their respective Tribes. At this point, FAA has not identified any unique or significant effects, environmental or otherwise, on Tribes resulting from this final rule.

*C. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use*

FAA analyzed this final rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). FAA has determined it is not a ''significant energy action'' under the E.O. and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

*D. Executive Order 13609, Promoting International Regulatory Cooperation*

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. FAA has analyzed this action under the policies and agency responsibilities of E.O. 13609 and has determined this action will have no effect on international regulatory cooperation.

*E. Executive Order 14192, Unleashing Prosperity Through Deregulation*

This final rule is not an E.O. 14192 regulatory action because this rule is not significant under E.O. 12866.

## VII. Additional Information

*A. Electronic Access and Filing*

A copy of the NPRM, all comments received, this final rule, and all background material may be viewed online at *www.regulations.gov* using the docket number listed above. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the website of the Office of the Federal Register at *www.federalregister.gov* and the website of the Government Publishing Office at *www.govinfo.gov.* A copy may also be found at FAA's Regulations and Policies website at *www.faa.gov/regulations_policies.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Requests must identify the docket or notice number of this rulemaking.

All documents FAA considered in developing this final rule, including economic analysis, and technical reports, may be accessed in the electronic docket for this rulemaking.

*B. Small Business Regulatory Enforcement Fairness Act*

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the internet, visit *www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

[1] An example of data FAA would need focuses on more efficient use of labor. This would require how much time saved by owners/operators from more efficient inspections and their respective wages. If the aircraft is owned and used by one or more individuals for business or pleasure then there would be efficiency gains by being able to use their time more efficiently. If the aircraft is operated by a commercial operator that provides services to customers then there would be direct and indirect efficiency gains through more efficient use of labor by employees of the operation.

[2] See DOT Order 5610.1D § 9.

[3] I.d. § (9).

[4] 65 FR 67249 (Nov. 6, 2000).

[5] FAA Order No. 1210.20 (Jan. 28, 2004), available at *www.faa.gov/documentLibrary/media/1210.pdf.*

**List of Subjects**

*14 CFR Part 91*

Air carrier, Air taxis, Aircraft, Aviation safety, Charter flights, Reporting and recordkeeping requirements, Transportation.

*14 CFR Part 125*

Aircraft, Aviation safety.

*14 CFR Part 135*

Air taxis, Aircraft, Aviation safety.

*14 CFR Part 137*

Agriculture, Aircraft, Aviation safety.

*14 CFR Part 145*

Aircraft, Aviation safety.

**The Amendment**

For the reasons discussed in the preamble, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

## PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 is revised to read as follows:

**Authority:** 49 U.S.C. 106(f), 1155, 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 44740, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 112–95, 126 Stat. 11; Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Civil Aviation, 61 Stat. 1180.

■ 2. Revise § 91.401(c) to read as follows:

**§91.401 Applicability.**

* * * * *

(c) Sections 91.405 and 91.409 of this part do not apply to—(1) An airplane inspected in accordance with part 125 of this chapter;

(2) An aircraft inspected in accordance with an approved aircraft inspection program under part 135 of this chapter and so identified by the registration number in the operations specifications of the certificate holder having the approved aircraft inspection program.

(3) An aircraft that carries a special flight permit.

(4) An aircraft that carries a current experimental, light-sport, or provisional airworthiness certificate, unless specified in an additional operating limitation under § 91.317 or § 91.319 of this part.

■ 3. Amend § 91.403 by revising paragraph (c) and adding paragraph (e) to read as follows:

**§ 91.403 General.**

* * * * *

(c) No person may operate an aircraft for which a manufacturer's maintenance manual or instructions for continued airworthiness has been issued that contains an airworthiness limitations section unless:

(1) The mandatory replacement times, inspection intervals, and related procedures specified in the airworthiness limitations section have been complied with; or

(2) Alternative inspection intervals and related procedures set forth in a continuous airworthiness maintenance program approved by the Administrator and authorized by operations specifications under part 121 or 135 of this chapter, or management specifications under subpart K of this part have been complied with; or

(3) Alternative inspection intervals and related procedures set forth in an inspection program authorized for use under § 91.409(f) have been complied with.

* * * * *

(e) No person may operate an aircraft under a special flight permit unless it is operated in accordance with any conditions and limitations issued by the Administrator and it has been inspected to the extent necessary to determine the aircraft is in a condition for safe operation for the intended flight.

■ 4. In § 91.405, the introductory text is republished and paragraphs (a), (c), and (d) are revised to read as follows:

**§91.405 Maintenance required.**

Each owner or operator of an aircraft—

(a) Shall have that aircraft inspected as prescribed in this subpart and shall, between required inspections, except as provided in paragraph (c) of this section, have discrepancies evaluated and dispositioned or corrected, as appropriate, through inspection, overhaul, repair, preservation, or the replacement of parts, in accordance with part 43 of this chapter, or appropriately deferred as provided in § 91.213;

* * * * *

(c) Shall, at each required inspection, have any inoperative instrument or item of equipment that is permitted to be inoperative by § 91.213(d)(2), and that has not been repaired, replaced, removed, or inspected to ensure that the inoperative instrument or item of equipment will not have an adverse effect on the continued safe operation of the aircraft; and

(d) Shall ensure that when inoperative instruments or equipment are present, a placard marking it ''inoperative'' has been installed as required by § 43.11 of this chapter.

■ 5. Amend § 91.409 by:

■ a. Revising paragraphs (a), (b), (c), and (e);

■ b. Revising the introductory text of paragraph (f), and paragraphs (f)(1), (3), and (4); and

■ c. Revising the introductory text of paragraph (g), and paragraph (g)(1).

The revisions read as follows:

**§ 91.409 Inspections.**

(a) *Annual Inspections.* Except as provided in paragraph (c) of this section, no person may operate an aircraft unless, within the preceding 12 calendar months, it has had—

(1) An annual inspection in accordance with part 43 of this chapter and has been approved for return to service by a person authorized by § 43.7 of this chapter; or

(2) An inspection for the issuance of an airworthiness certificate in accordance with part 21 of this chapter.

No inspection performed under paragraph (b) of this section may be substituted for any inspection required by this paragraph unless it is performed by a person authorized to perform annual inspections and is entered as an ''annual'' inspection in the required maintenance records.

(b) *100-Hour Inspection.* Except as provided in paragraph (c) of this section, no person may operate an aircraft carrying any person (other than a crewmember) for hire, no person may give flight instruction for hire in an aircraft which that person provides, and no person may operate an aircraft over congested areas under part 137 of this chapter, unless within the preceding 100 hours of time in service the aircraft has received an annual or 100-hour inspection and been approved for return to service in accordance with part 43 of this chapter or has received an inspection for the issuance of an airworthiness certificate in accordance with part 21 of this chapter. The 100-hour limitation may be exceeded by not more than 10 hours while en route to reach a place where the inspection can be done. The excess time used to reach a place where the inspection can be done must be included in computing the next 100 hours of time in service.

(c) *Exceptions.* Paragraphs (a) and (b) of this section do not apply to—

(1) An aircraft authorized by the Administrator to be inspected in accordance with a progressive inspection program under paragraph (d) of this section;

(2) An aircraft subject to the requirements of paragraph (e)(1) of this section; or

(3) Turbine-powered rotorcraft or single-engine turbine-powered airplanes when the owner or operator elects to inspect that aircraft in accordance with paragraph (e)(2) of this section.

* * * * *

(e) *Large airplanes (which are not inspected in accordance with part 125 of this chapter), turbine-powered airplanes and rotorcraft, and unmanned aircraft.* (1) *Large airplanes, multiengine turbine-powered airplanes, and unmanned aircraft.* Except as specified in § 91.401 of this part, no person may operate a large airplane, multiengine turbine-powered airplane, or unmanned aircraft unless the replacement times for

life-limited parts specified in the aircraft specifications, type data sheets, or other documents approved by the Administrator are complied with and the aircraft, including the airframe, engines, propellers, rotors, appliances, survival equipment, and emergency equipment, is inspected in accordance with an inspection program selected under the provisions of paragraph (f) of this section.

(2) *Turbine-powered rotorcraft and single-engine turbine-powered airplanes.* In lieu of paragraphs (a), (b), or (d) of this section, the owner or operator of a turbine-powered rotorcraft or a single-engine turbine-powered airplane may elect to use an inspection program selected under the provisions of paragraph (f) of this section. If an alternate inspection program is selected, no person may operate the aircraft unless the replacement times for life-limited parts specified in the aircraft specifications, type data sheets, or other documents approved by the Administrator are complied with and the aircraft, including the airframe, engines, propellers, rotors, appliances, survival equipment, and emergency equipment, is inspected in accordance with the inspection program.

(f) *Selection of inspection program under paragraph (e) of this section.* The registered owner or operator of each aircraft that is required to or has opted to use an inspection program under this section, as described in paragraph (e) of this section, must select, identify in the aircraft maintenance records, and use one of the following programs for the inspection of the aircraft. Each operator shall make a copy of the selected program available to the person performing inspections on the aircraft and, upon request, to the Administrator.

(1) An inspection program that is part of a continuous airworthiness maintenance program currently in use by a person holding an air carrier certificate or an operating certificate issued under part 121 or 135 of this chapter and operating that make and model aircraft under part 121 of this chapter or operating that make and model under part 135 of this chapter and maintaining it under § 135.411(a)(2) of this chapter.

* * * * *

(3) An inspection program recommended by the manufacturer that was the most current program available at the time of selection and identified in the aircraft maintenance records.

(4) Any other inspection program established by the registered owner or operator and approved by the Administrator for that aircraft under paragraph (g) of this section. The Administrator may require revision of this inspection program in accordance with the provisions of § 91.415.

(g) *Inspection program approved under paragraph (e) of this section.* Each operator of an aircraft desiring to establish or change an approved inspection program under paragraph (f)(4) of this section must submit the program for approval in a manner acceptable to FAA. The program must be in writing and include at least the following information:

(1) Instructions and procedures for the conduct of inspections for the particular make and model aircraft, including necessary tests and checks. The instructions and procedures must set forth in detail the parts and areas of the airframe, engines, propellers, rotors, and appliances, including survival and emergency equipment required to be inspected.

* * * * *

■ 6. Revise § 91.415(a) to read as follows:

**§ 91.415 Changes to aircraft inspection programs.**

(a) Whenever the Administrator finds that revisions to an inspection program approved under § 91.409(f)(4) or § 91.1109 or § 125.247(e)(3) of this chapter are necessary for the continued adequacy of the program, the owner or operator must, after notification by the Administrator, make any changes in the program found to be necessary by the Administrator.

* * * * *

■ 7. Revise § 91.501(a) to read as follows:

**§ 91.501 Applicability.**

(a) This subpart prescribes operating rules, in addition to those prescribed in other subparts of this part, governing the operation of large airplanes of U.S. registry, turbojet-powered multiengine civil airplanes of U.S. registry, and fractional ownership program aircraft of U.S. registry that are operating under subpart K of this part in operations not involving common carriage. The operating rules in this subpart do not apply to those aircraft when they are required to be operated under parts 121, 125, 129, 135, and 137 of this chapter.

* * * * *

■ 8. Amend § 91.1415 by revising the section heading and paragraph (d) to read as follows:

**§ 91.1415 CAMP: Service difficulty reports.**

* * * * *

(d) Each program manager shall submit each report required by this section, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to the FAA offices in Oklahoma City, Oklahoma. Each report of occurrences during a 24-hour period shall be submitted to the collection point within the next 96 hours. However, a report that is due on Saturday or Sunday may be submitted on the following Monday, and a report due on a holiday may be submitted on the next workday.

* * * * *

## PART 125—CERTIFICATION AND OPERATIONS: AIRCRAFT HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 9. The authority citation for part 125 is revised to read as follows:

**Authority:** 49 U.S.C. 106(f), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 10. Amend § 125.247 by revising paragraphs (a)(3), (d), and (e) to read as follows:

**§ 125.247 Inspection programs and maintenance.**

(a) * * *

(3) The airplane, including airframe, aircraft engines, propellers, appliances, and survival and emergency equipment, and their component parts, is inspected in accordance with an inspection program authorized by the Administrator under paragraph (e) of this section.

* * * * *

(d) No person may operate an airplane subject to this part unless—

(1) The installed engines have been maintained in accordance with the overhaul periods recommended by the manufacturer or a period approved by the Administrator; and

(2) The engine overhaul periods, or a reference to where they can be found, are specified in the certificate holder's operations specifications.

(e) Inspection programs that may be authorized for use under this part include, but are not limited to—

(1) An inspection program that is a part of a current continuous airworthiness maintenance program approved for use by a certificate holder under part 121 or 135 of this chapter;

(2) An inspection program recommended by the manufacturer of the aircraft that was the most current program available at the time of

selection and authorization under this part; or

(3) An inspection program developed by a certificate holder under this part and approved by the Administrator. The Administrator may require revision of this inspection program in accordance with the provisions of § 91.415 of this chapter.

## PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 11. The authority citation for part 135 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 40113, 41706, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 44730, 45101–45105; Pub. L. 112–95, 126 Stat. 58 (49 U.S.C. 44730).

■ 12. Revise § 135.411(a)(2) to read as follows:

**§ 135.411 Applicability.**

(a) * * *

(2) Aircraft that are type certificated for a passenger seating configuration, excluding any pilot seat, of ten seats or more, shall be maintained under a continuous airworthiness maintenance program in §§ 135.415, 135.417, and 135.423 through 135.443.

* * * * *

## PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

■ 13. The authority citation for part 137 is revised to read as follows:

**Authority:** 49 U.S.C. 106(f), 40103, 40113, 44701–44702.

■ 14. Revise § 137.53(c) to read as follows:

**§137.53 Operation over congested areas: Pilots and aircraft.**

* * * * *

(c) *Aircraft.* Each aircraft, other than a helicopter, must be equipped with a device capable of jettisoning at least one-half of the aircraft's maximum authorized load of agricultural material within 45 seconds. If the aircraft is equipped with a device for releasing the tank or hopper as a unit, there must be a means to prevent inadvertent release by the pilot or other crewmember.

## PART 145—REPAIR STATIONS

■ 15. The authority citation for part 145 continues to read as follows:

**Authority:** 49 U.S.C. 106(f), 40113, 44701–44702, 44707, 44709, 44717.

■ 16. Revise § 145.109(d) to read as follows:

**§ 145.109 Equipment, materials, and data requirements.**

* * * * *

(d) A certificated repair station must maintain, in a format acceptable to FAA, the documents and data required for the performance of maintenance, preventive maintenance, and alterations under its repair station certificate and operations specifications in accordance with part 43 of this chapter. These documents and data must be accessible when the relevant work is being done.

■ 17. Amend § 145.201 by revising paragraph (a)(2) and the introductory text of paragraph (c) to read as follows:

**§ 145.201 Privileges and limitations of certificate.**

(a) * * *

(2) Arrange for another person to perform the maintenance, preventive maintenance, or alterations of any article. The certificated repair station may approve the work for return to service following the maintenance, preventive maintenance, or alterations performed on the article by the other person if—

(i) The certificated repair station is rated to perform maintenance, preventive maintenance, or alterations on the article; and

(ii) The requirements in § 145.217 have been met.

* * * * *

(c) A certificated repair station may not approve for return to service the work performed on—

* * * * *

■ 18. Amend § 145.211 by revising paragraph (c)(1)(v) to read as follows:

**§ 145.211 Quality control system.**

(c) * * *

(1) * * *

(v) Establishing and maintaining technical data for maintaining articles;

* * * * *

■ 19. Amend § 145.217 by revising paragraphs (a) and (b)(3) to read as follows:

**§ 145.217 Contract maintenance.**

(a) A certificated repair station may approve the work for return to service following the maintenance, preventive maintenance, or alterations performed on an article by an outside source under contract or other arrangement, in accordance with § 145.201(a)(2), provided all the following conditions are met:

(1) The Administrator approves the maintenance function to be contracted.

(2) The repair station maintains and makes available to its responsible Flight Standards office, in a format acceptable to the Administrator, the following information:

(i) The maintenance functions contracted to the outside source; and

(ii) The name of each outside source to whom the repair station contracts maintenance functions and the type of certificate and rating, if any, held by the outside source.

(b) * * *

(3) The certificated repair station verifies, by test or inspection, or both, that the work has been performed satisfactorily by the noncertificated person and that the article is airworthy before approving the work for return to service.

* * * * *

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), 44703, and 44707 in Washington, DC.

**Bryan K. Bedford,**

*Administrator.*

[FR Doc. 2026–22953 Filed 11–9–26; 8:45 am]

**BILLING CODE 4910–13–P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 38

### DCM Impartial Access Requirements

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Interpretation.

**SUMMARY:** The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is issuing an interpretation of the requirement that designated contract markets (''DCMs'') provide competitive, open, fair, and impartial access to their members and persons with trading privileges under Commission Regulation 38.151(b) (''Impartial Access Requirements''). Specifically, this final interpretive guidance is being issued to inform the public of the Commission's views on the Impartial Access Requirements that should be guiding exchanges' selections of access criteria. The Commission issues this interpretive guidance after a significant amount of time and effort overseeing the listing and trading of event contracts and other financial assets, as well as monitoring DCM access requirements.

**DATES:** Effective November 10, 2026.

**FOR FURTHER INFORMATION CONTACT:** Tyler S. Badgley, General Counsel, Office of the General Counsel, and 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; Cameron Sinsheimer, Counselor, Office of the General Counsel, Commodity Futures Trading Commission, *rulemaking@cftc.gov,* (646) 746–3928, 290 Broadway, 6th Floor, New York, NY 10007; and Roger Smith, Associate Chief Counsel, *rsmith@cftc.gov,* (202) 418–5344, Division of Market Oversight, Commodity Futures Trading Commission, 77 West Jackson Blvd., Suite 800, Chicago, IL 60604.

**SUPPLEMENTARY INFORMATION:**

## I. Background

A core component of the Commodity Exchange Act (''CEA'') [1] is the requirement that DCMs provide competitive, open, fair, and impartial access to their members and persons with trading privileges. This measure prevents the inappropriate use of discriminatory access as a competitive tool against market participants. Moreover, it benefits DCMs and national markets by increasing overall liquidity and by maximizing risk management opportunities and price- and information-discovery functions.

The Commission is issuing this interpretive guidance to share with DCMs and their affiliates and partners certain views based on staff's experience overseeing the listing and trading of event contracts and other financial assets as well as monitoring DCMs' access requirements.

This final interpretive guidance is being issued to inform the public of the Commission's views on the Impartial Access Requirements that should be guiding exchanges' selections of access criteria.

## II. Regulatory Framework Requiring Impartial Access

DCMs must comply with 23 statutory Core Principles set forth in the CEA,[2] as well as applicable CFTC rules and regulations.[3] The Core Principles for DCMs reflect the important role that these exchanges play in promoting the integrity of derivatives markets by, among other things, establishing and enforcing rules for trading on the DCM—including setting open and impartial access criteria—and monitoring trading activity.

Core Principle 2 of the CEA provides that a DCM ''shall establish, monitor, and enforce compliance with the rules of the [DCM], including . . . access requirements.'' [4] Core Principle 9 requires a DCM to ''provide a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading in the centralized market of the board of trade.'' [5]

Specifically, a DCM ''must provide its members, persons with trading privileges, and independent software vendors with impartial access to its markets and services, including . . . [a]ccess criteria that are impartial, transparent, and applied in a non-discriminatory manner.'' [6] A DCM ''must establish and impartially enforce rules governing denials, suspensions, and revocations of a member's and a person with trading privileges' access privileges to the designated contract market, including when such actions are part of a disciplinary or emergency action by the designated contract market.'' [7]

## III. General Impartial Access Principles

In 2012, the Commission explained that ''impartial access rules are necessary in order to prevent the use of discriminatory access requirements as a competitive tool against certain participants.'' [8] To achieve this goal, the Commission has set forth basic principles that should guide regulated entities in developing access criteria. ''In particular, access to a DCM should be based on the financial and operational soundness of a participant, not on factors that could bar access and result in discriminatory access or act as a barrier to entry.'' [9] Adopting fair and evenhanded access standards benefits both DCMs and their members. For example, ''granting impartial access to participants that satisfy a DCM's access requirements will likely enhance the DCM's liquidity and the overall transparency of the swaps and futures markets.'' [10] A guiding principle is that ''DCMs may establish different categories of market participants, but may not discriminate within a particular category.'' [11]

As a general matter, the Commission believes that discriminatory limitations on participation affects the overall health and efficiency of a market. When a DCM restricts access or disincentivizes participation for broad categories of otherwise financially or operationally sound participants, market liquidity may be diminished. Reduced liquidity, in turn, may result in less robust price discovery. This degradation of pricing and market efficiency may then lead to increased volatility, as fewer participants are available in the ordinary course to absorb and respond to market shocks. Ultimately, these effects could undermine a DCM's ability to function as an effective marketplace for trading and risk management.

As such, the Commission believes that market participants seeking to access a DCM must be evaluated against criteria that are clearly defined, published in advance, and applied uniformly. These standards should ensure that every participant is aware of the requirements and can prepare accordingly, fostering a fair environment for access to the DCM. Access criteria that are opaque, arbitrary, or unrelated to the financial and operational soundness of a participant undermine the principles of impartial access under Commission Regulation 38.151. Therefore, the Commission believes that when objective and transparent financial and operational eligibility requirements are met, DCMs have an obligation to grant access without bias. This approach supports a competitive and robust derivatives market that allows a wide range of participants to contribute to market liquidity.

Previously, when market trends and behavior have implicated impartial access concerns, the Commission has responded by releasing guidance to regulated entities. For example, in 2011, the Commission proposed placing significant requirements on swap execution facilities (''SEFs'') to ensure impartial access, resulting in a final rule promulgated in 2013.[12] Also in 2013, Division of Market Oversight, the Division of Clearing and Risk, and the Division of Swap Dealer and Intermediary Oversight (now the Market Participants Division) published a guidance document addressing certain trading restraints or ''enablement mechanisms'' implemented by certain SEFs.[13] Earlier this year, the Commission released a staff letter

[1] 7 U.S.C. 1 *et seq.*

[2] *See generally* CEA sec. 5(d), 7 U.S.C. 7(d).

[3] *See generally* 17 CFR part 38.

[4] CEA sec. 5(d)(2)(A)(i), 7 U.S.C. 7(d)(2)(A)(i).

[5] CEA sec. 5(d)(9)(A), 7 U.S.C. 7(d)(9)(A).

[6] 17 CFR 38.151(b)(1).

[7] *Id.* 38.151(c).

[8] Core Principles and Other Requirements for Designated Contract Markets, 77 FR 36612, 36625 (June 19, 2012).

[9] *Id.*

[10] *Id.*

[11] *Id.* at 36672.

[12] *See* Core Principles and Other Requirements for Swap Execution Facilities, 76 FR 1214 (Jan. 7, 2011) (Notice of Proposed Rulemaking); Core Principles and Other Requirements for Swap Execution Facilities, 78 FR 33476 (June 4, 2013) (Final Rule), as corrected, 78 FR 47154 (Aug. 5, 2013).

[13] Division of Clearing and Risk, Division of Market Oversight and Division of Swap Dealer and Intermediary Oversight Guidance on Application of Certain Commission Regulations to Swap Execution Facilities (Nov. 14, 2013), *https://www.cftc.gov/sites/default/files/idc/groups/public/@newsroom/documents/file/dmostaffguidance111413.pdf.*

setting forth guidelines for DCMs in setting comparable fee structures in incentive programs.[14]

## IV. Access Criteria Based On Geographic Location

The Commission is aware that some DCMs have adopted access criteria that restrict access to certain event contract markets based on prospective traders' location or residence.

The CEA and Commission Regulations generally do not permit a DCM to limit access based on the location of an otherwise eligible market participant within the United States.[15] In enacting the CEA, Congress specifically identified a ''national public interest'' in federal regulation of derivatives markets because those markets ''provid[e] a means for managing and assuming price risks, discovering prices, or disseminating pricing information through trading in liquid, fair and financially secure trading facilities.'' [16] Derivatives markets must operate on a uniform basis at a national scale in order to achieve the CEA's purpose.

As noted above, DCMs may not implement access criteria that intentionally exclude or discourage participation from market participants who otherwise meet eligibility requirements. When a DCM restricts access based on domestic geographic location—permitting participants from one region or State within the United States while barring those from another—it excludes otherwise eligible individuals. Such selective restrictions undermine the principle of impartial access, as they do not uniformly apply to all similarly situated (in terms of financial or operational soundness) eligible market participants and arbitrarily differentiate between such market participants based solely on their location.

Limiting access by geographic location raises significant concerns for both financial integrity and risk management within derivatives markets. For instance, if a market participant establishes a position in a region where access is allowed but subsequently travels to a location where access is restricted, that participant would be unable to manage their position. That participant may not be able to adequately manage their position, respond to market events, or meet margin calls. When participants are unable to manage their positions or meet margin calls due to geographic restrictions, forced liquidations may occur. This process can generate losses for both the futures commission merchants and clearing organizations involved, ultimately heightening systemic risk across the derivatives and broader financial markets. As such, the resulting disruption may affect not only individual participants, but also the relevant market as a whole, undermining its integrity and efficiency.

Limiting access based on location also detracts from a DCM's price-discovery function and overall efficiency. In certain markets, barring residents of certain States or regions from participating may cause distortions because States and regions have differently composed economies. Restricting access in States or regions that are home to large concentrations of high-volume traders (*e.g.,* where market making entities are located) is likely to introduce liquidity concerns, and such consequences may disproportionately affect particular contracts. This, in turn, would reduce overall volume and lead to wider bid-ask spreads, raising the cost of trading for all participants.

Location-based restrictions may also fragment a national pool of liquidity. Fragmentation may impede arbitrage between related contracts or between derivatives and their underlying cash markets when relevant participants cannot access all markets from their location. Under those circumstances, temporary price discrepancies could persist for longer, and participants may face greater basis risk if available hedges track their exposures less closely.

Further, location-based restrictions may concentrate trading activity among a smaller or less diverse set of participants. A broader participant base can supply different time horizons, risk tolerances, information, and trading strategies, which may make liquidity more resilient when conditions change. Removing an entire jurisdiction could increase dependence on a more limited group of market participants, particularly when the excluded jurisdiction accounts for meaningful activity. Sports-related contracts illustrate the point. Insomuch as particular contracts attract disproportionately regional interest (*e.g.,* whether a home team advances to its playoffs), excluding such regions could decrease the contracts' overall liquidity.

Moreover, location-based access restrictions undermine hedging opportunities and DCMs' price and information-discovery functions in additional ways when the excluded jurisdiction contains participants with relevant commercial experience, localized exposure or knowledge, or significant trading activity. For example, the exclusion of a region prone to extreme weather events from weather-related contracts would deprive that region's traders of a mechanism to hedge their exposures to such weather events. Likewise, to the extent a restriction excludes energy producers, merchants, or traders located in a region with substantial energy production and infrastructure, it could limit their ability to hedge production, shipping, and storage-related exposures, and could remove price signals from such hedging, arbitrages, or speculative activity. Similar effects may arise in other economically specialized areas, at least to some extent, including for example areas with concentrations of financial, agricultural, cultural, and technological expertise.

Election markets may be particularly sensitive to harms stemming from geographic access restrictions. Some statewide and more localized election markets may generate the most volume and/or knowledge from residents of the State or locality where the election takes place. Accordingly, restricting access to a particular State's residents could severely undercut volume and/or the information-discovery function of any market concerning an election in that State. This is especially problematic given election contract markets' uniquely valuable information-discovery role, with benefits accruing nationwide even while the most informed trading may be sourced on a State or local basis. Such effects may

[14] CFTC Letter No. 26–23 (Aug. 12, 2026), *https://www.cftc.gov/csl/26-23/download.*

[15] Because Core Principle 2 does not allow a DCM to restrict access based on geography, DCMs must take reasonable steps to ensure that intermediaries, who must comply with DCM membership rules, do not impose geographic restrictions that violate impartial access. *See* CEA sec. 5(d)(2)(B), 7 U.S.C. 7(d)(2)(B) (DCMs must ''have the capacity to detect, investigate, and apply appropriate sanctions to any person that violates any rule of the contract market''). Further, Core Principle 12 requires DCMs, as self-regulatory organizations, ''to protect markets and market participants from abusive practices committed by any party, including abusive practices committed by a party acting as an agent for a participant'' and ''promote fair and equitable trading on the contract market.'' CEA sec. 5(d)(12), 7 U.S.C. 5(d)(12). This responsibility includes ''having methods and resources appropriate to the nature of the trading system and the structure of the market to detect trade practice and market abuses and to discipline such behavior, in accordance with Core Principles 2 and 4, and the associated regulations . . . respectively.'' 17 CFR 38.651. As such, the Commission believes that DCMs are responsible for ensuring that intermediaries are not impeding the Impartial Access Requirements under Core Principle 2. *See also* CEA sec. 5(d)(11), 7 U.S.C. 5(d)(11); 17 CFR 1.52(c).

[16] CEA sec. 3(a), 7 U.S.C. 5(a). The Congressional purpose of fostering national derivatives trading is reinforced by the CEA's enjoining authority, which allows the CFTC to bring injunctive action against anyone ''restraining trading in any commodity for future delivery or any swap.'' CEA sec. 6c(a), 7 U.S.C. 13a–1(a).

extend beyond the immediate trading population because third parties, including media organizations and other observers, may use election-contract prices as one source of information about expected outcomes.

For these reasons, the Commission believes that geographic access restrictions are inconsistent with the CEA and Commission rules and regulations. The Commission expects DCMs to evaluate their access criteria, exchange rules, and intermediary access arrangements to ensure compliance.

The Office of Management and Budget has determined that this action is not a significant regulatory action as defined in Executive Order 12866, as amended, and therefore it was not subject to Executive Order 12866 review.

Issued in Washington, DC, on November 5, 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 DCM Impartial Access Requirements—Commission Voting Summary

On this matter, Chairman Selig voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2026–22863 Filed 11–9–26; 8:45 am]

**BILLING CODE 6351–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 73

**[Docket No. FDA–2026–C–3071]**

## Color Additive Petition From the International Association of Color Manufacturers; Request To Amend the Color Additive Regulations To Remove the Solvents Methylene Chloride, Trichloroethylene, and Ethylene Dichloride

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final amendment; order; notification of partial denial of petition.

**SUMMARY:** The Food and Drug Administration (FDA or we) is partially granting a color additive petition submitted by the International Association of Color Manufacturers (IACM or petitioner), by amending our color additive regulations, on the basis of abandonment, to remove the authorized uses of methylene chloride, trichloroethylene, and ethylene dichloride from the list of authorized extraction solvents for annatto extract, paprika oleoresin, and turmeric oleoresin. The petitioner provided data demonstrating that these uses have been permanently abandoned. FDA is denying as moot the portion of the petition proposing that the color additive regulations be amended, on the basis of abandonment, to no longer authorize the use of methylene chloride as a diluent in color additive mixtures in inks for marking fruit and vegetables. This request is moot because the authorization for this use has been removed, on the basis of the Delaney Clause, in response to a separate petition.

**DATES:** This order is effective January 11, 2027. If any provisions are delayed or stayed by the filing of proper objections, FDA will publish such notification in the **Federal Register**. Submit either electronic or written objections and requests for a hearing on the order by December 10, 2026. See section IX for further information on the filing of objections.

**ADDRESSES:** You may submit objections and requests for a hearing as follows. Please note that late, untimely filed objections will not be considered. The *https://www.regulations.gov* electronic filing system will accept objections until 11:59 p.m. Eastern Time at the end of December 10, 2026. Objections received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

*Electronic Submissions*

Submit electronic objections in the following way:

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

*Written/Paper Submissions*

Submit written/paper instructions as follows:

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

*Instructions:* All submissions received must include the Docket No. FDA–2026–C–3071 for ''Color Additive Petition from the International Association of Color Manufacturers; Request to Amend the Color Additive Regulations to Remove the Solvents Methylene Chloride, Trichloroethylene, and Ethylene Dichloride.'' Received objections, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

**FOR FURTHER INFORMATION CONTACT:** Daniel Hlavaty, Office of Food Chemical Safety, Dietary Supplements, and Innovation, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 301–796–1481; or Alexandra Beliveau, Office of Regulations and International Programs, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

**SUPPLEMENTARY INFORMATION:**

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## I. Introduction

In the **Federal Register** of April 1, 2026 (91 FR 16169), we announced that we filed a color additive petition (CAP 5C0340) submitted by IACM, 1101 17th St. NW, Suite 700, Washington, DC 20036.

The petition proposed that we amend §§ 73.30 (21 CFR 73.30, ''Annatto extract''), 73.345 (21 CFR 73.345, ''Paprika oleoresin''), and 73.615 (21 CFR 73.615, ''Turmeric oleoresin'') to remove methylene chloride, trichloroethylene, and ethylene dichloride as permitted extraction solvents for the manufacture of annatto extract, paprika oleoresin, and turmeric oleoresin for use as exempt color additives in food. The petition further proposed that we amend § 73.1 (21 CFR 73.1, ''Diluents in color additive mixtures for food use exempt from certification'') to remove methylene chloride as a permitted diluent in color additive mixtures in inks for marking fruit and vegetables. The petition identified §§ 73.1030 (21 CFR 73.1030, ''Annatto extract'') and 73.2030 (21 CFR 73.2030, ''Annatto'') as also being impacted by this petition. Although the regulations in §§ 73.1030 and 73.2030 do not directly refer to methylene chloride, trichloroethylene, or ethylene dichloride, the regulations authorize their use by cross-referencing § 73.30(a)(1). The petition requested that we make these amendments on the basis that these uses of the solvents have been permanently abandoned.

The substances that were the subject of this petition and their corresponding Chemical Abstracts Service (CAS) numbers are:

1. Methylene chloride (CAS No. 75–09–2);
2. Trichloroethylene (CAS No. 79–01–6); and
3. Ethylene dichloride (CAS No. 107–06–2).

The notification of petition gave interested parties until June 1, 2026, to submit comments on the filed color additive petition, which was made available in the docket.

## II. Background

The Federal Food, Drug, and Cosmetic Act (FD&C Act) authorizes us to regulate ''color additives'' (see section 721(b) of the FD&C Act (21 U.S.C. 379e(b))). The FD&C Act defines ''color additive'' as a material which is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and that when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with another substance) of imparting color (''color'' includes black, white, and intermediate grays) thereto (see section 201(t) of the FD&C Act (21 U.S.C. 321(t))). Color additives used in or on a food, drug, certain medical devices, or cosmetics are deemed unsafe and prohibited except to the extent that we approve their use (see section 721(a) of the FD&C Act).

The FD&C Act provides a process through which any person who wishes to use a color additive in or on food, drugs, certain medical devices, or cosmetics may submit a petition proposing the issuance of a color additive regulation listing such use with supporting information. A color additive petition may also be submitted to propose the amendment or repeal of an existing color additive regulation (see section 721(b)(5)(C) and (d) of the FD&C Act). In response to a color additive petition, FDA may issue a regulation listing a color additive for use in or on food, drugs, certain medical devices, or cosmetics only if it determines that the additive is suitable and safe for such use (see section 721(b)(2)(A) of the FD&C Act).

Section 701(e) through (g) of the FD&C Act (21 U.S.C. 371(e) through (g)) applies to the issuance, amendment, or repeal of color additive regulations (see section 721(d) of the FD&C Act). Section 701(e) of the FD&C Act provides that any action for the issuance, amendment, or repeal of a color additive regulation may be initiated by a proposal made by the Secretary or by a petition of any interested persons showing reasonable grounds. It further requires that FDA publish such a proposal, provide an opportunity for all interested persons to present their views, and then by order act upon such proposal.

## III. Evaluation of Abandonment

### *A. 21 CFR 73.30 ''Annatto Extract,'' 21 CFR 73.345 ''Paprika Oleoresin,'' and 21 CFR 73.615 ''Turmeric Oleoresin''*

As support for the assertion that the uses of methylene chloride, trichloroethylene, and ethylene dichloride in the manufacture of annatto extract and annatto, paprika oleoresin, and turmeric oleoresin have been abandoned, the petition includes a summary of the results of a survey that IACM sent to its members and other non-member firms. The petitioner describes IACM members as comprising a meaningful proportion of the current global color industry representing manufacturers and users of color additives. The other non-member firms that IACM surveyed included members of the American Spice Trade Association, the Flavor and Extract Manufacturers Association, and the Natural Food Colors Association, and independent firms, to cover the total U.S. market and support their conclusion that the uses of these substances have been permanently abandoned.

The petitioner asked recipients of the survey to verify that they do not:

- Currently manufacture, purchase, use, or import annatto extract (§ 73.30), paprika oleoresin (§ 73.345), and/or turmeric oleoresin (§ 73.615) for color additive use using methylene chloride, trichloroethylene, and/or ethylene dichloride as extraction solvents whether individually or in combination;
- Intend to manufacture or import for use in food in the United States the color additives annatto extract (§ 73.30), paprika oleoresin (§ 73.345), or turmeric oleoresin (§ 73.615) using methylene chloride, trichloroethylene, or ethylene dichloride whether individually or in combination as extraction solvents; and

• Currently maintain any inventory of the color additives annatto extract (§ 73.30), paprika oleoresin (§ 73.345), or turmeric oleoresin (§ 73.615) that were manufactured using methylene chloride, trichloroethylene, or ethylene dichloride whether individually or in combination as extraction solvents which will be used in food in the United States.

In its summary of the survey results, the petitioner stated that the survey included 44 unique companies and 3 trade associations that collectively represent an additional 375 companies. All the companies that participated in the survey confirmed that they have abandoned methylene chloride, trichloroethylene, and ethylene dichloride for use in the manufacture of annatto extract (§ 73.30), paprika oleoresin (§ 73.345), and turmeric oleoresin (§ 73.615).

With respect to § 73.30, while the petitioner's survey focused on the use of methylene chloride, trichloroethylene, and/or ethylene dichloride as extraction solvents to manufacture annatto extract as specified in § 73.30, the petitioner asserts that the color industry manufactures the colors according to the specifications in FDA's color additive regulations, without consideration of end use. Therefore, the petitioner asserts that since the survey confirmed that methylene chloride, trichloroethylene, and ethylene dichloride have been abandoned in the United States for the manufacturing, purchasing, use, or import of annatto extract as specified in § 73.30, the abandonment of the use of these solvents to manufacture annatto extract applies not only to use of the solvents to manufacture annatto extract used in coloring foods (§ 73.30), but also to the use of the solvents to manufacture annatto extract used in coloring drugs (§ 73.1030) and annatto used in coloring cosmetics (§ 73.2030).

In addition, when we published the notification of filing of CAP 5C0340, stakeholders had an opportunity to provide information regarding whether any of the three solvents were still being used in the manufacture of the subject color additives. We received no comments that demonstrated current use, which is further evidence supporting the petitioner's claim that these uses are abandoned.

In light of the evidence submitted in the petition, as well as the absence of any evidence demonstrating lack of abandonment, we are granting the petition's requests with respect to §§ 73.30, 73.345, and 73.615. We conclude that methylene chloride, trichloroethylene, and ethylene dichloride have been abandoned with respect to their use in the manufacture of color additives. Accordingly, FDA is removing the authorizations for the use of these substances in §§ 73.30, 73.345, and 73.615.

*B. 21 CFR 73.1 ''Diluents in Color Additive Mixtures for Food Use Exempt From Certification''*

As support for the assertion that the use of methylene chloride as a diluent in color additive mixtures in inks for marking fruit and vegetables has been abandoned, the petitioner engaged in discussions with both the International Fresh Produce Association (IFPA), which represents the full fresh produce supply chain, and the National Association of Printing Ink Manufacturers (NAPIM), which represents 85 percent of domestic ink manufacturing. The petitioner found that the use of inks for marking fruit and vegetables is limited and that no chlorinated organics are used in production ink systems or the manufacturing process. IACM received confirmation from NAPIM that NAPIM's members do not manufacture nor market their products for marking fruits and vegetables. IACM also confirmed with IFPA that IFPA's members do not:

• Currently manufacture for use in food in the United States inks for marking fruit and vegetables (§ 73.1(b)(1)(ii)) using methylene chloride as a diluent;

• Currently import for use in food in the United States inks for marking fruit and vegetables (§ 73.1(b)(1)(ii)) using methylene chloride as a diluent;

• Intend to manufacture or import for use in food in the United States inks for marking fruit and vegetables (§ 73.1(b)(1)(ii)) using methylene chloride as a diluent; and

• Currently maintain any inventory of inks for marking fruit and vegetables (§ 73.1(b)(ii)) using methylene chloride as a diluent which will be used in food in the United States.

Related to CAP 5C0340, elsewhere in this issue of the **Federal Register**, we published a final order in response to CAP 4C0327 granting that petition, in part, and amending § 73.1 to no longer provide for the use of methylene chloride as a diluent in color additive mixtures for use in inks for marking fruit and vegetables on the basis of the Delaney Clause (section 721(b)(5)(B) of the FD&C Act). Because the final order issued in response to CAP 4C0327 removes methylene chloride from § 73.1, the petitioner's request based on abandonment is moot.

## IV. Comments Related to the Petition

We provided 60 days for comments on the petition. We received one comment, which supported the petitioner's conclusion that the uses of methylene chloride, trichloroethylene, and ethylene dichloride as described in the petition have been abandoned. We received no other comments in response to the notification of petition.

## V. Conclusion

FDA reviewed the data and other information in the petition and other available relevant material to evaluate whether the uses of these extraction solvents in the manufacture of color additives have been abandoned. Based on the available information, we have determined that these uses have been abandoned. Therefore, we are amending §§ 73.30, 73.345, and 73.615 of the color additive regulations to no longer provide for the uses of methylene chloride, trichloroethylene, or ethylene dichloride in the manufacture of color additives because these uses have been abandoned. Although the regulatory text in §§ 73.1030 and 73.2030 will not be amended, these regulations are also affected because they authorize the use of these substances by cross-referencing § 73.30. Therefore, in removing the authorization of the use of these substances from § 73.30, their use is no longer authorized under §§ 73.1030 and 73.2030.

We are denying as moot the request to remove methylene chloride from § 73.1 because elsewhere in this issue of the **Federal Register**, FDA has revoked the authorization for methylene chloride as a diluent in color additive mixtures in inks for marking fruit and vegetables on the basis of the Delaney Clause.

## VI. Public Disclosure

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 71.15, we will delete from the documents any materials that are not available for public disclosure. As stated in the notification of filing for CAP 5C0340, the petition is available in the docket.

## VII. Analysis of Environmental Impacts

As stated in the April 1, 2026, **Federal Register** notification of petition for CAP 5C0340 (91 FR 16169), the petitioner claimed that this action is categorically excluded under § 25.32(m) (21 CFR 25.32(m)), which applies to ''action(s) to prohibit or otherwise restrict or reduce

the use of a substance in food, food packaging, or cosmetics.'' We further stated that, if FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. We did not receive any new information or comments regarding this claim of categorical exclusion. We considered the petitioner's claim of categorical exclusion and determined that this action is categorically excluded under § 25.32(m) (Ref. 1). Therefore, neither an environmental assessment nor an environmental impact statement is required.

**VIII. Paperwork Reduction Act of 1995**

This order contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

**IX. Objections**

This order is effective as shown in the **DATES** section, except as to any provisions that may be stayed by the filing of proper objections. If you will be adversely affected by one or more provisions of this regulation, you may file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. You must separately number each objection, and within each numbered objection you must specify with particularity the provision(s) to which you object, and the grounds for your objection. Within each numbered objection, you must specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

Any objections received in response to the regulation may be seen in the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *https://www.regulations.gov.* We will publish notice of the objections that we have received or lack thereof in the **Federal Register**.

**X. References**

The following references are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.*

1. Memorandum from A. Thompson-Wood, Environmental Review Team, Office of Pre-Market Additive Safety, Office of Food Chemical Safety, Dietary Supplements and Innovation, Human Foods Program, FDA to D. Hlavaty, Division of Additives and Ingredients, Office of Post-Market Assessment, Office of Food Chemical Safety, Dietary Supplements and Innovation, Human Foods Program, FDA, October 21, 2026.

**List of Subjects in 21 CFR Part 73**

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 73 is amended as follows:

## PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

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

**Authority:** 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

**§ 73.30 [Amended]**

■ 2. Amend § 73.30(a)(1)(ii) by removing ''ethylene dichloride'', ''methylene chloride'', and ''trichloroethylene''.

**§ 73.345 [Amended]**

■ 3. Amend the list in § 73.345(a)(1) by removing ''Ethylene dichloride'', ''Methylene chloride'', and ''Trichloroethylene''.

**§ 73.615 [Amended]**

■ 4. Amend the list in § 73.615(a)(1) by removing ''Ethylene dichloride'', ''Methylene chloride'', and ''Trichloroethylene''.

**Grace R. Graham,**

*Deputy Commissioner for Policy, Legislation, and International Affairs.*

[FR Doc. 2026–22866 Filed 11–9–26; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 73

**[Docket No. FDA–2023–C–5679]**

## Color Additive Petition From Environmental Defense Fund et al.; Request To Amend the Color Additive Regulations To Remove the Solvents Ethylene Dichloride, Methylene Chloride, and Trichloroethylene

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final amendment; order; notification of partial denial of petition.

**SUMMARY:** The Food and Drug Administration (FDA or we) is partially granting a color additive petition submitted by Environmental Defense Fund et al. (petitioners), by amending our color additive regulations, on the basis of the Delaney Clause, to remove the authorized use of methylene chloride as a diluent in color additive mixtures in inks for marking fruit and vegetables. The petitioners provided data demonstrating that this additive induces cancer in laboratory animals. We are denying the remaining petition requests to remove ethylene dichloride, methylene chloride, and trichloroethylene from the list of authorized extraction solvents for annatto extract, paprika oleoresin, and turmeric oleoresin, because any residue of the solvent would be an impurity in the color additive and such impurities are not subject to the Delaney Clause.

**DATES:** This order is effective January 11, 2027. If any provisions are delayed or stayed by the filing of proper objections, FDA will publish such notification in the **Federal Register**. Submit either electronic or written objections and requests for a hearing on the order by December 10, 2026. See section X for further information on the filing of objections.

**ADDRESSES:** You may submit objections and requests for a hearing as follows. Please note that late, untimely filed objections will not be considered. The *https://www.regulations.gov* electronic filing system will accept objections until 11:59 p.m. Eastern Time at the end of December 10, 2026. Objections received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

*Electronic Submissions*

Submit electronic objections in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Objections submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your objection, that information will be posted on *https://www.regulations.gov.*

• If you want to submit an objection with confidential information that you do not wish to be made available to the public, submit the objection as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper instructions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper objections submitted to the Dockets Management Staff, FDA will post your objection, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2023–C–5679 for ''Color Additive Petition from Environmental Defense Fund et al.; Request to Amend the Color Additive Regulations to Remove the Solvents Ethylene Dichloride, Methylene Chloride, and Trichloroethylene.'' Received objections, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

**FOR FURTHER INFORMATION CONTACT:** Paulette M. Gaynor, Office of Pre-Market Additive Safety, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1192; or Alexandra Beliveau, Office of Regulations and International Programs, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

**SUPPLEMENTARY INFORMATION:**

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## I. Introduction

In the **Federal Register** of January 11, 2024 (89 FR 1856), we announced that we filed a color additive petition (CAP 4C0327) submitted by Environmental Defense Fund, Breast Cancer Prevention Partners, Center for Environmental Health, Environmental Working Group, and Lisa Lefferts, c/o Lisa Lefferts, Nellysford, VA 22958 (currently c/o Liora Fiksel, 1875 Connecticut Ave. NW, Washington, DC 20009).

The petition proposed that we amend §§ 73.1 (21 CFR 73.1, ''Diluents in color additive mixtures for food use exempt from certification''), 73.30 (21 CFR 73.30, ''Annatto extract''), 73.345 (21 CFR 73.345, ''Paprika oleoresin''), and 73.615 (21 CFR 73.615, ''Turmeric oleoresin'') to remove the use of three specified solvents.

The three solvents that are the subject of this petition are:

1. Ethylene dichloride (Chemical Abstract Service (CAS) No. 107–06–2);
2. Methylene chloride (CAS No. 75–09–2); and
3. Trichloroethylene (CAS No. 79–01–6).

Specifically, the petitioners state these substances have been found to induce cancer in animals and, therefore, are not safe pursuant to section 721(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 379e(b)(5)(B)).

The notification of petition gave interested parties until March 11, 2024, to submit comments on the filed color additive petition. The petition was made available in the docket. In the **Federal Register** of May 28, 2026 (91 FR 31680), we reopened the comment period for 30 days to allow for the submission of any updated data and other information over the last two years.

This order grants the petition's request to amend the regulations to no longer provide for the use of methylene chloride as a diluent in color additive mixtures in inks for marking fruit and vegetables. This order denies the petition's remaining requests. However, as noted in section VI of this document, FDA is taking action on these remaining requests in response to a separate petition based on industry's abandonment of these uses.

## II. Background

### *A. Statutory and Regulatory Background of Color Additive Regulation*

The FD&C Act authorizes us to regulate ''color additives'' (see section 721(b) of the FD&C Act). The FD&C Act defines ''color additive'' as a material which is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and that when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with another substance) of imparting color (''color'' includes black, white, and intermediate grays) thereto (see section 201(t) of the FD&C Act (21 U.S.C. 321(t))). Color additives used in or on a food, drug, cosmetic, or certain medical devices are deemed unsafe and prohibited except to the extent that we approve their use (see section 721(a) of the FD&C Act). Certain color additives must be certified by FDA (see section 721(c) of the FD&C Act).

The FD&C Act provides a process through which any person who wishes to use a color additive in or on food, drugs, certain devices, or cosmetics may submit a petition proposing the issuance of a color additive regulation listing such use with supporting information. A color additive petition may also be submitted to propose the amendment or repeal of any existing color additive regulation (see section 721(b)(5)(C) and (d) of the FD&C Act). In response to a color additive petition, FDA may issue a regulation listing a color additive for use in or on food, drugs, devices, or cosmetics only if it determines that the additive is suitable and safe for such use (see section 721(b)(1) of the FD&C Act).

Under section 721(b) of the FD&C Act, we will not establish a regulation for the use of a color additive if a fair evaluation of the data fails to establish that the proposed use of the color additive, under the conditions of use to be specified in the regulation, will be safe. To determine whether a color additive is safe, the FD&C Act requires FDA to consider, among other relevant factors: (1) probable consumption of, or other relevant exposure from, the additive and of any substance formed in or on food, drugs or devices, or cosmetics because of the use of the additive; (2) cumulative effect, if any, of such additive ''in the diet of man or animals,'' taking into account the same or any chemically or pharmacologically related substance or substances in such diet; and (3) safety factors recognized by experts ''as appropriate for the use of animal experimentation data'' (see section 721(b)(5)(A) of the FD&C Act) (referred to as the ''general safety clause''). FDA's determination that a color additive is safe means that there is convincing evidence that establishes with reasonable certainty that no harm will result from the intended condition of use of the color additive (§ 70.3(i) (21 CFR 70.3(i))). We refer to this safety standard as ''a reasonable certainty of no harm.''

In addition, section 721(b)(5)(B) of the FD&C Act, often referred to as the Delaney Clause, deems a color additive unsafe under certain circumstances. The Delaney Clause for color additives consists of two parts. The first part (section 721(b)(5)(B)(i) of the FD&C Act) pertains specifically to ingested color additives. The second part (section 721(b)(5)(B)(ii) of the FD&C Act) applies to non-ingested color additives. For purposes of our review of this petition, we reviewed these uses of the solvents ethylene dichloride, methylene chloride, and trichloroethylene under the first part because these uses result in ingestion. Section 721(b)(5)(B)(i) of the FD&C Act states that a color additive shall be deemed unsafe for any use which will or may result in ingestion of all or part of such additive if the additive is found by the Secretary to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of the safety of additives for use in food, to induce cancer in man or animal. Courts have concluded that the Delaney Clause is to be interpreted very rigidly. In *Public Citizen* v. *Young,* 831 F.2d 1108, 1122 (D.C. Cir. 1987), the court held that Congress intended for the Delaney Clause to be ''extraordinarily rigid,'' to protect the public from cancer-causing substances without exception, rejecting FDA's argument that a particular color additive should be approved because it did not pose more than a de minimis cancer risk; see also *Les* v. *Reilly,* 968 F.2d 985, 986 (9th Cir. 1992) (holding that the U.S. Environmental Protection Agency's (EPA) refusal to revoke regulations permitting the use of certain pesticides, which were regulated as food additives at the time of the court decision and subject to a similarly worded Delaney Clause for food additives, on the grounds that they pose a de minimis cancer risk, is contrary to the provisions of the Delaney Clause). Importantly, however, the Delaney Clause applies to the additive itself and not to constituents (such as nonfunctional chemicals present in the additive) or impurities in the additive. That is, where an additive itself has not been shown to cause cancer but contains a carcinogenic constituent or impurity, the additive is properly evaluated under the general safety clause using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the intended use of the additive (*Scott* v. *FDA,* 728 F.2d 322 (6th Cir. 1984)).

There is a similar Delaney Clause provision for food additives under section 409(c)(3) of the FD&C Act (21 U.S.C. 348(c)(3)), which states that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal, or if it is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal. In revoking certain authorizations for food additives under the Delaney Clause, FDA stated that the Delaney Clause limits FDA's discretion to determine the safety of food additives. FDA stated that the Delaney Clause prevents FDA from finding a food additive to be safe if it has been found to induce cancer when ingested by humans or animals, ''regardless of the probability, or risk, of cancer associated with exposure to the additive or of the extent to which the experimental conditions of the animal study or the carcinogenic mode of action provide insight into the health effects of human consumption and use of the additive in question'' (83 FR 50490 at 50492, October 9, 2018).

Section 721(d) of the FD&C Act provides for the issuance, amendment, or repeal of regulations authorizing the use of a color additive, and, among other things, it specifies that the safety provisions of section 721(b)(5) of the FD&C Act apply to such actions. For FDA to grant a petition that seeks repeal of a color additive regulation based upon new data concerning the safety of the color additive, such data must be adequate for FDA to conclude that there is no longer a reasonable certainty of no harm for the intended use of the color additive or that it must be deemed unsafe under the Delaney Clause.

### *B. History of the Color Additive Regulations Where Amendments Are Requested*

In the **Federal Register** of June 20, 1963 (28 FR 6351), FDA established 21 CFR 8.305 for the listing of annatto extract in food use exempt from certification, now codified in § 73.30. Ethylene dichloride, methylene chloride, and trichloroethylene are allowed as food-grade extractants in the

preparation of annatto extract (§ 73.30(a)(1)(ii)). In the **Federal Register** of October 8, 1964 (29 FR 13893), FDA established 21 CFR 8.390 for the listing of diluents in color additive mixtures for food use exempt from certification, including methylene chloride (with a restriction of no residues) for the special use in inks for marking fruit and vegetables, now codified in § 73.1.

In the **Federal Register** of January 27, 1966 (31 FR 1063), FDA established, among other things, 21 CFR 8.308 and 8.310 for the listing of paprika oleoresin and turmeric oleoresin, now codified in §§ 73.345 and 73.615, respectively. Ethylene dichloride, methylene chloride, and trichloroethylene are allowed as solvents in the preparation of both paprika oleoresin and turmeric oleoresin (§§ 73.345(a)(1) and 73.615(a)(1)).

## III. Summary and Context of Determination

We have evaluated the data and other information submitted in the petition, as well as other relevant data. FDA finds that ethylene dichloride, methylene chloride, and trichloroethylene induce cancer in animals. We must revoke the authorizations providing for any color additive use of these substances on the basis of the Delaney Clause. As described further in section IV of this document, we conclude that methylene chloride is a color additive in § 73.1. Therefore, we are amending the regulations to remove the use of this color additive under section 721(b)(5)(B) of the FD&C Act as a matter of law.

We are denying the petition's remaining requests. As described further in section IV of this document, we conclude that ethylene dichloride, methylene chloride, and trichloroethylene are not color additives in §§ 73.30, 73.345, and 73.615. Therefore, the Delaney Clause does not apply to these uses.

## IV. Evaluation of Petition

The petitioners assert that the Delaney Clause applies to ethylene dichloride, methylene chloride, and trichloroethylene in §§ 73.1, 73.30, 73.345, and 73.615. The petitioners state that ethylene dichloride, methylene chloride, and trichloroethylene have been shown to induce cancer in animals. The petitioners cite to studies sponsored by the Department of Health and Human Services' National Toxicology Program (NTP) (Refs. 1–3).

For ethylene dichloride, in the National Cancer Institute Technical Report No. 55 (1978) on 1, 2—dichloroethane, the authors reported that the test material caused significantly increased incidence of squamous cell carcinomas of the forestomach and hemangiosarcomas of the circulatory system in male rats and adenocarcinomas of the mammary gland in female rats (Ref. 1). FDA previously evaluated these data and found that ethylene dichloride induced cancer in animals (Refs. 4 and 5).

For methylene chloride, in the NTP Report No. 306 (January 1986) on inhalation studies in F344/N rats and $B6C3F_1$ mice, the authors reported that the test material (Dichloromethane (Methylene Chloride) (CAS Reg. No. 75–09–2)) caused an increased incidence of liver cell neoplasms and lung neoplasms in both male and female $B6C3F_1$ mice (Ref. 2). FDA previously evaluated these data and found that methylene chloride induced cancer in animals (Ref. 6).

For trichloroethylene, the National Cancer Institute Technical Report No. 2 presents a synopsis of the results of a carcinogenesis bioassay of trichloroethylene using mice and rats and concludes that trichloroethylene induces liver cancer in mice (Ref. 3). FDA previously evaluated these data and found that trichloroethylene induced cancer in animals (Ref. 7).

Based on these studies, we conclude that ethylene dichloride and trichloroethylene have been ''found by the Secretary to induce cancer when ingested by . . . animal[s]'' (Refs. 1 and 3).

We also conclude that methylene chloride is an animal carcinogen based on an NTP-sponsored two-year inhalation study in mice (NTP inhalation mouse study) and that this study is appropriate for evaluating the safety of this additive for its intended use. Previously, FDA concluded that data from the NTP inhalation mouse study were appropriate for the safety evaluation of methylene chloride as a food additive (50 FR 51551 and Refs. 8 and 9).

In the NTP inhalation mouse study with methylene chloride, carcinogenic incidences were reported in lungs and also in liver, an organ removed from the site of administration (Ref. 8). These effects occurred independent of each other (id.). Further, FDA compared data from the NTP inhalation mouse study with those from a National Coffee Association-sponsored two-year drinking water study conducted with the same strain of mice but at lower dose levels (Ref. 8). While the drinking water studies did not demonstrate any carcinogenic effects in the liver or lungs, increased incidences of non-neoplastic proliferative lesions were observed in the liver (Ref. 6), and FDA concluded that mice receiving methylene chloride in the drinking water study may not have been tested at levels comparable to the NTP inhalation study (Ref. 6). Making an assumption that methylene chloride induced cancer just below the detection limit of the doses tested in the drinking water studies, FDA concluded that the upper-bound cancer risk of methylene chloride from the drinking water studies was approximately the same as its upper-bound cancer risk from the NTP inhalation study (Ref. 9).

On a case-by-case basis, data from non-oral animal toxicity studies, such as studies based on inhalation exposure route, can be used in place of oral animal toxicity studies to evaluate the safety of substances after oral exposure (Refs. 10 and 11). This assessment involves examining and comparing chemical and toxicological profiles of the substance between oral and inhalation exposure routes (id.). In general, substances that have a high vapor pressure and are therefore considered volatile can enter the blood after inhalation exposure and potentially induce toxic effects in internal organs away from the site of administration (id.). For such substances, data from non-oral exposure studies (*e.g.,* inhalation studies) are considered relevant to evaluate their safety after oral exposure (Ref. 10). Methylene chloride is a volatile substance with a high vapor pressure (see 29 CFR 1910.1052 Appendix A). Further, in the NTP inhalation mouse study, methylene chloride induced carcinogenic effects in the liver—an organ removed from the site of administration.

Therefore, data from the NTP inhalation mouse study of methylene chloride is applicable to its evaluation of safety after oral exposure, and this study is appropriate for the evaluation of the safety of this additive for color additive use. Thus, the reported results from the NTP inhalation mouse study are appropriate when considering the applicability of the Delaney Clause for methylene chloride, and based on this study, we conclude that methylene chloride has been found ''to induce cancer in . . . animal.'' We also conclude that the NTP inhalation mouse study (Ref. 2) for methylene chloride is ''appropriate for the evaluation of the safety of additives for such use.''

Because these solvents (ethylene dichloride, methylene chloride, and trichloroethylene) have been ''found to induce cancer in . . . animal[s],'' the Delaney Clause applies to their use as a color additive. The Delaney Clause prevents FDA from finding the color

additive uses of these solvents to be safe if the solvents have been found to induce cancer in animals, regardless of the probability, or risk, of cancer associated with exposure from the color additive uses.

Finally, we evaluated the uses of ethylene dichloride, methylene chloride, and trichloroethylene in these color additive regulations to determine whether, based on the specific authorized uses, these substances are color additives (which are subject to the Delaney Clause) or are constituents or impurities in a color additive (which are not subject to the Delaney Clause).

The discussion that follows describes FDA's evaluation of whether ethylene dichloride, methylene chloride, and trichloroethylene, as they appear in §§ 73.1, 73.30, 73.345, and 73.615, are considered color additives or constituents or impurities in the color additive. For uses of substances that we determine to be color additives, the Delaney Clause applies, and the authorization for such uses must be revoked. For uses of substances that we determine to be constituents or impurities in a color additive, the Delaney Clause does not apply. As the petition's request is based on the Delaney Clause, we are denying its request to revoke the applicable authorizations on the basis of the Delaney Clause for uses that we determine result in these solvents being constituents or impurities in a color additive rather than the color additive itself.

*A. 21 CFR 73.1 ''Diluents in Color Additive Mixtures for Food Use Exempt From Certification''*

Under § 73.1(b)(1)(ii), methylene chloride is allowed as a diluent in color additive mixtures for use in inks for marking fruit and vegetables with the restriction of no residue. A color additive mixture is a color additive that is made, in relevant part, by mixing ''one or more straight colors and one or more diluents'' (§ 70.3(k)). While such diluents do not impart color and are not by themselves a color additive (§ 70.3(m)), they are regulated as color additives when they are intentionally mixed with a color to make a color additive mixture. Because of a diluent's functional purpose in the color additive mixture, we consider the authorized use of methylene chloride in § 73.1(b)(1)(ii), as a diluent in color additive mixtures for use in inks for marking fruit and vegetables, to be a color additive that is subject to the Delaney Clause. Therefore, we are amending the regulation to no longer provide for the use of methylene chloride as a diluent in color additive mixtures for use in inks for marking fruit and vegetables in § 73.1(b)(1)(ii) under section 721(b)(5)(B) of the FD&C Act as a matter of law.

*B. 21 CFR 73.30 ''Annatto Extract''*

Under § 73.30(a)(1)(ii), ethylene dichloride, methylene chloride, and trichloroethylene are each allowed as a food-grade extractant to manufacture the color additive ''annatto extract.'' Annatto extract must contain no more solvent residue than is allowed of the corresponding solvents in spice oleoresins under applicable food additive regulations in parts 170 through 189 (21 CFR parts 170 through 189) (see § 73.30(b)). Total chlorinated solvents residues are limited to 30 parts per million (ppm) (milligram per kilogram (mg/kg)) (see §§ 173.230 (21 CFR 173.230), 173.255 (21 CFR 173.255), and 173.290 (21 CFR 173.290)). Through the extraction process, ethylene dichloride, methylene chloride, and trichloroethylene may end up as a residue of, and therefore an impurity in, the color additive ''annatto extract.'' While these extractants may end up as impurities in the color additive ''annatto extract,'' they are not color additives themselves in § 73.30. Therefore, we are denying the petition's request to remove ethylene dichloride, methylene chloride, and trichloroethylene from the list of approved food-grade extractants in § 73.30 under section 721(b)(5)(B) of the FD&C Act. As discussed in section II.A of this document, the Delaney Clause is applicable to color additives but not to impurities in a color additive.

*C. 21 CFR 73.345 ''Paprika Oleoresin''*

Under § 73.345(a), ethylene dichloride, methylene chloride, and trichloroethylene are each allowed as a solvent for the extraction of paprika to obtain the color additive ''paprika oleoresin.'' Paprika oleoresin must contain no more solvent residue than is allowed of the corresponding solvents in spice oleoresins under applicable food additive regulations in parts 170 through 189 (see § 73.345(b)). Total chlorinated solvents are limited to 30 ppm (mg/kg) (see §§ 173.230, 173.255, and 173.290). Through the extraction process, ethylene dichloride, methylene chloride, and trichloroethylene may end up as a residue of, and therefore an impurity in, the color additive ''paprika oleoresin.'' While these solvents may end up as impurities in the color additive ''paprika oleoresin,'' they are not color additives themselves in § 73.345. Therefore, we are denying the petition's request to remove ethylene dichloride, methylene chloride, and trichloroethylene from the list of approved solvents in § 73.345 under section 721(b)(5)(B) of the FD&C Act. As discussed in section II.A of this document, the Delaney Clause is applicable to color additives but not to impurities in a color additive.

*D. 21 CFR 73.615 ''Turmeric Oleoresin''*

Under § 73.615(a), ethylene dichloride, methylene chloride, and trichloroethylene are each allowed as a solvent for extraction of turmeric to obtain the color additive ''turmeric oleoresin.'' Turmeric oleoresin must contain no more solvent residue than is allowed of the corresponding solvents in spice oleoresins under applicable food additive regulations in parts 170 through 189 (see § 73.615(b)). Total chlorinated solvents are limited to 30 ppm (mg/kg) (see §§ 173.230, 173.255, and 173.290). Through the extraction process, ethylene dichloride, methylene chloride, and trichloroethylene may end up as a residue of, and therefore an impurity in, the color additive ''turmeric oleoresin.'' While these solvents may end up as an impurity in the color additive ''turmeric oleoresin,'' they are not color additives themselves in § 73.615. Therefore, we are denying the petition's request to remove ethylene dichloride, methylene chloride, and trichloroethylene from the list of approved extractants in § 73.615 under section 721(b)(5)(B) of the FD&C Act. As discussed in section II.A of this document, the Delaney Clause is applicable to color additives but not to impurities in a color additive.

## V. Comments Related to the Petition

FDA received several comments in response to the notification of petition and the reopening of the comment period. Most comments expressed general support for the petition's requested revocation of the provisions allowing for the use of these solvents in foods. Some comments addressed matters outside the scope of this petition, and some comments were duplicate submissions.

We summarize and respond to relevant portions of comments in this final order. We have numbered each comment to help distinguish between different comments. We have grouped similar comments together under the same number, and, in some cases, we have separated different issues discussed in the same comment and designated them as distinct comments for purposes of our responses. The number assigned to each comment is for organizational purposes only and does not signify the comment's value,

importance, or the order in which it was submitted.

(Comment 1) One comment stated that chlorinated solvents are no longer used for the manufacture of color additives. The comment further encouraged FDA to take this opportunity to consider removing ethylene dichloride, methylene chloride, and trichloroethylene as extraction solvents, as well as methylene chloride as a diluent in inks for marking fruits and vegetables based on the abandonment of these authorized uses.

(Response 1) We did not consider abandonment for the approved uses of these solvents as part of our evaluation of this petition because the petition is based on the Delaney Clause. We note, however, that elsewhere in this issue of the **Federal Register**, we have published a final order in response to CAP 5C0340, submitted by the International Association of Color Manufacturers, partially granting that petition and amending the color additive regulations to no longer provide for the extraction solvent uses of ethylene dichloride, methylene chloride, and trichloroethylene which are covered by this petition because these uses have been abandoned.

(Comment 2) Some comments raised EPA's proposed actions to eliminate or restrict the use of trichloroethylene and methylene chloride under the Toxic Substances Control Act or otherwise noted uses(s) of a chlorinated solvent that would be under EPA's jurisdiction.

(Response 2) While FDA and EPA may both regulate a particular substance, each agency regulates the uses of substances under its own applicable legal authority.

(Comment 3) Several comments expressed support for the removal of the authorizations for the use of these solvents from our color additive regulations. Some comments stated that these authorizations should be removed because there are alternatives.

(Response 3) We are taking this action to revoke the authorization for the use of methylene chloride as a diluent in color additive mixtures in inks for marking fruit and vegetables, because the color additive use of this solvent is deemed unsafe under the Delaney Clause. The existence of alternatives is not a factor in determining whether a color additive is safe under either the Delaney Clause or the general safety clause (see section 721(b)(5)(B) of the FD&C Act).

(Comment 4) Some comments mentioned other substances that FDA should also review for removal from our color additive regulations.

(Response 4) This color additive petition requests the removal of the three specified solvents from §§ 73.1, 73.30, 73.345, and 73.615. Therefore, these comments are outside the scope of this order.

(Comment 5) Some comments discussed the regulatory status of ethylene dichloride, methylene chloride, and trichloroethylene in other countries and questioned how FDA could continue to allow these substances in the U.S. food supply.

(Response 5) FDA's regulatory decisions are based on its own assessments of the available scientific information supporting the safety of color additives and on the statutory and regulatory framework in the United States.

(Comment 6) One comment expressed support for the petition and discussed evidence related to the use of these solvents and potential negative health impacts to humans. The comment cited certain studies to support their claims.

(Response 6) The petition's request is based on the Delaney Clause, and therefore our review of these solvents is based on the Delaney Clause. If the Delaney Clause applies, regardless of the safety of this use under the general safety clause, such an additive may not ''be deemed to be safe'' as a matter of law. Therefore, under the Delany Clause, FDA must revoke the authorization for the color additive use of methylene chloride. By contrast, ethylene dichloride, methylene chloride, and trichloroethylene are not color additives in §§ 73.30, 73.345, and 73.615, but rather they are impurities in those color additives. Therefore, we are denying the petition's request to revoke these authorizations, and any further review is outside the scope of this order responding to the petition.

## VI. Conclusion

Ethylene dichloride, methylene chloride, and trichloroethylene have been shown to cause cancer in laboratory animals. Under the Delaney Clause, this finding of carcinogenicity renders a color additive ''unsafe'' as a matter of law. Therefore, FDA is revoking the authorization for methylene chloride as a diluent in color additive mixtures in inks for marking fruit and vegetables. We are amending § 73.1 as set forth in this document.

Our revocation of this authorization is based on a finding under the Delaney Clause that methylene chloride can induce cancer in animals. It is not based on a finding that the intended use is no longer safe under the general safety clause. Upon the effective date of this order (see **DATES**), the use of methylene chloride as a diluent in color additive mixtures in inks for marking fruit and vegetables is no longer authorized. FDA is revoking this authorization in a manner consistent with its international obligations. This decision is consistent with the United States' long-standing Appropriate Level of Protection regarding carcinogenic additives in food, which seeks to eliminate exposure to additives that have been found to induce cancer in man or animals.

The Delaney Clause is applicable to the color additive itself but not to constituents or impurities in the additive. Residues of ethylene dichloride, methylene chloride, and trichloroethylene, when used as an extractant for annatto extract, paprika oleoresin, and turmeric oleoresin, may end up as an impurity in the color additive and would be considered an impurity in the color additive, not a color additive itself. The Delaney Clause applies to color additives, and not to impurities in a color additive. Because the Delaney Clause does not provide a basis for removing these authorizations, FDA is denying the petition's request to remove the authorized uses of ethylene dichloride, methylene chloride, and trichloroethylene in §§ 73.30, 73.345, and 73.615. We note, however, that elsewhere in this issue of the **Federal Register**, we have published a final order amending the color additive regulations to no longer provide for these uses of ethylene dichloride, methylene chloride, and trichloroethylene because these uses have been abandoned. Therefore, FDA is taking all of the actions requested by the petitioners.

## VII. Public Disclosure

In accordance with § 71.15 (21 CFR 71.15), the petition and the documents that we considered and relied upon in reaching our decision to approve the petition in part and to deny the petition in part will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 71.15, we will delete from the documents any materials that are not available for public disclosure. As stated in the notification of filing for CAP 4C0327, the petition is available in the docket.

## VIII. Analysis of Environmental Impacts

As stated in the January 11, 2024, **Federal Register** notification of petition for CAP 4C0327 (89 FR 1856), the petitioner claimed that this action is categorically excluded under § 25.32(m) (21 CFR 25.32(m)) because it constitutes an action to prohibit or otherwise

restrict or reduce the use of a substance in food, food packaging, or cosmetics. We further stated that, if FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. We did not receive any new information or comments regarding this claim of categorical exclusion. We considered the petitioner's claim of categorical exclusion and determined that this action is categorically excluded under § 25.32(m) (Ref. 12). Therefore, neither an environmental assessment nor an environmental impact statement is required.

## IX. Paperwork Reduction Act of 1995

This order contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

## X. Objections

This order is effective as shown in the **DATES** section, except as to any provisions that may be stayed by the filing of proper objections. If you will be adversely affected by one or more provisions of this regulation, you may file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. You must separately number each objection, and within each numbered objection you must specify with particularity the provision(s) to which you object and the grounds for your objection. Within each numbered objection, you must specifically state whether you are requesting a hearing on the particular provision that you specify in that numbered objection. If you do not request a hearing for any particular objection, you waive the right to a hearing on that objection. If you request a hearing, your objection must include a detailed description and analysis of the specific factual information you intend to present in support of the objection in the event that a hearing is held. If you do not include such a description and analysis for any particular objection, you waive the right to a hearing on the objection.

Any objections received in response to the regulation may be seen in the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *https://www.regulations.gov.* We will publish notice of the objections that we have received or lack thereof in the **Federal Register**.

## XI. References

The following references marked with an asterisk (*) are on display at the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they also are available electronically at *https://www.regulations.gov.* References without asterisks are not on public display at *https://www.regulations.gov* because they have copyright restriction. Some may be available at the website address, if listed. References without asterisks are available for viewing only at the Dockets Management Staff. Although FDA verified the website addresses in this document, please note that websites are subject to change over time.


*1. National Cancer Institute. 1978. Bioassay of 1,2-Dichloroethane for Possible Carcinogenicity. Bethesda, MD: National Cancer Institute. DHEW Publication No. (NIH) 78–1361. Accessed February 4, 2026. Available at: *https://ntp.niehs.nih.gov/publications/reports.*

*2. National Toxicology Program. 1986. NTP Technical Report on the Toxicology and Carcinogenesis Studies of Dichloromethane (Methylene Chloride) (CAS Reg. No. 75–09–2) in F344/N Rats and B6C3F$_1$ Mice (Inhalation Studies). Research Triangle Park, NC: National Toxicology Program. Technical Report 306. Accessed February 4, 2026. Available at: *https://ntp.niehs.nih.gov/publications/reports.*

*3. National Cancer Institute. 1976. Carcinogenesis Bioassay of Trichloroethylene. Bethesda, MD: National Cancer Institute. DHEW Publication No. (NIH) 76–802. Accessed February 4, 2026. Available at: *https://ntp.niehs.nih.gov/publications/reports.*

*4. Memorandum of Conference concerning ''1,2-Dichloroethane,'' Cancer Assessment Committee, Bureau of Foods, March 20, 1979.

*5. Memorandum of Conference concerning ''1,2-Dichloroethane,'' Cancer Assessment Committee, Bureau of Foods, June 12, 1979.

*6. Memorandum of Conference concerning ''Methylene Chloride,'' Cancer Assessment Committee, Bureau of Foods, January 20, 1983, August 8, 1984, and June 13, 1985.

*7. Memorandum of Conference concerning ''1,1,2-Trichloroethylene,'' Cancer Assessment Committee, Bureau of Foods, July 24, 1979.

*8. Quantitative Risk Assessment Committee, ''Preliminary Assessment of Upper-Bound Cancer Risk from Exposure to Methylene Chloride Used in Cosmetic Aerosol Sprays,'' April 23, 1985.

*9. Quantitative Risk Assessment Committee, ''Upper Bound Estimate of Cancer Risk of Methylene Chloride (MC) in MC-based Decaffeinated Coffee Products,'' November 15, 1985.

10. Kabadi, S.V., J. Fisher, B. Hung, and J. Aungst. ''Considerations for applying route-to-route extrapolation to assess the safety of oral exposure to substances.'' *Biomolecules,* 13(1), 5, 2023. Accessed February 4, 2026. Available at *https://doi.org/10.3390/biom13010005.*

11. Gerrity, T.R.; and C. J. Henry. *Principles of Route-Route Extrapolation for Risk Assessment: Proceedings of the Workshops on Principles of Route-to-Route Extrapolation for Risk Assessment held March 19–21, 1990, in Hilton Head, South Carolina and July 10–11, 1990, in Durham, North Carolina;* Elsevier: New York, NY, USA, 1990.

*12. Memorandum from L. Proffitt, Office of Policy Initiatives and Projects, Office of Policy and International Engagement, Human Foods Program (HFP), FDA to P. Gaynor, Division of Food Ingredients, Office of Pre-Market Additive Safety, Office of Food Chemical Safety, Dietary Supplements and Innovation, HFP, FDA, April 9, 2026.


## List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 73 is amended as follows:

## PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

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

**Authority:** 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

### § 73.1 [Amended]

■ 2. Amend § 73.1 in the table in paragraph (b)(1)(ii) by removing the entry for ''Methylene chloride''.

**Grace R. Graham,**

*Deputy Commissioner for Policy, Legislation, and International Affairs.*

[FR Doc. 2026–22865 Filed 11–9–26; 8:45 am]

**BILLING CODE 4164–01–P**

## NATIONAL LABOR RELATIONS BOARD

## 29 CFR Part 102

## Rules and Regulations, Series 8

*CFR Correction*

This rule is being published by the Office of the Federal Register to correct an editorial or technical error that appeared in the most recent annual revision of the Code of Federal Regulations.

■ In Title 29 of the Code of Federal Regulations, Parts 100 to 499, revised as

of July 1, 2026, revise § 102.101, and reinstate §§ 102.102 and 102.103 to read as follows:

**§ 102.101 Response to petition; service of response.**

Any party served with such petition may, within 14 days after service thereof, respond to the petition, admitting or denying its allegations. The response must be filed with the Board in Washington, DC. The response must simultaneously be served on all other parties to the proceeding, and a statement of service must be filed in accordance with the provisions of § 102.5(h).

[82 FR 11767, Feb. 24, 2017]

**§ 102.102 Intervention.**

Any person desiring to intervene must file a motion for intervention, stating the grounds upon which such person claims to have an interest in the petition. The motion must be filed with the Board in Washington, DC.

[82 FR 11767, Feb. 24, 2017]

**§ 102.103 Proceedings before the Board; briefs; advisory opinions.**

The Board will thereupon proceed, upon the petition, responses, and submission of briefs, to determine whether, on the facts before it, the commerce operations of the employer involved are such that the Board would or would not assert jurisdiction. Such determination will be in the form of an advisory opinion and will be served on the parties. No briefs may be filed except upon special permission of the Board.

[82 FR 11767, Feb. 24, 2017]

[FR Doc. 2026–22891 Filed 11–9–26; 8:45 am]

**BILLING CODE 0099–10–P**

## DEPARTMENT OF THE TREASURY

## Financial Crimes Enforcement Network

## 31 CFR Part 1010

## Imposition of Special Measure Prohibiting the Transmittal of Funds Involving MEXC Global

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Order.

**SUMMARY:** FinCEN is issuing notice of an order, pursuant to section 9714(a) of the Combating Russian Money Laundering Act (Pub. L. 116–283), as amended by section 6106(b) of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117–81), finding that MEXC Global—including any of its subsidiaries, branches, and offices, as well as any successor entities, operating in any jurisdiction outside of the United States—is a financial institution operating outside of the United States of primary money laundering concern in connection with Russian illicit finance and prohibiting certain transmittals of funds involving MEXC Global.

**DATES:** This action is effective December 10, 2026.

**FOR FURTHER INFORMATION CONTACT:** FinCEN's Regulatory Support Section by submitting an inquiry at *www.fincen.gov/contact.*

**SUPPLEMENTARY INFORMATION:**

### I. Summary of Order

As set out in this order, MEXC Global has facilitated funds transfers by Russia-affiliated illicit actors and in connection with other Russia-associated illicit activities, including sanctions evasion, and activity facilitated by Russian darknet markets. It has also facilitated billions of dollars in transactions benefitting Iran and its proxies, financial facilitators of the Democratic People's Republic of Korea (DPRK), and other cybercrime actors. Accordingly, this order (1) sets forth FinCEN's determination that MEXC Global, a convertible virtual currency (CVC) exchanger, along with any subsidiaries, branches, and offices of MEXC Global, and any successor entities, operating in any jurisdiction outside of the United States (collectively, MEXC Global) [1] is a financial institution operating outside of the United States of primary money laundering concern in connection with Russian illicit finance; and (2) prohibits certain transmittals of funds involving MEXC Global, by any covered financial institution.

### II. Background

*A. Statutory Provisions*

Section 9714(a) of the Combating Russian Money Laundering Act (Pub. L. 116–283), as amended by section 6106(b) of the National Defense Authorization Act for Fiscal Year 2022 (Pub. L. 117–81) (section 9714),[2] provides, in relevant part, that, if the Secretary of the Treasury (Secretary) ''determines that reasonable grounds exist for concluding that one or more financial institutions operating outside of the United States . . . is of primary money laundering concern in connection with Russian illicit finance,'' the Secretary may, ''by order, regulation, or otherwise as permitted by law'': (1) require domestic financial institutions and domestic financial agencies to take one or more of the special measures described in 31 U.S.C. 5318A(b); [3] or (2) prohibit, or impose conditions upon, certain transmittals of funds (as defined by the Secretary) by any domestic financial institution or domestic financial agency (collectively, covered financial institutions), if such transmittal of funds involves any such financial institution. The authority of the Secretary to administer both section 9714 and the Bank Secrecy Act (BSA) has been delegated to FinCEN.[4]

Pursuant to section 9714, the Secretary may impose one or more of six special measures. First, the Secretary may impose any of the five special measures provided for in 31 U.S.C. 5318A(b), commonly known as section 311 of the USA PATRIOT Act.[5] Through special measures one through four, the Secretary may impose additional recordkeeping, information collection, and reporting requirements on covered financial institutions.[6] Through special measure five, the Secretary, in consultation with the Secretary of State, the Attorney General, and the Chairman of the Board of Governors of the Federal Reserve System, may ''prohibit, or impose conditions upon, the opening or maintaining in the United States of a correspondent account or payable-through account'' for or on behalf of a foreign banking institution, if such correspondent account or payable-through account involves the financial institution operating outside of the United States found to be of primary money laundering concern.[7] In addition

[1] This includes, but is not limited to, active and past MEXC affiliated entities MEXC Global Ltd/MX Global Ltd (Seychelles); MEXC Estonia OÜ (Estonia); GIDA Technology AG (Switzerland); and MXC Global Ltd (United Kingdom); affiliated entities formerly incorporated in Singapore MEXC Global Foundation Ltd and MEXC Singapore Pte Ltd; and any successor entities.

[2] Section 9714 (as amended) may be found in a note to 31 U.S.C. 5318A.

[3] *See infra* note [4].

[4] Pursuant to Treasury Order 180–01, the authority of the Secretary of the Treasury (Secretary) to administer the BSA, including, but not limited to, 31 U.S.C. 5318A, has been delegated to the Director of FinCEN. Treasury Order 180–01 (Jan. 14, 2020). On August 11, 2022, and in accordance with Treasury Order 101–05 and 31 U.S.C. 321(b), Treasury's Under Secretary for Terrorism & Financial Intelligence re-delegated to the Director of FinCEN the authority of the Secretary under section 9714.

[5] *See* 31 U.S.C. 5318A. 31 U.S.C. 5318A grants the Secretary the authority, upon finding that reasonable grounds exist for concluding that one or more financial institutions operating outside of the United States is of primary money laundering concern, to require domestic financial institutions and domestic financial agencies to take certain ''special measures.'' Regarding the ''special measures'' that might be imposed, section 9714 references the five special measures set out in 31 U.S.C. 5318A(b)(1)–(5).

[6] 31 U.S.C. 5318A(b)(1)–(4).

[7] 31 U.S.C. 5318A(b)(5).

to the special measures set out in 31 U.S.C. 5318A, section 9714 also provides that the Secretary may impose a special measure prohibiting, or imposing conditions upon, certain transmittals of funds.[8]

*B. MEXC Global*

MEXC Global is a CVC exchanger founded in 2018 that is incorporated in the Seychelles, without a virtual asset service provider license[9] and operates in and across over 170 countries[10] through an array of current or former subsidiaries, branches, and offices, including, but not limited to, MEXC Global Ltd and MX Global Ltd in Seychelles; MEXC Estonia OÜ in Estonia; GIDA Technology AG in Switzerland; MXC Global Ltd in the United Kingdom; and, formerly, Singapore-registered MEXC Global Foundation Ltd and MEXC Singapore Pte Ltd.[11]

As of June 2026, MEXC Global processed more than USD 1 billion in daily transactions, while maintaining approximately USD 5 billion in reserve assets. As such, MEXC Global is among the 20 largest CVC exchangers in the world by trading volume.[12] As of December 2025, MEXC Global commanded approximately nine percent of the global market share of centralized CVC exchangers by trading volume.[13] By comparison, the assets of the two largest centralized CVC exchangers together represented 47.4 percent of the global market share.[14]

According to its user agreement, MEXC Global allows customers to open user accounts for exchange between various fiat currencies and CVC, as well as for futures trading and other services.[15] And, according to non-public information available to FinCEN, as of July 2026, MEXC Global offers the ability to trade in over fifty currencies, including USD and Russian rubles (RUB), as well as access to over 3,000 different CVCs and tokenized assets.

## III. Finding That MEXC Global Is a Financial Institution Operating Outside the United States That Is of Primary Money Laundering Concern in Connection With Russian Illicit Finance

Based on public and non-public information available to FinCEN, FinCEN finds that reasonable grounds exist for concluding that MEXC Global is a financial institution of primary money laundering concern in connection with Russian illicit finance—namely, through its facilitation of funds transfers by Russia-affiliated illicit actors and in connection with other Russia-associated illicit activities, including sanctions evasion, and activity facilitated by Russian darknet markets. Moreover, FinCEN assesses that, in addition to facilitating Russian illicit finance, MEXC Global has, in parallel, facilitated billions of dollars in transactions benefitting Iran and its proxies, financial facilitators of the Democratic People's Republic of Korea (DPRK), and other cybercrime actors.

In making this finding, FinCEN has considered the relevant evidence in light of factors identified in 31 U.S.C. 5318A(c)(2)(B), taking into account the specific circumstances of money laundering activities in connection with Russian illicit finance and the protection of U.S. national security and the U.S. financial system. While FinCEN is under no obligation pursuant to section 9714 to consider any particular factor or set of factors when making a finding that a financial institution operating outside of the United States is of primary money laundering concern in connection with Russian illicit finance, it nonetheless finds these factors instructive in guiding the analysis set forth below.[16]

*A. MEXC Global Is a Financial Institution Operating Outside the United States*

Although section 9714 does not expressly define the term ''financial institution,'' FinCEN has long defined that term to include ''money transmitters,'' including persons that accept and transmit value that substitutes for currency, such as CVC.[17] MEXC Global, in operating as a CVC exchanger, is a ''money transmitter'' because it is engaged in the transfer of funds or value that substitutes for currency.[18]

By its own account and as described above, MEXC Global operates through affiliates throughout the world—over time maintaining, for instance, subsidiaries, branches, and offices in Seychelles, Hong Kong, Singapore, Estonia, and the United Kingdom—and offers a range of money transmitter services for individual and institutional customers in the CVC sector in over 170 countries.[19] Considering the services that it provides and its places of registration, FinCEN assesses that MEXC Global is a financial institution operating outside of the United States within the meaning of section 9714.

Notably, to the extent that MEXC Global maintains or otherwise operates through affiliates, subsidiaries, branches, or offices in the United States, this order expressly excludes all such affiliates, subsidiaries, branches, or offices from the definition of ''MEXC Global'' and, accordingly, such affiliates, subsidiaries, branches, or offices are outside the scope of this order.

*B. Finding That MEXC Global Is a Financial Institution of Primary Money Laundering Concern in Connection With Russian Illicit Finance*

While MEXC Global's anti-money laundering and countering the financing

[8] *See* section 9714(a)(2).

[9] *See* Financial Services Authority Seychelles, *Press Release—FSA Takes Enforcement Action Against MX Global Ltd for Unlicensed Virtual Asset Services Operations* (May 26, 2026), *https://fsaseychelles.sc/news/press-releases/fsa-takes-enforcement-action-against-mx-global-ltd-for-unlicensed-virtual-asset-services-operations.*

[10] *See* CoinPedia, *MEXC Overview, https://app.coinpedia.org/company/mexc/.*

[11] TRM Labs, *MEXC Global* (accessed Jun. 3, 2026). MEXC Global was formerly known as MXC before rebranding in 2021. *See* MEXC Global, ''MXC Exchange Rebranded MEXC Global, Deepening its Global Compliance Strategy,'' Medium (June 10, 2021).

[12] *See* CoinPedia, *Top Crypto Exchanges By Trading Volume, https://markets.coinpedia.org/exchanges/.*

[13] *See* CoinGecko, *Market Share of Centralized Crypto Exchanges, by Trading Volume* (May 2, 2026), *https://www.coingecko.com/research/publications/centralized-crypto-exchanges-market-share.*

[14] *See* CoinGecko, *Market Share of Centralized Crypto Exchanges, by Trading Volume* (May 2, 2026), *https://www.coingecko.com/research/publications/centralized-crypto-exchanges-market-share.*

[15] *See* MEXC, *User Agreement* (May 29, 2025), *https://www.mexc.com/terms.*

[16] 31 U.S.C. 5318A(c)(2)(B) provides, as relevant here, that in making a finding that reasonable grounds exist for concluding that a class of transactions within, or involving, a jurisdiction outside the United States is of primary money laundering concern and to apply one or more of special measures one through four to such a financial institution, the Secretary shall consider such information as the Secretary determines to be relevant, including the following potentially relevant factors: (1) The extent to which such financial institutions, transactions, or types of accounts are used to facilitate or promote money laundering in or through the jurisdiction, including any money laundering activity by organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction or missiles; (2) The extent to which such institutions, transactions, or types of accounts are used for legitimate business purposes in the jurisdiction; and (3) The extent to which such action is sufficient to ensure, with respect to transactions involving the jurisdiction and institutions operating in the jurisdiction, that the purposes of this subchapter continue to be fulfilled, and to guard against international money laundering and other financial crimes.

[17] *See, e.g.,* 31 U.S.C. 5312; 31 CFR 1010.100(t)(3); 1010.100(ff); 1010.605(f)(iv); FinCEN, FIN–2019–G001, *Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies* (May 9, 2019); FinCEN, FIN–2013–G001, *Application of FinCEN's Regulations to Persons Administering, Exchanging, or Using Virtual Currencies* (Mar. 18, 2013); *see also* 31 U.S.C. 5312(a)(2)(J).

[18] *See* 31 CFR 1010.100(t)(3), (ff)(5).

[19] *See* CoinPedia, *MEXC Overview, https://app.coinpedia.org/company/mexc/.*

of terrorism (AML/CFT), customer identification and verification (sometimes referred to as ''Know Your Customer'' or ''KYC'' information), and other due diligence processes [20] prohibit, on paper, the opening of accounts by individuals in certain jurisdictions, FinCEN assesses that, based on public and non-public information, MEXC Global has facilitated transactions involving those prohibited jurisdictions. In addition, MEXC Global has facilitated transactions involving Russia-affiliated illicit actors and associated illicit activities, including sanctions evasion, and activity facilitated by Russian darknet markets, as well as transactions involving not only U.S.-, European Union-, and United Kingdom-sanctioned persons working on behalf of Iran and its proxies and the DPRK, but also an array of cybercrime actors.

Notwithstanding MEXC Global's AML/CFT and other due diligence processes, FinCEN found that MEXC Global has skirted compliance with applicable regulatory requirements [21]—multiple nations' financial regulators have issued notices highlighting that MEXC Global has operated in their jurisdictions without the proper license, and in at least one case added the CVC exchanger to a list of suspicious CVC trading platforms [22]—and, importantly, that, between May 2021 and May 2026, MEXC Global facilitated the movement of USD 16.7 billion in funds connected to Russian illicit finance and other illicit activities, including sanctions evasion and cybercrime, posing a significant threat to the U.S. financial system. Indeed, within those transactions, FinCEN identified numerous instances in which MEXC Global processed transactions in violation of its own user agreement, including direct transactions between MEXC Global and sanctioned actors, some of whom were operating from MEXC Global's list of prohibited jurisdictions.[23]

1. MEXC Global Is Used in Furtherance of Sanctions Evasion in Connection With Russian Illicit Finance

MEXC Global has a history of processing CVC transfers for multiple key actors that support Russian illicit finance. According to FinCEN analysis of blockchain data, between May 2021 and May 2026, MEXC Global sent or received nearly USD 1.5 billion in direct and indirect exposure to transactions linked to Russian sanctions evasion and had significant exposure to Russian cyber actors connected to sanctions evasion and/or cybercrime. This includes USD 232 million in direct transactions with entities sanctioned by the United States, the European Union (EU), and/or the United Kingdom (UK).[24] For example, MEXC Global transacted with the sanctioned, Russia-backed CVC exchangers Garantex and Grinex. Between 2019 and 2025, Garantex facilitated the movement of over USD 100 million for ransomware actors and other cybercriminals.[25] Garantex's successor entity, Grinex, is itself a vehicle for sanctions evasion, as it was created by Garantex employees to move funds after Garantex was designated by OFAC for operating in Russia's financial services sector.[26] Following these public designations, MEXC Global directly facilitated approximately USD 129 million in activity with Garantex and USD 4.1 million in activity with Grinex, and MEXC Global continued to transact with both entities as recently as June 2026. Similarly, MEXC Global transacted with components of the Russia-based A7 Network,[27] a self-described sanctions-resistant payment service provider created by the U.S.-, EU- and UK-designated Moldovan oligarch Ilan Shor [28] and Russia's state-owned defense bank Promsvyazbank Public Joint Stock Company (PSB),[29] that has evolved into a conduit for illicit activity associated with a wide range of threat actors, including the Islamic Revolutionary Guard Corps (IRGC) and its Quds Force, DPRK-affiliated actors;

[20] While MEXC publicly claims to have certain AML/CFT processes in place, FinCEN assesses that any such processes, procedures, and policies, to the extent they exist, are insufficient and have failed to prevent substantial volumes of illicit finance involving Russia-affiliated illicit actors and associated illicit activities, including sanctions evasion, and activity facilitated by Russian darknet markets, as well as transactions involving not only U.S.-, EU-, and UK-sanctioned persons working on behalf of Iran and its proxies and the DPRK, but also an array of cybercrime actors. *See* MEXC, *User Agreement* (May 29, 2025), *https://www.mexc.com/terms.*

[21] MEXC Global has been the subject of regulatory scrutiny and has been found to be operating without a license in Seychelles, Hong Kong, and Japan. *See* Financial Services Authority Seychelles, *Press Release—FSA Takes Enforcement Action Against MX Global Ltd for Unlicensed Virtual Asset Services Operations* (May 26, 2026), *https://fsaseychelles.sc/news/press-releases/fsa-takes-enforcement-action-against-mx-global-ltd-for-unlicensed-virtual-asset-services-operations;* Hong Kong Securities and Futures Commission, *SFC Warns Public Against Unlicensed Virtual Asset Trading Platform MEXC* (Mar. 15, 2024), *https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=24PR48;* Japanese Financial Services Agency, *FSA Weekly Review No. 533* (Apr. 13, 2023), *https://www.fsa.go.jp/en/newsletter/weekly2023/533.html.*

[22] *See* Japanese Financial Services Agency, Newsletter, *FSA Weekly Review No.533* (Apr. 13, 2023), *https://www.fsa.go.jp/en/newsletter/weekly2023/533.html.*

[23] MEXC, *User Agreement* (May 29, 2025), *https://www.mexc.com/terms.*

[24] *See* Treasury, Press Release, *Treasury Sanctions Russia-Based Hydra, World's Largest Darknet Market, and Ransomware-Enabling Virtual Currency Exchange Garantex* (Apr. 5, 2022), *https://home.treasury.gov/news/press-releases/jy0701;* European Commission, EU Sanctions Tracker, *Grinex* (Oct. 23, 2025), *https://data.europa.eu/apps/eusanctionstracker/subjects/179375;* European Commission, EU Sanctions Tracker, *Garantex* (Feb. 24, 2025), *https://data.europa.eu/apps/eusanctionstracker/subjects/172907;* Foreign Commonwealth Development Office, *UK targets sanctions circumvention and crypto networks exploited by Russia* (Aug. 20, 2025), *https://www.gov.uk/government/news/uk-targets-sanctions-circumvention-and-crypto-networks-exploited-by-russia.*

[25] *See* Treasury, Press Release, *Treasury Sanctions Russia-Based Hydra, World's Largest Darknet Market, and Ransomware-Enabling Virtual Currency Exchange Garantex* (Apr. 5, 2022), *https://home.treasury.gov/news/press-releases/jy0701.*

[26] *See* Treasury, Press Release, *Treasury Sanctions Cryptocurrency Exchange and Network Enabling Sanctions Evasion and Cyber Criminals* (Aug. 14, 2025), *https://home.treasury.gov/news/press-releases/sb0225.*

[27] The core of the A7 Network is formed by three Russia-based companies—A7 Liability Company (A7 LLC), and its subsidiaries, A71 Limited Liability Company (A71 LLC) and A7 Agent Limited Liability Company (A7 Agent LLC)—which are jointly owned by Ilan Shor and PSB and subject to sanctions imposed by the United States, European Union, and United Kingdom. These entities administer the network with and through several Russia- and Kyrgyz Republic-based persons, including businesses and digital asset exchanges subject to sanctions imposed by OFAC and the UK (as well as, in most cases, the EU), including Old Vector LLC, Garantex, Grinex, Independent Decentralized Finance Smartbank and Ecosystem (InDeFi Bank), ExVed, and Garantex co-founder Sergey Mendeleev (Mendeleev). *See* FinCEN, NPRM, *Proposal of Special Measure Prohibiting the Transmittal of Funds Regarding Transactions Involving the A7 Network's Sub-Agents,* 91 FR 63208 (Oct. 5, 2026).

[28] Ilan Shor was designated by OFAC in October 2022, pursuant to E.O. 14024, for his involvement in Russian malign influence operations in Moldova. He was previously arrested on money laundering and embezzlement charges related to a 2014 theft valued at approximately USD 1 billion from Moldovan banks. Treasury, Press Release, *Treasury Targets Corruption and the Kremlin's Malign Influence Operations in Moldova* (Oct. 26, 2022), *https://home.treasury.gov/news/press-releases/jy1049.* Ilan Shor was also sanctioned by the United Kingdom on December 8, 2022. *See* UK Foreign, Commonwealth and Development Office (FCDO), Uk Sanctions List, *https://search-uk-sanctions-list.service.gov.uk/designations/GAC0029/Individual.*

[29] PSB was designated by OFAC in February 2022, pursuant to E.O. 14024, for issuing billions of dollars in financial support for Russian defense sector companies in its role as Russia's state defense bank. Treasury, Press Release, *U.S. Treasury Imposes Immediate Economic Costs in Response to Actions in the Donetsk and Luhansk Regions* (Feb. 22, 2022), *https://home.treasury.gov/news/press-releases/jy0602.* PSB was later redesignated in January 2025, pursuant to E.O. 13662, for operating in the financial services sector of the Russian Federation economy. Treasury, Press Release, *Treasury Disrupts Russia's Sanctions Evasion Schemes* (Jan. 15, 2025), *https://home.treasury.gov/news/press-releases/jy2785; see also* Open Source Centre, *The Big Shor: A7 and the Illusion of Russian Financial Innovation* (2026), at. p. 9, *https://static.opensourcecentre.org/assets/osc_a7_big_shor.pdf.*

Iran-backed terrorist organizations; and cybercriminals and ransomware actors.[30] Significantly, OFAC has designated the founders and core components and enablers of the A7 Network, and recently designated the A7 Network, itself, as a significant transnational criminal organization.[31] Further, FinCEN recently found that transactions involving any company operating outside of the United States that is controlled by the A7 Network belong to a class of transactions of primary money laundering concern in connection with Russian illicit finance.[32] Based on analysis of blockchain data, FinCEN assesses that MEXC Global facilitated the transmission of at least USD 26 million benefitting the now sanctioned A7 Network and sent or received almost USD 200 million connected to the A7A5 token (a ruble-backed stablecoin that operates on the Tron and Ethereum blockchains [33] to transfer value across A7 Network-linked actors where banking channels are restricted or less dependable),[34] including its issuer Old Vector LLC and owner Ilan Shor, both sanctioned by OFAC, as well as the European Union and the United Kingdom.[35]

In addition, MEXC Global has repeatedly transacted with high-risk CVC exchangers that have been sanctioned or that allegedly have no customer identification verification requirements. For example, between May 2018 and July 2026, MEXC Global directly facilitated transactions cumulatively worth over USD 13 billion with at least four high-risk CVC exchangers sanctioned by the UK for facilitating Russian sanctions evasion and funding Russian military operations in Ukraine.[36] Between May 2021 and May 2026, it also processed approximately USD 2.9 billion in direct transactions with Russian and other CVC exchangers that allegedly do not collect customer identification and verification information, which poses a high risk of transacting with sanctioned entities and individuals and for otherwise engaging in illicit activity. In addition, between September 2020 and July 2026, MEXC Global facilitated USD 8.5 million in transactions involving Russian darknet markets that are known to facilitate the sale of illicit goods and services.

Based on MEXC Global's facilitation of transactions for sanctioned and high-risk Russian CVC exchangers, including the A7 Network, which are widely known to move funds for sanctioned actors, cybercriminals, and ransomware actors, FinCEN assesses that MEXC Global is a financial institution of primary money laundering concern in connection with Russian illicit finance.

2. MEXC Global Is Used in Furtherance of International Money Laundering

According to public and non-public information, MEXC Global also facilitates activity in furtherance of international money laundering in support of Iran and its proxies, financial facilitators of the DPRK, and cybercrime.

a. MEXC Global Facilitated Transactions Involving Iran and Its Proxies

According to FinCEN analysis of blockchain information, between May 2021 and May 2026, MEXC Global facilitated the transmission of nearly USD 2 billion connected to identified Iranian actors or known or suspected terrorist groups, including approximately USD 1.87 billion in transactions with exposure to Iran, a jurisdiction that is the subject of comprehensive U.S. sanctions [37] and special measures imposed by FinCEN pursuant to section 311 of the USA PATRIOT Act (31 U.S.C. 5318A) which prohibit covered financial institutions from opening or maintaining correspondent accounts in the United States for, or on behalf of, Iranian financial institutions.[38] Despite the fact that MEXC Global's user agreement states that individuals and entities located in Iran are not allowed to use its platform, FinCEN assesses that over USD 1 billion of this exposure took the form of direct transactions between MEXC Global and more than 40 identified Iranian CVC exchangers, some of which are the subject of U.S. and international sanctions. Between May 2021 and May 2026, FinCEN assesses that MEXC Global also facilitated the transmission of approximately USD 22 million in transactions associated with the U.S.- and EU-sanctioned Central Bank of Iran and the U.S.-, EU-, and UK-sanctioned IRGC and its Quds Force.[39]

[30] *See generally* TRM Labs, ''The A7 Leaks: TRM's On-Chain Analysis of Russia's Cryptocurrency Connections'' (June 12, 2026). The A7 Network allows companies to transact in both fiat currency and CVC through complex trade-based money laundering schemes using a network of overseas sub-agents to enable sanctioned and other illicit actors to access the international financial system. *See generally* TRM Labs, *The A7 Leaks: TRM's On-Chain Analysis of Russia's Cryptocurrency Connections* (June 12, 2026), *https://www.trmlabs.com/resources/blog/the-a7-leaks-trms-on-chain-analysis-of-russias-cryptocurrency-connections.*

[31] On October 1, 2026, Treasury's Office of Foreign Assets Control (OFAC) sanctioned the A7 Network pursuant to Executive Order 13581, as amended by Executive Order 13863, for being a foreign person that constitutes a significant Transnational Criminal Organization. *See* Treasury, Press Release, *Operation Economic Outcast Takes Unprecedented Action Against Sanctions Evasion Network Used by Iran* (Oct. 1, 2026) *https://home.treasury.gov/news/press-releases/sb0644/.*

[32] *See* FinCEN, NPRM, *Proposal of Special Measure Prohibiting the Transmittal of Funds Regarding Transactions Involving the A7 Network's Sub-Agents,* 91 FR 63208 (Oct. 5, 2026); *see also* 31 CFR 1010.668.

[33] The A7A5 tokens operate from smart contracts with addresses at 0x6fA0BE17e4beA2fCfA22ef89BF8ac9aab0AB0fc9 and TLeVfrdym8RoJreJ23dAGyfJDygRtiWKBZ. *See https://etherscan.io/token/0x6fA0BE17e4beA2fCfA22ef89BF8ac9aab0AB0fc9#code; https://tronscan.org/token20/TLeVfrdym8RoJreJ23dAGyfJDygRtiWKBZ/code.* Stablecoins are a type of digital asset for which the value of the token is tied to another asset, typically a fiat currency such as the U.S. dollar. Stablecoins are appealing to illicit actors due to their relative liquidity, ease of settlement, and exchange rate stability. *See* Treasury, *2026 National Proliferation Financing Risk Assessment* (Mar. 2026), at p. 16, *https://home.treasury.gov/system/files/246/2026-NPFRA.pdf; see also* Treasury, *2026 National Money Laundering Risk Assessment* (Mar. 2026), at pp. 52–53, *https://home.treasury.gov/system/files/246/2026-NMLRA.pdf.*

[34] *See* Treasury, Press Release, *Treasury Sanctions Cryptocurrency Exchange and Network Enabling Sanctions Evasion and Cyber Criminals* (Aug. 14, 2025), *https://home.treasury.gov/news/press-releases/sb0225.*

[35] *See* Treasury, Press Release, *Treasury Sanctions Cryptocurrency Exchange and Network Enabling Sanctions Evasion and Cyber Criminals* (Aug. 14, 2025), *https://home.treasury.gov/news/press-releases/sb0225;* Foreign Commonwealth Development Office, *UK targets sanctions circumvention and crypto networks exploited by Russia* (Aug. 20, 2025), *https://www.gov.uk/government/news/uk-targets-sanctions-circumvention-and-crypto-networks-exploited-by-russia;* Treasury, Press Release, *Treasury Targets Corruption and the Kremlin's Malign Influence Operations in Moldova* (Oct. 26, 2022), *https://home.treasury.gov/news/press-releases/jy1049;* UK Foreign, Commonwealth & Development Office (FCDO), UK Sanctions List, *Ilan Shor, https://search-uk-sanctions-list.service.gov.uk/designations/GAC0029/Individual;* European Commission, EU Sanctions Tracker, *Ilan Shor* (May 30, 2023), *https://data.europa.eu/apps/eusanctionstracker/subjects/153809;* European Commission, EU Sanctions Tracker, *Limited Liability Company Old Vector* (Oct. 23, 2025), *https://data.europa.eu/apps/eusanctionstracker/subjects/179337.*

[36] *See* FCDO, *Sanctions Notice: 26 May 2026 Regime: Russia* (May 26, 2026), *https://assets.publishing.service.gov.uk/media/6a2a9de71f6fa5c3377e5da7/Sanctions_Notice_Russia_26_May_2026.pdf.*

[37] The United States maintains comprehensive sanctions on Iran, which prohibit most transactions and activities with Iran by U.S. persons or within the United States, unless exempt or authorized by Treasury's Office of Foreign Assets Control (OFAC). For more information, *see* OFAC, *Iran Sanctions, https://ofac.treasury.gov/sanctions-programs-and-country-information/iran-sanctions.*

[38] *See* FinCEN, *Imposition of Fifth Special Measure Against the Islamic Republic of Iran as a Jurisdiction of Primary Money Laundering Concern,* 84 FR 59302 (Nov. 14, 2019); *see also* 31 CFR 1010.661.

[39] *See* Treasury, Press Release, *Treasury Sanctions Iran's Central Bank and National*

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MEXC Global has also been exploited by multiple Iran proxy groups. For example, FinCEN identified approximately USD 36 million in transactions that occurred between May 2021 and May 2026 that went to or from MEXC Global related to the Gaza-based U.S.- and UK-sanctioned Al-Qassam Brigades and other Iran linked terrorist groups.[40]

b. MEXC Global Facilitated Transactions Involving Financial Facilitators of the DPRK

MEXC Global has also transmitted funds on behalf of a financial facilitator of the DPRK, a jurisdiction that, like Iran, is the subject of comprehensive U.S. sanctions[41] and special measures imposed by FinCEN that prohibit covered financial institutions from opening or maintaining correspondent accounts in the United States for, or on behalf of, DPRK financial institutions.[42] For instance, FinCEN assesses that MEXC Global facilitated U.S.-sanctioned DPRK money launderer Sim Hyon Sop's receipt of approximately USD 350,000 between June and September 2025, more than two years after Sop had been designated by OFAC and even though, as part of his April 2023 designation, OFAC specifically identified and sanctioned his CVC addresses.[43]

c. MEXC Global Facilitated Transactions Connected to Cybercrime

Finally, MEXC Global frequently processes transactions connected to cyber-enabled crimes, ranging from darknet marketplace activity (including the Russian darknet marketplace activity discussed above) and ransomware payments to scam proceeds and stolen funds. Between May 2021 and May 2026, FinCEN assesses that at least USD 1.99 billion in funds originating from or moving to illicit cyber actors moved through MEXC Global, an average of more than USD 1 million per day. Between January 2022 to July 2024, MEXC Global received more than USD 37.9 million in suspected ransomware payments, with exposure to over 125 ransomware variants. MEXC Global also hosts a particularly high-use ransomware-related deposit address, which received over USD 1.17 million during the same period.

### *C. The Extent to Which MEXC Global Is Used for Legitimate Business Purposes*

In reaching its finding that MEXC Global is a financial institution operating outside the United States of primary money laundering concern in connection with Russian illicit finance, FinCEN considered the extent to which MEXC Global is used for legitimate business purposes.[44] As of June 2026, MEXC Global conducted USD 1 billion in daily transactions, putting it among the top 20 largest CVC exchangers in the world by trading volume. Although FinCEN does not have full insight into the scope of MEXC Global's legitimate activities, for the purposes of this action, FinCEN assumes that a portion of MEXC Global's business activities are legitimate. However, FinCEN assesses that since May 2021, MEXC Global has facilitated at least USD 16.7 billion in likely illicit activity. Accordingly, any legitimate business conducted by MEXC Global is outweighed by the risks posed by MEXC Global's facilitation of illicit activity, including sanctions evasion by Russia and Iran, and the need to protect the U.S. financial sector from the money laundering and terrorist financing risks presented by MEXC Global.

### *D. The Extent to Which This Action Would Guard Against International Money Laundering and Other Financial Crimes Associated With Russian Illicit Finance*

A finding that MEXC Global is of primary money laundering concern in connection with Russian illicit finance establishes—and emphasizes—the significant illicit finance risks posed by MEXC Global's provision of financial services to the Russian illicit finance ecosystem, Russian and other darknet markets and high-risk exchanges. Further, notwithstanding MEXC Global's ties to Russian illicit finance, FinCEN assesses that it has facilitated over USD 1.87 billion in transactions with exposure to Iran, including over USD 1 billion in direct transactions between MEXC Global and Iranian CVC exchangers, as well as transactions benefiting the DPRK and an array of illicit cyber actors, each of which present significant risks to the U.S. financial system. Accordingly, this order will place U.S. and foreign financial institutions and regulators on notice to guard against those risks. Moreover, such a finding—in combination with a prohibition on certain transmittals of funds involving MEXC Global by covered financial institutions—will help safeguard the U.S. financial system by severing MEXC Global's access.

## IV. Imposition of a Special Measure Prohibiting Certain Transmittals of Funds Involving MEXC Global

Having found that MEXC Global is a financial institution operating outside of the United States that is of primary money laundering concern in connection with Russian illicit finance, FinCEN has determined that the imposition of a special measure prohibiting certain transmittals of funds involving MEXC Global is warranted.[45] In making this determination and assessing which special measures may be appropriate, FinCEN has considered the relevant evidence in light of factors identified in 31 U.S.C. 5318A(a)(4)(B). While FinCEN is under no obligation pursuant to section 9714 to consider any particular factor or set of factors in selecting one or more special measures, it nonetheless finds these factors instructive in guiding the analysis set forth below.[46]

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*Development Fund* (Sept. 20, 2019), *https://home.treasury.gov/news/press-releases/sm780;* European Commission, EU Sanctions Tracker, *Central Bank of Iran* (Sept. 29, 2025), *https://data.europa.eu/apps/eusanctionstracker/subjects/178339;* Treasury, Press Release, *Treasury Designates the IRGC under Terrorism Authority and Targets IRGC and Military Supporters under Counter-Proliferation Authority* (Oct. 13, 2017), *https://home.treasury.gov/news/press-releases/sm0177;* FCDO, UK Sanctions List, *Islamic Revolutionary Guard Corps Quds Force* (Dec. 31, 2020), *https://search-uk-sanctions-list.service.gov.uk/designations/INU0082/Entity;* European Commission, EU Sanctions Tracker, *IRGC* (July 26, 2010), *https://data.europa.eu/apps/eusanctionstracker/subjects/5760.*

[40] *See, e.g.,* OFAC, *SDGT designations* (Nov. 2, 2001), *https://ofac.treasury.gov/recent-actions/20011102;* FCDO, UK Sanctions List, *Hamas including Izz al-Din al-Qassam Brigades* (Dec. 31, 2020), *https://search-uk-sanctions-list.service.gov.uk/designations/CTI0031/Entity.*

[41] The United States maintains comprehensive sanctions on the DPRK, which prohibit most transactions and activities with the DPRK by U.S. persons or within the United States, unless exempt or authorized by OFAC. For more information, *see* OFAC, *North Korea Sanctions, https://ofac.treasury.gov/sanctions-programs-and-country-information/north-korea-sanctions.*

[42] *See* FinCEN, *Imposition of Fifth Special Measure Against North Korea as a Jurisdiction of Primary Money Laundering Concern,* 81 FR 78715 (Nov. 9, 2016); *see also* 31 CFR 1010.659.

[43] *See* Treasury, Press Release, *Treasury Targets Actors Facilitating Illicit DPRK Financial Activity in Support of Weapons Programs* (Apr. 24, 2023), *https://home.treasury.gov/news/press-releases/jy1435.*

[44] *See* 31 U.S.C. 5318A(c)(2)(B)(ii).

[45] In connection with this action, and consistent with 31 U.S.C. 5318A(a)(4)(A), FinCEN shared a draft of this order with staff at the following Departments and agencies with regard to the proposed order and prohibition: the Department of Justice; the Department of State; the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation; the Securities and Exchange Commission; the Commodity Futures Trading Commission; the Office of the Comptroller of the Currency; and the National Credit Union Administration. None of the Departments or agencies objected to the issuance of this order based on the information provided to staff at the time.

[46] 31 U.S.C. 5318A(a)(4)(B) provides, as relevant here, that in selecting which special measure(s) to take, the Secretary shall consider:

(1) whether similar action has been or is being taken by other nations or multilateral groups;

*A. Whether the Prohibition Would Address the Money Laundering Concern in a Manner Consistent With U.S. National Security and Foreign Policy Interests*

FinCEN has considered the effect this action will have on U.S. national security and foreign policy, as well as the extent to which multilateral groups or other nations have taken similar actions.[47] FinCEN has found that, in addition to facilitating Russian illicit financial activity and sanctions evasion schemes and serving as a high-density transactional node for high-risk CVC exchangers, MEXC Global plays a broader role in facilitating transactions for a diverse range of transnational illicit actors. In particular, MEXC Global processes transactions connected to Iranian sanctions evasion, terrorist financing, and the laundering of scam and ransomware proceeds. FinCEN, therefore, assesses that imposing a prohibition on certain transmittals of funds involving MEXC Global is necessary to safeguard U.S. national security and the U.S. financial system, as well as to serve key U.S. national security objectives.

In light of the quantity and volume of transactions linked to known or suspected illicit activity processed through MEXC Global, prohibiting certain transmittals of funds involving MEXC Global would insulate the U.S. financial system from money laundering and other financial crimes. In particular, prohibiting certain transmittals of funds involving MEXC Global would further ongoing U.S. efforts to curtail suspected Russia-associated illicit activity and financial transactions. And, targeting illicit proceeds moved by sanctions evasion networks, especially those with a nexus to Iran, is of highest priority for the United States. Consequently, prohibiting certain transmittals of funds involving MEXC Global will serve the U.S. national security and foreign policy interests by protecting the U.S. and international financial system from known threat actors.

Moreover, this action reinforces the expectations of AML/CFT compliance in the financial system, highlighting the importance of identifying and reporting suspicious activity by financial institutions around the world. With respect to the illicit finance risks posed by MEXC Global, that is of particular importance, as this order addresses primary money laundering concerns that are still ongoing after multiple jurisdictions' financial regulators have issued notices highlighting that MEXC Global has operated in their jurisdictions without the proper license, and in at least one case added the CVC exchanger to a list of suspicious CVC trading platforms.[48]

*B. Whether the Prohibition of Certain Transmittals of Funds Would Impose Undue Burdens on Legitimate Activity of MEXC Global or Third Parties*

FinCEN has considered whether prohibiting certain transmittals of funds would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States, as well as the extent to which the action could have a significant adverse systemic impact on legitimate business activities currently being conducted on the MEXC Global platform.[49] Indeed, while MEXC Global is used by licit actors, the legitimate business services that it offers are commonly offered by other regulated institutions, meaning that such licit actors could readily find alternatives to facilitate business.

And, FinCEN assesses that prohibiting certain transmittals of funds involving MEXC Global will not present a significant competitive disadvantage for or put an undue burden on financial institutions organized or licensed in the United States. Compliance with the prohibition on certain transmittals of funds set out in this order requires no tools or competencies other than those already employed by domestic financial institutions to maintain their current AML/CFT compliance programs. To aid covered U.S. financial institutions with compliance, FinCEN has elected to provide within this order for the rejection of certain transmittals of CVC that are received from or originate at MEXC Global and outline the steps a covered financial institution should take in such circumstances. In providing for the rejection of CVC under certain limited circumstances, FinCEN acknowledges that, at this time, there are technological limitations that may limit or preclude covered financial institutions from declining CVC transfers originating at addresses outside of their control, and compliant institutions may find themselves in receipt of CVC from MEXC Global despite a desire and effort to limit such exposure.[50] This order therefore allows covered financial institutions the flexibility to act with discretion based on the facts and circumstances of a particular transaction and comply with this order, even where the originating address is no longer accessible, where, for example, (1) CVC transfers originated from MEXC Global, but were held for an extended period of time in an unhosted wallet, or (2) the covered financial institution's risk mitigation procedures would preclude returning funds to MEXC Global. Moreover, by providing for the rejection of CVC, this order ensures that covered financial institutions will not be subject to an undue cost or burden associated with compliance.

*C. Whether Any Other Reasonable Alternatives or Special Measures Would Adequately Address the Money Laundering Concern*

Before deciding to impose a prohibition on certain transmittals of funds, FinCEN considered other available special measures.[51] After due

(2) whether the imposition of any particular special measure would create a significant competitive disadvantage, including any undue cost or burden associated with compliance, for financial institutions organized or licensed in the United States;

(3) the extent to which the action or the timing of the action would have a significant adverse systemic impact on the international payment, clearance, and settlement system, or on legitimate business activities involving the particular jurisdiction, institution, class of transactions, or type of account; and

(4) the effect of the action on United States national security and foreign policy.

[47] *See* 31 U.S.C. 5318A(a)(4)(B)(i), (iv).

[48] MEXC Global has been the subject of regulatory scrutiny and has been found to be operating without a license in the Seychelles, Hong Kong, and Japan. *See* Financial Services Authority Seychelles, *Press Release—FSA Takes Enforcement Action Against MX Global Ltd for Unlicensed Virtual Asset Services Operations* (May 26, 2026), *https://fsaseychelles.sc/news/press-releases/fsa-takes-enforcement-action-against-mx-global-ltd-for-unlicensed-virtual-asset-services-operations;* Hong Kong Securities and Futures Commission, *SFC Warns Public Against Unlicensed Virtual Asset Trading Platform MEXC* (Mar. 15, 2024), *https://apps.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=24PR48;* Japanese Financial Services Agency, *FSA Weekly Review No. 533* (Apr. 13, 2023), *https://www.fsa.go.jp/en/newsletter/weekly2023/533.html.*

See Japanese Financial Services Agency, Newsletter, *FSA Weekly Review No.533* (Apr. 13, 2023), *https://www.fsa.go.jp/en/newsletter/weekly2023/533.html.*

[49] *See* 31 U.S.C. 5318A(a)(4)(B)(ii), (iii).

[50] FinCEN notes that CVC payment systems are often designed to limit the control of specific financial institutions over transactions and to prevent rejection of funds by persons or entities other than the sender of funds. As a result, although covered financial institutions may institute an internal prohibition on the sending of CVC transactions to another address or entity, FinCEN assesses that there are few, if any, readily available ways for covered financial institutions to ''reject'' incoming CVC transactions (prior to receipt).

[51] As noted in section II.A, pursuant to section 9714, these measures include: (1) the special measures described in 31 U.S.C. 5318A(b), including the imposition of additional recordkeeping, information collection, and reporting requirements on covered U.S. financial institutions and/or the imposition of conditions

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consideration, FinCEN has determined that a special measure prohibiting certain transmittals of funds involving MEXC Global is the appropriate means to adequately address the illicit finance risks posed by MEXC Global.

None of the special measures set out in 31 U.S.C. 5318A—special measures one through five—would effectively address the illicit finance threat posed by MEXC Global. Any additional recordkeeping, information collection, or reporting requirements, as described in 31 U.S.C. 5318A(b)(1)–(4), would be insufficient to guard against the risks posed by covered financial institutions processing transmittals of funds involving MEXC Global. Those special measures would allow such transfers to continue to the benefit of illicit actors connected to Russian illicit finance, as well as Iran-related and other illicit financial activity. Further, merely prohibiting and/or placing conditions upon the opening or maintaining in the United States of correspondent accounts or payable-through accounts for or on behalf of MEXC Global, as described in 31 U.S.C. 5318A(b)(5), would be similarly inadequate. Neither prohibiting nor imposing conditions on such accounts would safeguard the U.S. financial system to the same degree as prohibiting transmittals of funds, as such a special measure would not address the movement of funds outside of a strict correspondent or payable-through relationship, for example, through the movement of funds outside the traditional banking relationship, which may permit MEXC Global to access USD through indirect correspondent relationships via other foreign financial institutions.

### *D. Whether the Prohibition Should Be Imposed by Order or Regulation*

Pursuant to section 9714, the Secretary may impose one or more special measures, including a prohibition on certain transmittals of funds, ''by order, regulation or otherwise as permitted by law.'' In determining the appropriate approach in this instance, FinCEN considered imposing the prohibition by order or regulation, taking into account the nature of the underlying threat, and determined that proceeding by an order is the most appropriate course of action given the imminent threats posed by the illicit actors whose transactions and access to funds MEXC Global facilitates, as well as the ongoing transactions associated with suspected activity related to Russian illicit finance that continue to be processed through MEXC Global. Further, FinCEN has assessed that this order will not be unduly burdensome or impose new or unique compliance costs on financial institutions.

A copy of this order will be published in the **Federal Register**. To the extent MEXC Global or other parties have information relevant to this order, they may submit it to FinCEN at *www.fincen.gov/contact.*

## V. Executive Order 14294

Section 5 of Executive Order 14294 directs that all future notices of proposed rulemaking (NPRMs) and final rules published in the **Federal Register**, the violation of which may constitute criminal regulatory offenses, should include a statement identifying that the rule or proposed rule is a criminal regulatory offense and the authorizing statute.[52] Executive Order 14294 directs agencies to draft this statement in consultation with the Department of Justice.

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

Willful violations of any final regulations set forth in this order may be subject to criminal penalties pursuant to 31 U.S.C. 5322 and regulations promulgated in 31 CFR Chapter X. The statutory authority for criminal liability requires a mens rea of willfulness as an element pursuant to 31 U.S.C. 5322(a) and 31 U.S.C. 5322(b). FinCEN's existing regulation, 31 CFR 1010.840, that sets out criminal penalties for violations of regulations promulgated in 31 CFR Chapter X also includes a mens rea of willfulness. In drafting this statement, FinCEN has consulted with the Department of Justice.

## VI. Order

### *A. Definitions*

1. MEXC Global

The order defines ''MEXC Global,'' a Seychelles-based CVC exchanger, to include its branches, subsidiaries, and offices operating as a financial institution in any jurisdiction outside of the United States, and any successor entities. For the purposes of this order, a successor entity means any person that replaces MEXC Global, its branches, subsidiaries, and offices by acquiring its assets, in whole or in part, and/or carrying on the affairs of MEXC Global under a new name. This includes, but is not limited to, any entities referenced in this order as being branches, subsidiaries, or offices of MEXC Global operating as a financial institution in any jurisdiction outside of the United States. Any branches, subsidiaries, and offices of MEXC Global located in the United States are expressly excluded from the definition of ''MEXC Global'' for the purposes of this order.

2. Convertible Virtual Currency

The order defines ''convertible virtual currency'' (CVC) as a medium of exchange that either has an equivalent value to currency, or acts as a substitute for currency, but lacks legal tender status. Bitcoin, despite having legal tender status in at least one jurisdiction, is included as a type of CVC for the purpose of this order.

3. Covered Financial Institution

The order defines ''covered financial institution'' as having the same meaning as ''financial institution'' in 31 CFR 1010.100(t).

4. Transmittals of Funds

The order defines ''transmittals of funds'' as the sending and receiving of funds, including CVC. For avoidance of doubt, for this section, this definition of transmittal of funds applies rather than the definition of ''transmittal of funds'' in section 1010.100(ddd).

5. Meaning of Other Terms

All terms used but not otherwise defined herein shall have the meaning set forth in 31 CFR chapter X and 31 U.S.C. 5312.

### *B. Prohibition on Transmittals of Funds Involving MEXC Global*

A covered financial institution is prohibited from engaging in any transmittal of funds from or to MEXC Global.

### *C. Order Period*

The terms of this order are effective December 10, 2026, with no cessation date.

### *D. Reservation of Authority*

FinCEN reserves authority to impose conditions on certain transmittals of funds from or to MEXC Global and to grant appropriate exemptions from the requirements of this order.

upon the opening or maintaining of correspondent or payable-through accounts for or on behalf of a foreign banking institution; and (2) the prohibition of, or imposition of conditions on, the transmittal of funds.

[52] Executive Order 14294, *Fighting Overcriminalization in Federal Regulations,* 90 FR 20367 (issued May 9, 2025; published May 14, 2025), *https://www.federalregister.gov/executive-order/14294.*

*E. Other Obligations*

Nothing in this order shall be construed to modify, impair, or otherwise affect any requirements or obligations to which a covered financial institution is subject pursuant to the BSA, including, but not limited to, the filing of Suspicious Activity Reports (SARs), or other applicable laws or regulations, such as the sanctions administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control.

*F. Penalties for Noncompliance*

The covered financial institution, and any of its officers, directors, employees, and agents, may be liable for civil or criminal penalties under 31 U.S.C. 5321 and 5322 for willfully violating this order.

*G. Validity of Order*

Any judicial determination that any provision of this order is invalid shall not affect the validity of any other provision of this order, and each other provision shall thereafter remain in full force and effect.

**Jimmy L. Kirby,**

*Deputy Director, Financial Crimes Enforcement Network.*

[FR Doc. 2026–22962 Filed 11–9–26; 8:45 am]

**BILLING CODE 4810–02–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R05–OAR–2026–3070; FRL–13352–02–R5]**

## Air Plan Approval; Michigan; Determination of Attainment by the Attainment Date for the 2015 Ozone Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is determining under the Clean Air Act (CAA) that the Detroit, Michigan Moderate nonattainment area (''Detroit area'' or ''area'') attained the 2015 ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date. This determination relies on the EPA's concurrence on an exceptional events request submitted by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) on February 19, 2026, and concurred on by the EPA on March 24, 2026. Therefore, the EPA is taking final agency action on Michigan's exceptional events request. This action fulfills the EPA's statutory obligation to determine whether the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date of August 3, 2024.

**DATES:** This final rule is effective on November 10, 2026.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2026–3070. 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, *i.e.,* Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure 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 either through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** Eric Svingen, Air and Radiation Division (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 353–4489, email address: *svingen.eric@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean 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:

AQI—Air Quality Index
CAA—Clean Air Act
CO—Carbon Monoxide
DV—Design Value
EGLE—Michigan Department of Environment, Great Lakes, and Energy
EMBER—Expedited Modeling of Burn Events Results
EPA—United States Environmental Protection Agency
GAM—Generalized Additive Model
MSA—Metropolitan Statistical Area
NAAQS—National Ambient Air Quality Standards
ppm—Parts Per Million
TSD—Technical Support Document

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## I. Background

On October 26, 2015,[1] the EPA issued its final action to revise the NAAQS for ozone to establish a new 8-hour standard. In that action, the EPA promulgated identical tighter primary and secondary ozone standards designed to protect public health and welfare that specified an 8-hour ozone level of 0.070 parts per million (ppm). Specifically, the standards require that the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration may not exceed 0.070 ppm.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality assured ozone monitoring data. Effective August 3, 2018, EPA designated the Detroit area, consisting of Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties, as a Marginal nonattainment area for the 2015 ozone NAAQS.[2] In a separate action, the EPA assigned classification thresholds and attainment dates based on the severity of an area's ozone problem, determined by the area's design value (DV).[3] The EPA established the attainment date for Marginal, Moderate, and Serious nonattainment areas as 3 years, 6 years, and 9 years, respectively, from the effective date of the final designations. Thus, the attainment date for Marginal nonattainment areas for the 2015 ozone NAAQS was August 3, 2021, the attainment date for Moderate areas was August 3, 2024, and the attainment date for Serious areas is August 3, 2027.

The CAA requires that within 6 months following the applicable attainment date, the EPA shall determine whether an ozone nonattainment area attained the ozone standard based on the area's DV as of that date.[4]

On February 1, 2023, EPA determined based on 2018–2020 monitoring data that the Detroit area had failed to attain by its Marginal attainment date of August 3, 2021, and by operation of law the Detroit area was reclassified the area to Moderate.[5]

On May 29, 2026, EPA proposed to determine that the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date of August 3, 2024, based upon complete, quality-assured, and

[1] 80 FR 65292 (October 26, 2015).
[2] 83 FR 25776 (June 4, 2018).
[3] 83 FR 10376 (May 8, 2018).
[4] CAA section 181(b)(2)(A).
[5] 88 FR 6633 (February 1, 2023).

certified ambient air monitoring data for the 2021–2023 design period.[6]

EPA's proposed determination relied upon EPA's concurrence on an exceptional events demonstration submitted by EGLE on February 19, 2026, which requested exclusion of ozone concentrations recorded at the Allen Park monitor in Wayne County with Site ID 26–163–0001 on June 29 and June 30, 2023, and the East 7 Mile monitor in Wayne County with Site ID 26–163–0019 on June 19, June 29, June 30, and July 25, 2023.

In the May 29, 2026, proposed determination of attainment by the attainment date, EPA proposed to take final agency action on the exceptional events concurrence, which removed the event-influenced data from the design value, and opened an opportunity for public comment on the EPA's concurrence.

## II. The EPA's Responses to Comments

Upon publication of the May 29, 2026, proposed rulemaking, the EPA opened a 30-day comment period, ending June 29, 2026.[7] During the comment period the EPA received three comments. Two of the comments were adverse, and the remaining comment raised several recommendations. In this final rulemaking the EPA is responding to all three comments.

### *A. Exceptional Events Demonstration*

*Comment:* A commenter states that removing data points from the sample is not in the public interest and requests that the proposal be withdrawn.

*Response:* CAA section 319(b) allows exclusion of data under the 2016 Exceptional Events Rule because the emissions from these events are not reasonably controllable or preventable. Air agencies can request the exclusion of data affected by exceptional events from regulatory determinations through the exceptional events process. The requirements that must be met for EPA's concurrence on an exceptional events demonstration are set forth at 40 CFR 50.14. The EPA's Technical Support Document (TSD), included in the docket of this rulemaking, illustrates how EGLE made a justifiable request for excluding the event-impacted data from regulatory decisions in the Detroit area. For these reasons, the EPA believes it is appropriate to finalize the determination that the area attained by the attainment date.

*Comment:* A commenter requests that the EPA create a plain language summary explaining what data were excluded, why the exclusions were justified, what the unadjusted and adjusted data show, and what obligations or monitoring requirements remain.

*Response:* The EPA agrees with the commenter that the exclusion of data for regulatory purposes through the 2016 Exceptional Events Rule should be transparent, reproducible, and verifiable. The EPA's TSD, provided in the publicly available docket for this rulemaking, explains which data was excluded, how EGLE's demonstration met the requirements in 40 CFR 50.14, and the design values before and after exclusion.

The State of Michigan will continue to operate several monitoring sites that measure ozone. The EPA has specific design criteria for ozone monitoring networks described in 40 CFR part 58 appendix D. According to this criteria, EGLE is required to operate three ozone monitoring sites in the Detroit metropolitan statistical area (MSA). Currently, EGLE operates six ozone monitoring sites in the Detroit MSA, and none of these ozone monitors are eligible for shutdown. The ozone monitoring network in the Detroit area has historically monitored ozone at more than the minimum required number of monitoring sites, and according to EGLE's Annual Ambient Air Monitoring Network Review Plan for 2027, there are no changes expected to the ozone monitoring network in Detroit.

The EPA's action is focused on assessing whether the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date, as required by CAA section 181. Excluding data for purposes of calculating the design value does not remove the data from the EPA's Air Quality System database. Other data users may decide for themselves if it makes sense to exclude or include this data for their own evaluations.

*Comment:* Commenters state, ''EPA's 'weight of the evidence' approach is insufficient to establish the statutorily required ''clear'' evidentiary standard.''

*Response:* The EPA disagrees that the weight of evidence approach is insufficient for establishing the ''clear'' evidentiary standard. Section 319(b)(3)(B) of the CAA requires the causal relationship to be ''clear,'' and as explained in the preamble to the 2016 Exceptional Events Rule, ''it is appropriate for the EPA to consider all relevant evidence and qualitatively 'weigh' it based on its relevance to the 2016 Exceptional Events Rule criterion being addressed, the degree of certainty, its persuasiveness, and other considerations appropriate to the individual pollutant and the nature and type of event.'' [8] Courts have confirmed that it is reasonable for the EPA to use a ''weight of evidence'' analysis when implementing the CAA.[9] The weight of evidence method is an appropriate and reasonable approach, which has been used historically and successfully under key CAA programs. The weight of evidence approach is the EPA's process for assessing whether an exceptional events demonstration meets the requirement for a clear causal relationship at CAA section 319(b)(3)(B)(ii). Broadly, the commenter's concerns are not properly raised in this rulemaking and should have been submitted within the comment period of the 2016 Exceptional Events Rule.

Furthermore, and more recently, the EPA's concurrence based on a weight of evidence approach for evaluating exceptional events was upheld in *Sierra Club* v. *EPA,* 161 F.4th 934 (6th Cir. 2025). The Court's opinion states, ''Thus, the EPA met the requirement to demonstrate that it 'reasonably considered the relevant issues and reasonably explained the decision.' '' Even if the monitored data and/or technical analyses may not unequivocally support the clear causal relationship, agencies should submit available information regarding the event and the monitored exceedances or violations. It may still be possible, with a weight of evidence approach, to clearly establish the existence of a causal connection between the data or analyses and the event causing elevated ozone concentrations. Under that approach, each piece of information or analysis—favorable or unfavorable—is considered, but by itself is not conclusive.

*Comment:* The commenters state, for EGLE to satisfy CAA section 319(b)(3)(B)(iv), ''it must show that exceptional events, here wildfire smoke, were the proximate and foreseeable cause of the monitored exceedance. EGLE must have demonstrated in their proposal that there was a direct relationship between the claimed wildfire contributions and the ozone exceedance, showing that the two were very intricately connected.''

[6] 91 FR 31993 (May 29, 2026).

[7] 91 FR 31993 (May 29, 2026).

[8] 81 FR 68216, 68230 (October 3, 2016).

[9] *See, e.g., Envtl. Def.* v. *EPA,* 369 F.3d 193 (2d Cir. 2004) (upholding the EPA's approval of a State's attainment demonstration using photochemical grid modeling and a weight of evidence analysis), *BCCA Appeal Group* v. *EPA,* 355 F.3d 817 (5th Cir. 2003) (finding that the EPA's conclusion that the weight of evidence approach to approving attainment demonstrations was consistent with the CAA, reasonable and entitled to deference).

*Response:* The EPA evaluates exceptional event demonstrations on a case-by-case basis using a weight of evidence approach to assess whether a clear causal relationship exists between the event and the exceedance. The ''EPA Guidance on the Preparation of Exceptional Events Demonstrations for Wildfire Events that May Influence Ozone Concentrations'' uses a three-tier approach for addressing the clear causal relationship element with a wildfire ozone demonstration, recognizing that some events require more evidence to demonstrate the clear causal relationship. Tier 3 demonstrations include additional evidence beyond what is required for Tier 1 and Tier 2 demonstrations because these events are more complex. EGLE submitted a Tier 3 demonstration, requiring the highest level of supporting evidence, consistent with this guidance. The record includes multiple lines of evidence showing wildfire smoke transport and ground level impacts at the Detroit area monitors, including: photographic evidence, regional ozone and $PM_{2.5}$ Air Quality Index maps, National Oceanic and Atmospheric Administration Hazard Mapping System Fire and Smoke maps, Hybrid Single-Particle Lagrangian Integrated Trajectory analyses, local and regional meteorological evidence, the presence of elevated surface level $PM_{2.5}$ concentrations, the EPA's Expedited Modeling of Burn Events Results (EMBER) screening-level photochemical modeling analysis, the General Additive Model statistical model, and the EPA's Met-Adjusted Ozone Trends statistical model. Across these independent methods, results collectively show wildfire smoke caused elevated ozone concentrations on the event days. Using a weight of evidence approach, the EPA concluded that EGLE met the burden of proof and successfully demonstrated a clear causal relationship between the wildfire events and the monitored exceedances at the Detroit area monitors.

*Comment:* The commenters note that EGLE did not adequately demonstrate the wildfire smoke was the ''proximate cause'' of the ozone exceedances or that the ozone exceedances were ''directly due'' to wildfire smoke and therefore do not satisfy the clear causal connection. The commenters assertions are that the models demonstrate that local pollution sources made up the bulk of the ozone concentrations, that wildfire smoke-influenced ozone was present in minimal concentrations on the event days, and thus, do not meet the CAA's causation standard for exceptional event demonstrations.

*Response:* For the EPA to concur on an exceptional events demonstration and exclude data from regulatory use, CAA section 319(b) and 40 CFR 50.14 require a clear causal relationship between the event and the monitored exceedance. The EPA evaluates the clear causal connection between the exceptional events and the monitored exceedances using a weight of evidence approach and not the ''but for'' or ''proximate cause'' methods. The weight of evidence approach looks at all the information available and evaluates how supportive and relevant each line of evidence is to the overall clear causal relationship. Before the 2016 Exceptional Events Rule revision, the 2007 Exceptional Events Rule required agencies to show that there would have been no exceedance or violation ''but for'' the event. This was known as the ''but for'' test. In the most recent revisions to the EPA's Exceptional Event Rule in 2016, the EPA removed the ''but for'' test and no longer requires quantitative analyses intended to subtract estimated wildfire smoke contributions from reported monitoring concentrations. Accordingly, there is no requirement in the EPA's current Exceptional Event Rule to (1) quantify exact wildfire contributions, (2) show the event was the ''predominant cause,'' or (3) rule out all other sources.

There are many factors that contribute to regional ozone concentrations in the Midwest, such as natural emissions of precursors, transport of ozone and precursors from distant locations, local precursor emissions, and meteorology. On these event days, wildfire smoke was also a contributor to elevated ozone concentrations, causing the exceedance. The presence of routine local emissions does not preclude a finding that wildfire smoke was the cause of the monitor exceedance where the evidence shows a clear causal connection between the event and the exceedance. An exceptional event may still be the cause of an exceedance even in the presence of other sources.

The ''directly due'' concept is satisfied by the totality of evidence showing a clear causal connection. Typically, a single analysis may not conclusively link an exceptional event to a monitored exceedance. The EPA therefore applies a weight of evidence approach, evaluating multiple, independent lines of evidence collectively to determine a clear causal relationship. This approach is reflected in the ''EPA Guidance on the Preparation of Exceptional Events Demonstrations for Wildfire Events that May Influence Ozone Concentrations'' [10] and has been upheld by the Sixth Circuit in *Sierra Club* v. *EPA,* 161 F.4th 934 (2025).

The meteorological, photochemical, and statistical models and analyses have uncertainty. Differences among model outputs do not invalidate the demonstration because such differences are expected given that the models use different methodologies, inputs, and parameters. As described in the EPA's EMBER Overview document,

> there is uncertainty in photochemical model estimates of fire impacts as is true of all available methods for attributing ozone concentrations to fire emissions. As noted in the 2016 Wildfire Guidance, 'predictions of fire impacts on air quality are complex due to uncertainties in emissions, height of emissions, plume temperature, and plume chemistry (including radiative impacts on chemistry). However, with proper set-up, application, and evaluation, air quality models can be used to indicate fire impacts on [ozone] concentrations. Combining multiple types of analysis, including photochemical modeling, air quality monitoring data, and meteorological analyses, offers a comprehensive approach for understanding wildfire effects on ozone exceedances.' [11]

The models are meant to estimate the magnitude of the event's impact on the ozone exceedances, plume timing, and spatial extent. The 2016 Exceptional Events Rule does not require the exact wildfire smoke contribution to be quantified and instead uses a weight of evidence approach.

The results of the Generalized Additive Model (GAM), EMBER, and Met-Adjusted Ozone Trends models on the event days for the Detroit area, coupled with the additional evidence provided in EGLE's demonstration, are supportive of wildfire smoke impacts. Although the models estimate different levels of wildfire smoke impacts at the monitors, they consistently confirm wildfire smoke elevated ozone concentrations and are supportive to the overall weight of evidence. The EPA's TSD on pages 19–20 explains how EMBER's modeled wildfire smoke impact on ozone concentrations of 3 parts per billion on June 30, 2023, underestimated the smoke contribution to ozone concentrations due to premature clearing of smoke emissions in EMBER versus what occurred. EMBER's clean out of the fire plume over Detroit on this day was too strong

[10] *https://www.epa.gov/system/files/documents/2023-12/guidance-on-the-preparation-of-ee-wf-ozone.pdf.*

[11] *https://www.epa.gov/system/files/documents/2026-06/expedited-modeling-of-burn-events-results-ember-overview-document-for-data-years-of-2021-2025.pdf.*

and early compared to the ambient air monitoring concentrations and Tropospheric Monitoring Instrument satellite-based data products, using enhancements of the carbon monoxide (CO) vertical column as an indicator of the location of the fire plume. While the EMBER clean out on June 30, 2023, appears too drastic and too early compared to ambient data, this modeling clearly indicated a substantial impact of fires on ozone during the prior day of this episode (June 29, 2023), and combined with the ambient data, also contributes to the weight of evidence supporting the clear causal connection for June 30, 2023.

The preamble to the 2016 Exceptional Events Rule notes that the EPA ''do[es] not expect nor would all air agencies necessarily need to include all of the evidence and analyses identified in Table 1 [Example Clear Causal Relationship Evidence and Analyses], but rather to use available information to build a weight of evidence showing.'' [12] Similarly, the 2016 Wildfire Guidance states ''The EPA does not expect an air agency to prepare all identified analyses but only those that add to their weight of evidence supporting the clear causal relationship.'' In this instance, EGLE provided the appropriate level of evidence including both a statistical regression modeling analysis and a photochemical modeling analysis, and the EPA determined that EGLE's demonstration included sufficient evidence to demonstrate a clear causal relationship between the fire and the monitored ozone exceedances.

*Comment:* The commenters state, ''EPA's application of the regulatory presumption that wildfire exceedances are per se not reasonably controllable or preventable is contrary to the act and the evidence.'' The commenters also state that if control measures for the relevant pollutant ''were not in place but would have prevented the exceedance, then the exceedance was preventable.''

*Response:* The not reasonably controllable or preventable criterion for wildfire events applies to the event and not the exceedance. At CAA section 319(b)(1)(A), the term ''exceptional event'' is defined as an event that affects air quality, is not reasonably controllable or preventable, is an event caused by human activity that is unlikely to recur at a particular location or a natural event, and is determined by the Administrator through the process established in the regulations promulgated under CAA section 319(b)(2) to be an exceptional event.

Under the regulations promulgated by the EPA at 40 CFR 50.14(b)(4), the Administrator will determine every wildfire occurring predominantly on wildland has met the requirement regarding the not reasonably controllable or preventable criterion, so long there is no compelling evidence to the contrary in the record. Further, at 40 CFR 50.14(b)(8)(vii), the Administrator shall not require a State to provide case-specific justification regarding the not reasonably controllable or preventable criterion in instances where emissions-generating activity occurred outside the State's boundaries.

The preamble to the 2016 Exceptional Events Rule clarifies that the EPA interprets the not reasonably controllable or preventable criterion to contain two factors: the event must be both not reasonably controllable and not reasonably preventable at the time the event occurred. This requirement applies to both natural events and events caused by human activities. However, it is presumptively assumed that wildfires on wildland will satisfy both factors of the ''not reasonably controllable or preventable'' element unless evidence in the record clearly demonstrates otherwise.

Though a State might have the ability to adopt reasonably available control measures of anthropogenic sources, that does not imply a naturally occurring event was reasonably controllable. Similarly, it is not relevant whether anthropogenic control measures might have prevented an exceedance during the days of a wildfire exceptional event. In the statute, the term ''not reasonably controllable or preventable'' describes the wildfire event itself.

*Comment:* The commenters state, ''EGLE failed to comply with the Clean Air Act's notification requirements regarding exceptional events.''

*Response:* The 2016 Exceptional Events Rule does not specify how States must provide public notification. EGLE has demonstrated that they have processes in place to notify the public when there is high confidence of adverse air quality impacts. EGLE's air quality forecasts and near real-time continuous data provided the public notice of ozone concentrations meeting an Air Quality Index (AQI) rating of ''Unhealthy for Sensitive Groups'' or worse on the event days, after ambient concentrations of ozone rose quickly due to the distant Canadian fires. Data from the air monitors are provided, in near real-time, to the EPA's AirNow website as well as EGLE's MiAir website.[13] Additionally, AirNow's EnviroFlash is a system that sends emails to subscribers about their daily air quality forecast and current conditions. Air agencies issue air quality forecasts based on measured near real-time air quality levels and weather information. The forecast is then provided to local media, posted online, and sent out to EnviroFlash subscribers. Furthermore, EnviroFlash allows subscribers to opt in to receive notifications at the Unhealthy for Sensitive Groups and higher AQI categories. EGLE maintains a robust forecasting program and issues alerts when elevated $PM_{2.5}$ or ozone are expected. Even when forecasts don't fully capture an unfolding air quality event, AirNow, MiAir, and EnviroFlash alert the public in near real-time when air quality does become Unhealthy for Sensitive Groups or greater.

*B. Timing and Deadlines*

*Comment:* The commenters state, ''EGLE's obligation to promptly provide EPA with its intent to request data exclusions started the summer of 2023, after the exceptional events occurred. By submitting its exceptional event demonstration two and half years later, EGLE has failed this basic requirement.'' The commenters cite a court decision finding that a delay of ''one or two years is clearly too long'' when compared to deadlines under the Clean Water Act.

*Response:* CAA section 319(b)(2)(A) directs the EPA to promulgate regulations governing ''the review and handling of air quality monitoring data influenced by exceptional events,'' and CAA section 319(b)(3)(B)(i) requires that these regulations provide that ''the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies.'' The EPA has fulfilled its obligations under CAA section 319(b)(2)(A) by promulgating several final rules, including the 2007 Exceptional Events Rule [14] and the 2016 Exceptional Events Rule.[15]

In the 2007 Exceptional Events Rule, the EPA finalized a provision at 40 CFR 50.14(c)(3)(i) requiring air agencies to submit a demonstration ''not later than the lesser of, 3 years following the end of the calendar quarter in which the flagged concentration was recorded or, 12 months prior to the date that a regulatory decision must be made by EPA.''

[12] 81 FR 68216 at 68242 (October 3, 2016).

[13] *http://www.deqmiair.org.*

[14] 72 FR 13560 (March 22, 2007).

[15] 81 FR 68216 (October 3, 2016).

In the 2016 Exceptional Events Rule, the EPA revisited that provision, noting that ''air agencies have previously expressed concern that the timelines for event flagging and demonstration submittal are not always appropriate because an air agency may not know that data influenced by an exceptional event caused the design value exceedance until 3 years after the event occurred.'' [16] The EPA acknowledged that this scenario can and does occur, particularly for annual standards and when a regulatory decision is based on a design value that is averaged over three years. Such a regulatory decision would include a determination of attainment by the attainment date for the 2015 ozone NAAQS. Within the 2016 rulemaking, the EPA proposed to remove the general schedule demonstration submittal deadlines contained within 40 CFR 50.14(c)(3)(i). The overwhelming majority of commenters supported this proposal, and in the final rule the EPA revised the CFR to remove fixed deadlines.[17] The 2016 Exceptional Events Rule instead set forth a case-by-case approach to timing of demonstrations, in which the EPA shall respond to a State's initial notification of a potential exceptional event with a due date for demonstration submittal that considers the nature of the event and the anticipated timing of the associated regulatory decision, except that the EPA may waive the initial notification process under 40 CFR 50.14(c)(2)(i)(C). In the final rule, the EPA noted that the EPA was not changing the timing of the regulatory actions in which the affected data may be used. Many of these deadlines are statutorily established and cannot be changed by regulation. Because the EPA is also accountable for these statutory deadlines, the effect of the scheduling revision in the 2016 Exceptional Events Rule is compression of the timeline for the EPA's review.

The EPA disagrees with the commenter that, regarding the maximum reasonable amount of time between an event and the submission of a demonstration, one or two years is too long. The EPA has addressed the timing of demonstrations in both the 2007 Exceptional Events Rule, which took an approach with fixed three-year deadlines, and in the 2016 Exceptional Events Rule, which considered the comments of affected air agencies and adopted a case-by-case approach. The timing of EGLE's February 19, 2026, demonstration would fit within the requirements of either approach. Broadly, the commenter's concerns are not properly raised in this rulemaking and should have been submitted within the comment period of the 2016 Exceptional Events Rule.

Further, regardless of the demonstration timing that might generally be appropriate, the EPA believes it is important to consider timing considerations specific to the Detroit area.

On May 19, 2023, the EPA published a final rule redesignating the Detroit area to attainment of the 2015 ozone NAAQS.[18] Later that year, on June 19, June 29, June 30, and July 25, 2023, air quality in the area was impacted by Canadian wildfires. More than two years later, on December 5, 2025, the EPA's 2023 final redesignation was vacated by the United States Court of Appeals for the Sixth Circuit. EGLE submitted its demonstration on February 19, 2026, less than three months after the date of the Sixth Circuit decision.

In its decision regarding the 2023 final redesignation, the Sixth Circuit concluded that the EPA erred only with respect to its legal interpretation of CAA section 107(d)(3)(E)(v). The court held that Michigan was required to have met all requirements due at the time of the EPA's redesignation action, not just the requirements that had been due as of the time of submittal of the redesignation request, which had been the EPA's interpretation of CAA section 107(d)(3)(E)(v) for more than three decades. During the years when the redesignation had been effective, Michigan had understandably believed that the area was a maintenance area, and therefore not subject to the EPA's obligation under CAA section 181 to make a determination of attainment by the attainment date for Moderate nonattainment areas.

Considering together the statutory requirements at CAA section 319(b), the history of the 2007 Exceptional Events Rule and 2016 Exceptional Events Rule, and the facts of the Detroit area, the EPA is finding that the Agency is not prohibited from reaching a concurrence decision on the exceptional events demonstration submitted by EGLE on February 19, 2026, regarding wildfire impacts observed in the Detroit area in June and July of 2023.

*Comment:* The commenters state that EPA must evaluate the conditions of the Detroit area ''as they existed at the attainment deadline, not the date of any belated determination'' and that the EPA may not rely on a post hoc ''revision of the ozone design value based on an exceptional event determination made long after the attainment deadline had passed.'' The commenters cite a court decision regarding the ''snapshot rule'' under the Bankruptcy Code.

*Response:* The CAA was first enacted in 1955, and Congress enacted major revisions in 1970, 1977, and 1990. In a major departure from the prior law, the 101st U.S. Congress amended the CAA in 1990 by grouping ozone nonattainment areas into six classifications based on the extent to which the NAAQS was exceeded, and established specific pollution controls and attainment dates for each classification. These requirements are spelled out in CAA sections 181 through CAA section 193. Under CAA section 181(b)(2), following the applicable attainment date for an ozone nonattainment area, the EPA shall determine whether the area attained the standard ''based on the area's design value (as of the attainment date).''

When making determinations of attainment by the attainment date, EPA has consistently applied this language as restricting its analysis to the years of data that constitute the basis for an area's DV as of the specific attainment deadline.[19] The DV ''as of'' the attainment date is the one that applies on that date—*i.e.,* the most recent three-year average of concentrations of certified data. The maximum attainment date applicable to Moderate 2015 ozone areas was August 3, 2024.[20] The EPA's determination of attainment is based upon the area's design value as of August 3, 2024, which in turn is calculated using hourly ozone concentration data for calendar years 2021, 2022, and 2023 that have been collected and quality-assured in accordance with 40 CFR part 58 and reported to the EPA's Air Quality System (AQS) database.

In 2005, the 109th U.S. Congress provided the statutory authority for the exclusion of data influenced by exceptional events by adding section 319(b) to the CAA. Aside from CAA section 319(b)(3)(B), discussed above, the commenter has not identified any language within CAA section 319 that suggests the 109th U.S. Congress intended to restrict the EPA from evaluating a state's demonstration if that demonstration were submitted past a certain deadline. Regarding the requirement at CAA section 181(b)(2)(A) that EPA reach a determination ''based on the area's design value (as of the attainment date),'' as discussed above, the EPA believes the best interpretation

[16] 81 FR 68216 at 68266 (October 3, 2016).

[17] 81 FR 68216 at 68267 (October 3, 2016).

[18] 88 FR 32594 (May 19, 2023).

[19] *See* 82 FR 50814, 50817 (November 2, 2017).

[20] *See* CAA section 181(a)(1); 40 CFR 51.1303.

of this language is that the 101st U.S. Congress was directing the EPA to constrain its analysis to the years of data that constitute the basis for an area's DV as of the specific attainment deadline. In enacting the language ''based on the area's design value (as of the attainment date),'' it was plainly not the intent of Congress to describe the exceptional events process, because the authority for the exceptional events process at CAA section 319 had not yet been enacted.

Though the EPA is required under CAA section 181(b)(2) to reach its determination within six months following the applicable attainment date, the EPA does not believe that the EPA must ignore relevant data in an instance where the EPA is delayed in finalizing its action. For example, if there had been a quality assurance issue that incorrectly showed attaining data in a nonattainment area, and if the EPA was delayed in reaching a determination while it researched the quality assurance issue, and if the quality assurance process was belatedly resolved to show violating data, then under a ''snapshot rule'' the EPA would be required to reach an incorrect decision that an area with violating data had attained the standard. Rather, it is the EPA's view that it may be in the best interest of the public for the EPA to consider the full record of information at the time of the EPA's decision, even in instances where the EPA is delayed in reaching that decision.

Turning to the specific facts of the Detroit area, the EPA's 2023 final reclassification action is an example of the EPA's consistent interpretation of CAA section 181(b)(2) as constraining the EPA's analysis to the years of data that constitute the basis for an area's DV as of the specific attainment deadline. The EPA designated the Detroit area as Marginal nonattainment for the 2015 ozone NAAQS on June 4, 2018, effective August 3, 2018.[21] On February 1, 2023, the EPA determined that the Detroit area failed to attain the 2015 ozone NAAQS by its Marginal attainment date of August 3, 2021, based on the area's DV as of the attainment date (*i.e.,* monitoring data from 2018–2020).[22] At the time of the EPA's 2023 final reclassification action, the EPA had already reviewed certified monitoring data for the more recent 2019–2021 design value period showing that the area had attained the standard, and in fact the EPA had already proposed to redesignate the area to attainment under CAA section 107(d)(3)(E) based on the more recent attaining data.[23] However, consistent with the EPA's longstanding interpretation of CAA section 181(b)(2), on February 1, 2023, the EPA finalized its determination that the Detroit area had failed to attain the standard by the applicable attainment date.

Even if the EPA were to adapt a requirement that states should generally submit an exceptional events demonstration before the applicable attainment date or before the EPA's deadline to reach a determination of attainment by the attainment date under CAA section 181(b)(2), the EPA believes additional flexibility would be warranted for the Detroit area. The attainment date for the Detroit area was August 3, 2024, and the EPA's deadline to make a determination of attainment by the attainment date was February 3, 2025. As described above, on both of those dates, Michigan understandably believed that the area was not subject to the requirements of CAA section 181. The Sixth Circuit issued its decision vacating the EPA's redesignation on December 5, 2025, and EGLE submitted its demonstration on February 19, 2026, less than three months after the date of the court decision.

Based on the EPA's longstanding interpretation of the statutory language at CAA section 181(b)(2), as well as the specific facts of the Detroit area, the EPA is finding that the EPA is not prohibited from considering the exceptional events demonstration submitted by EGLE on February 19, 2026, and the EPA is determining that the area attained the 2015 ozone NAAQS by the applicable attainment date.

## III. What action is the EPA taking?

The EPA is determining that the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date. This determination is based on complete, quality-assured, and certified ambient air quality monitoring data for the 2021–2023 design value period showing that the area achieved attainment of the 2015 ozone NAAQS. The EPA is also taking final agency action on an exceptional events request submitted by EGLE on February 19, 2026, and concurred on by the EPA on March 24, 2026. This action fulfills the EPA's statutory obligation to determine whether the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of this action, which merely determines that the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date. The immediate effective date for this action is authorized under section 553(d)(3), which allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. For this reason, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective on the date of publication of this action.

## IV. Statutory and Executive Order Reviews

### *A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review. This action determines that the Detroit, Michigan area attained the 2015 ozone NAAQS by the Moderate attainment date.

### *B. Executive Order 14192: Unleashing Prosperity Through Deregulation*

This 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### *D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This action will not impose any requirements on small entities beyond those imposed by State law. The attainment determination does not create any new requirements and does not directly regulate any entities.

### *E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in

[21] 83 FR 25776 (June 4, 2018).

[22] 88 FR 6633 (February 1, 2023).

[23] 87 FR 14210 (March 14, 2022).

UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local, or Tribal governments or the private sector.

*F. Executive Order 13132: Federalism*

This action does not have federalism implications. 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. This action determines that the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date, as required by the CAA.

*G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments. Thus, Executive Order 13175 does not apply to this rule.

*H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This action is not subject to Executive Order 13045 because it is not 3(f)(1) significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children because it merely determines that the Detroit area attained the 2015 ozone NAAQS by the Moderate attainment date.

*I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

*J. National Technology Transfer Advancement Act*

This rulemaking does not involve technical standards.

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 January 11, 2027. 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, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 22, 2026.

**Anne Vogel,**

*Regional Administrator, Region 5.*

For the reasons stated in the preamble, 40 CFR part 52 is amended 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.*

■ 2. In § 52.1170, amend the table in paragraph (e) by adding an entry for ''2015 Ozone Determination of Attainment by the Attainment Date'' after the entry for ''2015 8-hour ozone Moderate RFP plans and motor vehicle emission budgets'' to read as follows:

**§ 52.1170 Identification of plan.**

* * * * *

(e) * * *

EPA-APPROVED MICHIGAN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

| Name of nonregulatory SIP provision | Applicable geographic or nonattainment area | State submittal date | EPA approval date | Comments |
|---|---|---|---|---|
| * | * | * | * | * |
| 2015 Ozone Determination of Attainment by the Attainment Date. | Detroit area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties). | ..... | 11/10/2026, 91 FR [INSERT **FEDERAL REGISTER** PAGE WHERE THE DOCUMENT BEGINS]. | |
| * | * | * | * | * |

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[FR Doc. 2026–22887 Filed 11–9–26; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 721 and 725

**[EPA–HQ–OPPT–2022–0863; FRL–12967–02–OCSPP]**

**RIN 2070–AB27**

## Modification of Significant New Uses of Certain Chemical Substances (23–1.M)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is amending significant new use rules (SNURs) issued under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for certain chemical substances identified herein, which were the subject of premanufacture notices (PMNs) and significant new use notices (SNUNs). This action amends the SNURs by allowing certain new uses reported in the SNUNs or PMNs without additional notification requirements, modifying the significant new use notification requirements based on the actions and determinations for the SNUN or PMN submissions or based on the examination of new test data or other information, and making technical

amendments to several SNURs. EPA is issuing these amendments based on review of new and existing data for the chemical substances.

**DATES:** This rule is effective on January 11, 2027. For purposes of judicial review, this rule shall be promulgated at 1 p.m. (EST) on November 24, 2026.

**ADDRESSES:** The docket for this action, identified under docket identification (ID) number EPA–HQ–OPPT–2022–0863, is available online at *https://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket) in the Environmental Protection Agency Docket Center (EPA/DC). Please review the visitor instructions and additional information about the docket available at *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:**

*For technical information:* Brianna Godwin, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 565–0076; email address: *godwin.brianna@epa.gov.*

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

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

**SUPPLEMENTARY INFORMATION:**

## I. Executive Summary

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

TSCA section 5(a)(2) (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including the factors in TSCA section 5(a)(2). Procedures and criteria for modifying or revoking SNUR requirements appear at 40 CFR 721.185 or 725.984 (for microorganisms).

### *B. What action is the Agency taking?*

EPA is finalizing amendments to the SNURs for certain chemical substances in 40 CFR part 721, subpart E and part 725, Subpart M (for microorganisms). A SNUR for a chemical substance designates certain activities as significant new uses. Persons who intend to manufacture or process a chemical substance for a significant new use must notify EPA at least 90 days before commencing that activity. The required notification (*i.e.,* a SNUN) initiates EPA's evaluation of the intended use. Manufacture and processing for the significant new use may not commence until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination.

Previously, EPA proposed amendments to the SNURs for these chemical substances in the **Federal Register** of October 28, 2025, (90 FR 48717 (FRL–12967–01–OCSPP)). The docket includes information considered by the Agency in developing the proposed and final rules, including public comments and EPA's responses to the comments received as discussed in Unit II.D.

### *C. Does this action apply to me?*

#### 1. General Applicability

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

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

#### 2. Applicability to Importers and Exporters

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

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

Pursuant to 40 CFR 721.20 or 40 CFR 725.920 (for microorganisms), any persons who export or intend to export a chemical substance identified in this document are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) and must comply with the export notification requirements in 40 CFR part 707, subpart D.

### *D. What are the incremental economic impacts of this action?*

EPA has evaluated the potential costs of establishing SNUN reporting requirements for potential manufacturers and processors of the chemical substances identified in this document. This analysis, which is available in the docket, is briefly summarized here.

#### 1. Estimated Costs for SNUN Submissions

A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. If a SNUN is submitted, costs are an estimated $45,000 per SNUN submission for large business submitters and $14,500 for small business submitters. These estimates include the cost to prepare and submit the SNUN (including registration for EPA's Central Data Exchange (CDX)), and the payment of a user fee. Businesses that submit a SNUN would be subject to either a $37,000 user fee required by 40 CFR 700.45(c)(2)(ii) and (d), or, if they are a small business as defined at 13 CFR 121.201, a reduced user fee of $6,480 (40 CFR 700.45(c)(1)(ii) and (d)). These estimates reflect the costs and fees as they are known at the time of this rulemaking.

#### 2. Estimated Costs for Export Notifications

EPA has also evaluated the potential costs associated with the pre-existing export notification requirements under TSCA section 12(b) and the implementing regulations at 40 CFR part 707, subpart D. For persons exporting a substance that is the subject of a SNUR, a one-time notice to EPA must be provided for the first export or intended export to a particular country. The total costs of export notification will vary by chemical, depending on the number of required notifications (*i.e.,* the number of countries to which the chemical is exported). While EPA is unable to make any estimate of the likely number of export notifications for the chemical substances covered by these SNURs, as stated in the accompanying economic analysis, the estimated cost of the export

notification requirement on a per unit basis is approximately $106.

## II. Background

### A. General Information About SNURs

Unit II. of the proposed rule provides general information about SNURs, and additional information about EPA's new chemical program is available at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

### B. Applicability of the Significant New Use Designation

To establish a significant new use, EPA must determine that the use is not ongoing. As discussed in Unit II.E. of the proposed rule, for one of the SNURs addressed in this rule, EPA proposed to designate as a ''significant new use'' several additional uses that were not previously specifically designated as significant new uses under the existing SNURs, but which would be designated as significant new uses requiring notification if the proposed rule were finalized. EPA concluded that these proposed significant new uses were not ongoing. EPA also stated that if EPA subsequently determined that such a use was ongoing as of the date of publication of the proposed rule and did not cease prior to issuance of the final rule, EPA would not designate that use as a significant new use in the final rule. EPA has no information to suggest that any of the significant new uses identified in this rule meet this criterion.

As discussed in the **Federal Register** of April 24, 1990 (55 FR 17376 (FRL–3658–5)), EPA believes that the intent of TSCA section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of publication of the proposed rule rather than as of the effective date of the final rule. The objective of EPA's approach is to ensure that a person cannot impede finalization of a SNUR by initiating a significant new use after publication of the proposed rule but before the effective date of the final rule. Uses arising after the publication of the proposed rule are distinguished from uses that are identified in the final rule as having been ongoing on the date of publication of the proposed rule. The former would be new uses, the latter ongoing uses, except that uses that are identified as ongoing as of the publication of the proposed rule would not be considered ongoing uses if they have ceased by the date of issuance of a final rule.

In the unlikely event that before a final rule becomes effective a person begins commercial manufacturing (including importing) or processing of the chemical substances for a use that is designated as a significant new use in that final rule, such a person would have to cease any such activity upon the effective date of the final rule. To resume their activities, these persons would have to first comply with all applicable SNUR notification requirements and wait until all TSCA prerequisites for the commencement of manufacture or processing have been satisfied.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the internet at *https://www.epa.gov/tsca-inventory.*

### C. Important Information About SNUN Submissions

#### 1. SNUN Submissions

SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and 721.25. E–PMN software is available electronically at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca.*

#### 2. Development and Submission of Information

EPA recognizes that TSCA section 5 does not require development of any particular new information (*e.g.,* generating test data) before submission of a SNUN. There is an exception: If a person is required to submit information for a chemical substance pursuant to a rule, Order or consent agreement under TSCA section 4, then TSCA section 5(b)(1)(A) requires such information to be submitted to EPA at the time of submission of the SNUN.

In the absence of a rule, TSCA Order, or consent agreement under TSCA section 4 covering the chemical substance, persons are required only to submit information in their possession or control and to describe any other information known to or reasonably ascertainable by them (see 40 CFR 720.50 or 40 CFR 725.160 (for microorganisms)). However, upon review of PMNs, SNUNs, and MCANS, the Agency has the authority to require appropriate testing. To assist with EPA's analysis of the SNUN, submitters are encouraged, but not required, to provide the potentially useful information as identified for the chemical substance in Unit III.C. of the proposed rule.

EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection. Furthermore, pursuant to TSCA section 4(h), which pertains to reduction of testing in vertebrate animals, EPA encourages consultation with the Agency on the use of alternative test methods and strategies (also called New Approach Methodologies, or NAMs), if available, to generate the recommended test data. EPA encourages dialog with Agency representatives to help determine how best the submitter can meet both the data needs and the objective of TSCA section 4(h). For more information on alternative test methods and strategies to reduce vertebrate animal testing, visit *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/alternative-test-methods-and-strategies-reduce.*

The potentially useful information described in Unit III. of the proposed rule may not be the only means of providing information to evaluate the chemical substance associated with the significant new uses. However, submitting a SNUN without any test data may increase the likelihood that EPA will take action under TSCA sections 5(e) or 5(f). EPA recommends that potential SNUN submitters contact EPA early enough so that they will be able to conduct the appropriate tests.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information about human exposure and environmental release that may result from the significant new use of the chemical substances.

### D. Public Comments on Proposed Rule and EPA Responses

EPA received public comments on the proposed amendments to the SNURs and prepared a Response to Comment document that provides the Agency responses. The comments and the Response to Comment document are available in the docket. EPA is finalizing the SNUR amendments as proposed except as described below (listed by PMN or MCAN number and proposed 40 CFR citation):

- As described in the Response to Comment document, EPA is making one change to the SNUR for P–14–260 (40 CFR 721.10966) from the proposed rule in response to a comment. EPA modified the language to make clear that the 500 $ft^3$ is a requirement and to remove the language about the large data storage rooms. The previous language was ambiguous and was not clear about limiting the use to 500 $ft^3$.

• For P–03–622 (40 CFR 721.10471), EPA is making non-substantive corrections to the format of the proposed notification requirements as specified in the protection in the workplace and hazard communication sections.

• For J–9–1 (40 CFR 725.1080), EPA is making a correction to the proposed recordkeeping and modification requirements for this microorganism as specified and the SNUR now references both 40 CFR 725.950 and 725.984 in the recordkeeping and modification sections.

## III. Chemical Substances Subject to These Significant New Use Rule Amendments and Changes

*A. What is the designated cutoff date for ongoing uses?*

EPA designates the date of publication of the proposed rule as the cutoff date for determining whether the significant new uses are ongoing, *i.e.,* October 28, 2025 (90 FR 48717 (FRL–12967–01–OCSPP)). Any unmodified significant new uses identified in existing SNURs would retain the cutoff date in the rulemaking establishing those significant new uses. This designation is explained in more detail in Unit II.B.

*B. What information was provided for each chemical substance?*

In Unit III.C. of the proposed rule, EPA provided the following information for each chemical substance subject to these amended SNURs:

• PMN number (the CFR citation assigned in the regulatory text section of this document).

• Chemical name (generic name, if the specific name is claimed as CBI).

• Chemical Abstracts Service Registry Number (CASRN) or Accession Number (if assigned, for confidential chemical identities).

• **Federal Register** citation(s) for the previously issued final rules(s).

• Basis for the proposed amendment.

• Potentially useful information.

The regulatory text section of this document specifies the chemical substances and activities designated as significant new uses. Certain new uses, including production volume limits and other uses designated, may be claimed as CBI, as discussed in more detail in Unit II.C. of the proposed rule.

## IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations-and-executive-orders.*

*A. Executive Order 12866: Regulatory Planning and Review*

This action establishes SNURs for chemical substances that were the subject of PMNs and an MCAN. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866 (58 FR 51735, October 4, 1993).

*B. Executive Order 14192: Unleashing Prosperity Through Deregulation*

Executive Order 14192 (90 FR 9065, February 6, 2025) does not apply because a significant new use rule for a chemical under TSCA section 5 is exempt from review under Executive Order 12866.

*C. Paperwork Reduction Act (PRA)*

According to the PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

The information collection requirements related to SNURs have already been approved by OMB pursuant to PRA under OMB control number 2070–0038 (EPA ICR No. 1188). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per submission. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

*D. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). The requirement to submit a SNUN applies to any person (including small or large entities) who intends to engage in any activity described in the final rule as a ''significant new use.'' Because these uses are ''new,'' based on all information currently available to EPA, EPA has concluded that no small or large entities presently engage in such activities.

A SNUR requires that any person who intends to engage in such activity in the future must first notify EPA by submitting a SNUN. Although some small entities may decide to pursue a significant new use in the future, EPA cannot presently determine how many, if any, there may be. However, EPA's experience to date is that, in response to the promulgation of SNURs covering over 1,000 chemicals, the Agency receives only a small number of notices per year. For example, the number of SNUNs received was 7 in Federal fiscal year (FY) 2020, 9 in FY2021, 9 in FY2022, 23 in FY2023, 7 in FY2024, and 10 in FY 2025 and only a fraction of these submissions were from small businesses.

In addition, the Agency currently offers relief to qualifying small businesses by reducing the SNUN submission fee from $37,000 to $6,480. This lower fee reduces the total reporting and recordkeeping cost of submitting a SNUN to about $14,500 per SNUN submission for qualifying small firms. Therefore, the potential economic impacts of complying with these proposed SNURs are not expected to be significant or adversely impact a substantial number of small entities. In a SNUR that published in the **Federal Register** of June 2, 1997 (62 FR 29684 (FRL–5597–1)), the Agency presented its general determination that SNURs are not expected to have a significant economic impact on a substantial number of small entities, which was provided to the Chief Counsel for Advocacy of the Small Business Administration.

*E. Unfunded Mandates Reform Act (UMRA)*

This action does not contain an unfunded mandate of $100 million or more (in 1995 dollars) in any one year as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by SNURs, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by these SNURs. In addition, the estimated costs of this action to the private sector do not exceed $183 million or more in any one year (the 1995 dollars are adjusted to 2023 dollars for inflation using the GDP implicit price deflator). The estimated costs for this action are discussed in Unit I.D.

*F. Executive Order 13132: Federalism*

This action will not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10,

1999), because it is not expected to have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the requirements of Executive Order 13132 do not apply to this action.

*G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This action will not have Tribal implications as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because it is not expected to have substantial direct effects on Indian Tribes, significantly or uniquely affect the communities of Indian Tribal governments and does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175 do not apply to this action.

*H. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it does not concern an environmental health or safety risk. Since this action does not concern a human health risk, EPA's 2026 Policy on Children's Health also does not apply. Although the establishment of these SNURs do not address an existing children's environmental health concern because the chemical uses involved are not ongoing uses, SNURs require that persons notify EPA at least 90 days before commencing manufacture (defined by statute to include import) or processing of the identified chemical substances for an activity that is designated as a significant new use by the SNUR. This notification allows EPA to assess the intended uses to identify potential risks and take appropriate actions before the activities commence.

*I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

*J. National Technology Transfer and Advancement Act (NTTAA)*

This action does not involve any technical standards subject to NTTAA section 12(d) (15 U.S.C. 272 note).

*K. Congressional Review Act (CRA)*

This action is subject to the CRA (5 U.S.C. 801 *et seq.*), and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 721 and 725**

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 4, 2026.

**Mary Elissa Reaves,**

*Director, Office of Pollution Prevention and Toxics.*

For the reasons stated in the preamble, 40 CFR chapter I is amended as follows:

## PART 721—SIGNIFICANT NEW USES OF CHEMICAL SUBSTANCES

■ 1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. Amend § 721.1725 by revising paragraph (b)(1)(i) to read as follows:

**§ 721.1725 Benzoic acid, 3,3′-methylenebis [6 amino-, di-2-propenyl ester.**

* * * * *

(b) * * *

(1) * * *

(i) The provisions of § 721.11 apply to paragraph (a)(1) of this section and to chemical substances which are subject to a significant new use rule in Subpart E of this part.

* * * * *

■ 3. Amend § 721.2076 by revising paragraph (a)(1) to read as follows:

**§ 721.2076 D-Glucuronic acid, polymer with 6-deoxy-L-mannose and D-glucose, acetate, calcium magnesium potassium sodium salt.**

(a) * * *

(1) The chemical substance identified as D-glucuronic acid, polymer with 6-deoxy-L-mannose and D-glucose, acetate, calcium magnesium potassium sodium salt (PMN P–00–7; SNUNs S–05–1, S–06–4, S–07–03, and S–07–5; CAS No. 595585–15–2) is subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

* * * * *

■ 4. Amend § 721.10070 by revising paragraphs (a)(1) and (a)(2)(i) to read as follows:

**§ 721.10070 1,3-Butanediol, 3-methyl-.**

(a) * * *

(1) The chemical substance identified as 1,3-butanediol, 3-methyl- (PMN P–05–309; SNUN S–13–4; CAS No. 2568–33–4) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) * * *

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80 (f). It is a significant new use to use the substance other than as inkjet ink or as a fixing agent of ink for inkjet printers.

* * * * *

■ 5. Revise and republish § 721.10471 to read as follows:

**§ 721.10471 2-Propenoic acid, 1,1′-(3-methyl-1,5-pentanediyl) ester.**

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as 2-propenoic acid, 1,1′-(3-methyl-1,5-pentanediyl) ester (PMN P–03–622; SNUNs S–17–5, S–20–7, S–21–4, and S–23–7; CAS No. 64194–22–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section. The requirements of this section do not apply to quantities of the chemical substance after they have been completely reacted (cured).

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (3) through (6), and (c). When determining which persons are reasonably likely to be exposed as required for § 721.63(a)(1) and (4), engineering control measures (*e.g.,* enclosure or confinement of the operation, general and local ventilation) or administrative control measures (*e.g.,* workplace policies and procedures) shall be considered and implemented to prevent exposure, where feasible. For purposes of § 721.63(a)(5), respirators must provide a National Institute for Occupational Safety and Health (NIOSH) assigned protection factor (APF) of at least 50.

(ii) *Hazard communication.* Requirements as specified in § 721.72(a) through (d), (f), (g)(1), (g)(3)(iii), and (g)(5). For purposes of § 721.72(g)(1), this substance may cause: acute toxicity (inhalation only), skin irritation, eye irritation, respiratory sensitization, skin sensitization, specific target organ toxicity, and aspiration hazard. Alternative hazard and warning statements that meet the criteria of the Globally Harmonized System and OSHA Hazard Communication Standard may be used.

(iii) *Industrial, commercial, and consumer activities.* Requirements as

specified in § 721.80(o). It is a significant new use to manufacture the substance in any manner that results in inhalation exposure to the substance. It is a significant new use to use the substance other than as a component of UV curable coatings and printing inks, additive manufacturing, adhesives, composites, 3D printing, and coating systems.

(iv) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) where N=11.

(b) *Specific requirements.* The provisions of Subpart A of this part apply to this section except as modified by this paragraph (b).

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a) through (i) and (k) are applicable to manufacturers (including importers) and processors of this substance.

(2) *Limitation or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 6. Amend § 721.10966 by revising paragraph (a)(2)(iii) to read as follows:

**§ 721.10966 1-Propene, 2-bromo-3,3,3-trifluoro-.**

(a) * * *

(2) * * *

(iii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(c) and (f). It is a significant new use to use the substance other than as a fire extinguishing agent as a total flooding agent in unoccupied spaces, specifically engine nacelles and auxiliary power units (APUs) in aircraft; as a streaming fire extinguishing agent for use only in handheld extinguishers in aircraft; streaming in all non-residential uses, except for commercial home office and personal watercraft; or niche flooding application for unoccupied spaces up to 500 $ft^3$.

* * * * *

■ 7. Amend § 721.11180 by revising paragraph (a)(2)(iii) to read as follows:

**§ 721.11180 Arenesulfonic acid, alkyl derivatives, metal salts (generic).**

(a) * * *

(2) * * *

(iii) *Industrial, commercial, and consumer activities.* It is a significant new use to manufacture, process or use the substance in any manner that results in the generation of a vapor, mist, spray, or aerosol.

* * * * *

## PART 725—REPORTING REQUIREMENTS AND REVIEW PROCESSES FOR MICROORGANISMS

■ 8. The authority citation for part 725 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, 2613, and 2625.

■ 9. Amend § 725.1080 by revising paragraphs (b)(1) and (2) to read as follows:

**§ 725.1080 Trichoderma reesei (generic).**

* * * * *

(b) * * *

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 725.950(b)(2) through (4) and a requirement to maintain records documenting compliance with limitations in paragraph (a)(2) are applicable to manufacturers and processors of this microorganism.

(2) *Modification or revocation of certain notification requirements.* The provisions of § 725.984 apply to this section.

[FR Doc. 2026–22888 Filed 11–9–26; 8:45 am]

BILLING CODE 6560–50–P

# Proposed Rules

Federal Register
Vol. 91, No. 216
Tuesday, November 10, 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 AGRICULTURE

### Food and Nutrition Administration

### 7 CFR Parts 271 and 273

**[FNA–2025–0368]**

**RIN 0584–AF09**

## Modification to Work Requirements for Able-Bodied Adults

**AGENCY:** Food and Nutrition Administration (FNA), USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The proposed rule would codify USDA's regulatory implementation of provisions of the One Big Beautiful Bill Act of 2025 (OBBB) changing the three-month time limit for certain participants subject to work requirements in the Supplemental Nutrition Assistance Program (SNAP). These changes include modifying the list of exceptions from the time limit for certain populations; updating requirements for areas to qualify for waivers of the time limit; and adding the temporary good faith exemptions in Alaska and Hawaii. Additionally, this rule proposes to strengthen requirements for requesting waivers of the time limit and revise the SNAP definition of a homeless individual.

**DATES:** Written comments must be received on or before December 10, 2026.

**ADDRESSES:** The Food and Nutrition Administration, USDA, invites interested persons to submit written comments on this proposed rule. Comments may be submitted in writing by one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Send comments to SNAP Program Development Division, Food and Nutrition Administration, 5601 Sunnyside Ave., Beltsville, MD 20705. Email: *SNAPCPBRules@usda.gov.* Phone: (703) 305–2022.
- *Website:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email:* Send comments to *SNAPCPBRules@usda.gov.* Include ''Docket ID Number FNA–2025–0368, Modification to Work Requirements for Able-Bodied Adults'' in the subject line of the message.
- All written comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNA will make the written comments publicly available on the internet via *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** SNAP Program Development Division, Food and Nutrition Administration, 5601 Sunnyside Ave., Beltsville, MD 20705. Email: *SNAPCPBRules@usda.gov.* Phone: (703) 305–2022.

**SUPPLEMENTARY INFORMATION:**

## I. Background

*Implementation of the One Big Beautiful Bill Act of 2025*

On July 4, 2025, President Trump signed Public Law 119–21, the One Big Beautiful Bill Act of 2025 (OBBB). Section 10102 of the OBBB makes significant changes to the time limit (also known as a work requirement) for certain Supplemental Nutrition Assistance Program (SNAP) participants. These changes require more SNAP participants to work as a condition of eligibility. The Department is issuing this proposed rule to implement those OBBB provisions, as well as strengthen standards for requests for waivers of the time limit and set clear expectations that those who can work, do.

The OBBB provisions build on a longstanding and evolving Congressional directive that SNAP must support work. Work requirements were first implemented as a condition of SNAP eligibility in 1971 (Pub. L. 91–671). In 1985, Congress required State agencies to operate an employment and training program (SNAP E&T) which helps SNAP participants gain skills that increase their employability and help meet employers' skilled workforce needs. In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA, Pub. L. 104–193) made pivotal changes, creating a time limit for certain individuals not engaged in work. The Fiscal Responsibility Act of 2023 (FRA, Pub. L. 118–5) explicitly established that the purpose of SNAP includes assisting low-income adults in obtaining employment and increasing their earnings. This history, though not inclusive of all changes to SNAP work requirements, demonstrates the long-standing imperative that SNAP's purpose includes supporting participants in finding employment and increasing earnings, and mitigating reliance on the program.

SNAP work requirements include both general work requirements and the time limit, formerly known as the able-bodied adults without dependents (ABAWD) time limit. Under the general work requirements at Section 6(d)(1) of the Food and Nutrition Act of 2008 (the Act) (7 U.S.C. 2015(d)(1)), individuals must register for work; accept offers of suitable employment; not voluntarily quit or reduce hours of employment below 30 hours per week without good cause; and participate in workfare or SNAP E&T if required by the State agency. SNAP participants subject to these requirements that do not comply are disqualified from receiving SNAP benefits for periods ranging from one month to permanent disqualifications, depending on the number of violations and State options. The general work requirements apply to SNAP participants aged 16 through 59, unless they meet specific exemptions such as being unable to work due to physical or mental limitations.

In addition to the general work requirements, SNAP has a time limit and associated work requirements for certain individuals. Under the time limit, per Section 6(o) of the Act (7 U.S.C. 2015(o)), individuals must work and/or participate in a qualifying work program for at least 20 hours per week (averaged to 80 hours per month) or participate in workfare as assigned. Time-limited participants may only receive SNAP for three months in a 36-month period in which they do not comply with this requirement.

The OBBB changed who is subject to the time limit to now apply to SNAP participants aged 18 through 64 who do not meet an exception such as being physically or mentally unfit for

employment, responsible for a child under 14, pregnant, or an ''Indian'', ''Urban Indian'' or ''California Indian''. These changes are explained in the discussion of proposed changes below.

Section 6(o)(4) of the Act (7 U.S.C. 2015(o)(4)) also allows the Department to approve State requests to waive the time limit in areas in certain circumstances. Waivers of the time limit allow for individuals residing in waived areas to continue participating in SNAP even if they do not meet the work requirement associated with the time limit, given they are otherwise eligible. Waivers of the time limit do not absolve State agencies of their responsibility to support participants in finding employment. State agencies must continue to track time-limited participants in waived areas to ensure program integrity when the waiver expires.

Prior to the OBBB, time limit waiver criteria included areas with unemployment rates over 10 percent or areas without a sufficient number of jobs to provide employment. The OBBB removed the ability for areas to qualify based on a lack of a sufficient number of jobs. Now, State agencies, except for Alaska and Hawaii, may only qualify for waivers for areas with unemployment rates of over 10 percent. The OBBB allows waivers for areas in Alaska and Hawaii with unemployment rates at least 1.5 times the national average.

## II. Discussion of Proposed Changes

This proposed rule would codify USDA's regulatory implementation of OBBB provisions on individual exceptions from the time limit; geographic waivers of the time limit; and good-faith exemptions from the time limit for noncontiguous States, as defined by 7 U.S.C. 2015(o)(7)(A). The Department is also proposing additional changes to criteria for waivers of the time limit to define ''area'' and requirements for supporting data at 7 CFR 273.24(f) to ensure waivers reflect recent, sustained, and accurate unemployment rates. Additionally, the Department proposes to revise the definition of ''homeless individual'' to remove the inclusion of the term ''imminently homeless''. Together, these changes will ensure the program continues to focus on self-sufficiency for those who can work.

The Department intends for the rule provisions codifying USDA's regulatory implementation of OBBB changes and the rule provisions proposing discretionary changes, including those requiring supporting data for waivers and the revisions to the definition of ''homeless individual'', to be separate and severable from one another. If any provision related to the discretionary provisions is stayed or determined to be invalid, the Department intends that the remaining provisions related to codifying USDA's regulatory implementation of statutory changes in regulation shall remain in effect. For example, a court could invalidate the rule's proposal to ensure supporting data reflects recent, sustained, and accurate unemployment rates. In such a case, any provision related to a statutory change, such as the unemployment rate threshold for waivers, should remain in effect because those provisions ''could function sensibly without the stricken provision''.[1]

The Department has historically referred to the population of individuals subject to the time limit as able-bodied adults without dependents (ABAWDs). Given changes required by OBBB, some adults with dependents aged 14 through 17 are now subject to the time limit. To accurately reflect this change and use plain language, the Department is no longer using the term able-bodied adults without dependents (ABAWDs). Instead, the Department will refer to the ''time limit'' or ''time-limited participants'' where possible. In accordance with this change, the Department proposes to revise the title of 7 CFR 273.24 to ''SNAP Time Limit''.

### *Section 10102(a) of the OBBB—Changes to Exceptions From the Time Limit*

Section 6(o)(3) of the Act provides exceptions from the time limit for certain individuals. If an individual meets one of the exceptions, they are not subject to the time limit. These exceptions include, but are not limited to, individuals:

- under 18, or over 65 years of age;
- medically certified as physically or mentally unfit for employment;
- a parent or other member of a household with responsibility for a dependent child under 14 years of age;
- otherwise exempt from the general work requirements under subsection (d)(2);
- a pregnant woman;
- an Indian or Urban Indian (as such terms are defined in paragraphs (13) and (28) of section 5 of the Indian Health Care Improvement Act); or
- a California Indian described in section 809(a) of the Indian Health Care Improvement Act.

Throughout this proposed rule, ''exceptions from the time limit'' refers to the list of exception criteria at Section 6(o)(3) of the Act, whereas ''exemptions from the general work requirements'' refers to the list of criteria in Section 6(d)(2) of the Act. Section 10102(a) of the OBBB amends Section 6(o)(3) of the Act to change the exceptions from the time limit, as discussed below.

#### Age-Based Exceptions

The OBBB increases the upper age limit for time-limited participants at Section 6(o)(3)(A) of the Act from over 55 years of age to over 65 years of age. This proposed rule would amend paragraph 7 CFR 273.24(c)(1) to increase the upper age limit to 65 years of age or older.

Prior to enactment of the OBBB, the upper age limit was amended by the Fiscal Responsibility Act of 2023 (FRA) to gradually increase the upper age limit from over 50 years of age to over 55 years of age between September 1, 2023, through October 1, 2024. The FRA also prescribed that these changes would sunset on October 1, 2030, when the upper age limit would return to over 50 years of age. This sunset is captured at 7 CFR 273(c)(10). The OBBB provision changing the upper age limit to over 65 years of age does not sunset. Therefore, this proposed rule would strike 7 CFR 273.24(c)(10) to remove the reference to the sunsetting of these FRA provisions.

Individuals aged 60 to 64 are not subject to the general work requirements, per section 6(d)(1)(A) of the Act. Although the OBBB did not change who is subject to the general work requirements, it increased the upper age limit for the time limit to include individuals through age 64. In other words, the OBBB created a new group of individuals, aged 60 to 64, who are not subject to the general work requirements but are time-limited participants.

Individuals aged 60 through 64 are excepted from the time limit if they meet one of the exemptions from the general work requirements at Section 6(d)(2), as would be individuals aged 18 through 59. For instance, a 63-year old already working 30 hours a week or complying with work requirements for unemployment compensation is excepted from the time limit. However, since age is not a listed exemption from the general work requirements at Section 6(d)(2), individuals aged 60 to 64 are not excepted from the time limit based solely on age. When the Department initially wrote the regulations around general work requirements, it included age as an exemption for simplification purposes in program rules at 7 CFR 273.7(b)(1)(i). To help clarify that individuals aged 60 to 64 are not subject to the general work

[1] *MD/DC/DE Broadcasters Ass'n* v. *F.C.C.,* 253 F.3d 732, 734 (D.C. Cir. 2001) (internal quotations omitted).

requirements but subject to the time limit, this proposed rule would revise the exception at 7 CFR 273.24(c)(5) to reference 7 CFR 273.7(b)(1)(ii) through (vii) instead of the entire paragraph 7 CFR 273.7(b).

Changes to the Exception for Children in the Household

The OBBB amends the exception at Section 6(o)(3)(C) of the Act for a parent or other member of a household with responsibility for a dependent child by lowering the age of the dependent child from under 18 years of age to under 14 years. This proposed rule would update the age in both paragraphs 7 CFR 273.24(c)(3) and (4) to reflect ''under age 14'' to align with the law.

End of Exceptions Implemented by the Fiscal Responsibility Act of 2023

The OBBB removes the temporary exceptions at Section 6(o)(3) of the Act for homeless individuals, veterans, and individuals 24 years of age or younger and in foster care on their 18th birthday (or higher age if the State offers extended foster care to a higher age). This proposed rule would codify USDA's regulatory implementation of these changes by replacing paragraphs 7 CFR 273.24(c)(7) through (8) with new exceptions for ''an Indian or Urban Indian'' or ''a California Indian'' as described in the section below and strike paragraph 7 CFR 273.24(c)(9).

Prior to enactment of OBBB, the exceptions for homeless individuals, veterans, and individuals 24 years of age or younger and in foster case on their 18th birthday had been added by the FRA effective September 1, 2023. The FRA had also prescribed that these changes would sunset on October 1, 2030, which is captured at 7 CFR 273(c)(10). Given this sunset is no longer applicable, this rule would strike 7 CFR 273.24(c)(10).

Definition of Homeless Individual

The Department also proposes to amend the SNAP definition of ''homeless individual''. The December 17, 2024, final rule ''Supplemental Nutrition Assistance Program: Program Purpose and Work Requirement Provisions of the Fiscal Responsibility Act of 2023'' revised the definition of ''homeless individual'' to include individuals who will imminently lose their nighttime residence. That change sought to provide consistency in how State agencies determined if an individual was experiencing homelessness, particularly as homelessness was a new exception from the time limit. OBBB removed homelessness as an exception from the time limit, but this status continues to impact other components of SNAP eligibility, such as the homeless shelter deduction. To prevent misapplication of policy and align with the Act's statutory definition of ''homeless individual'' at Section 2(l) of the Act, the Department proposes to revert to the language at 7 CFR 271.2, removing the reference to individuals who are ''imminently homeless.''

New Exceptions

The OBBB adds new exceptions at Section 6(o)(3)(F) and (G) of the Act for ''an Indian or Urban Indian'' and ''a California Indian'' as defined under the Indian Health Care Improvement Act (IHCIA). The Department proposes adding these new exceptions to the list of exceptions by replacing 7 CFR 273.24(c)(7) and (8). As explained previously, the OBBB removed the exceptions currently provided at 7 CFR 273.24(c)(8) and (9). The Department proposes to include in the regulatory text references to the applicable IHCIA definitions and is interested in comments that include recommendations for clearly communicating these definitions or aligning with similar exceptions for the new Medicaid community engagement requirements under Section 71119 of the OBBB.

*Section 10102(b) of the OBBB—Changes to Waivers of the Time Limit*

Section 6(o)(4) of the Act authorizes the Department to approve waivers of the time limit at the request of the State agency for any group of individuals in the State upon the determination that the area meets certain criteria. Section 10102(b) of the OBBB amends the criteria under which the Department may approve a State agency request for a waiver of the time limit as described below.

End of Criterion Allowing Waivers Based on Lack of Sufficient Jobs

Section 10102(b)(1) of the OBBB removes the Act's criterion allowing waivers upon the determination an area does not have a sufficient number of jobs to provide employment for the individuals. State agencies may now only qualify for waivers for areas with unemployment rates of over 10 percent per Section 6(o)(4)(A)(i), with the exception of Alaska and Hawaii. Consistent with these changes, the rule would strike the criterion allowing waivers based on a lack of sufficient jobs at 7 CFR 273.24(f)(1)(ii). Current regulations also detail the required data to support a waiver request and provide readily approvable waivers under certain circumstances under the lack of sufficient jobs criterion. This proposed rule would strike those portions of the regulations at 7 CFR 273.24(f)(2)(ii) and 7 CFR 273.24(f)(3)(ii) and (3)(iii).

New Criterion for Noncontiguous States

Section 10102(b)(1) of the OBBB updates Section 6(o)(4)(A)(ii) to authorize the Secretary to approve waivers for areas in a noncontiguous State with an unemployment rate that is at or above 1.5 times the national unemployment rate. This proposed rule would include the criterion allowing such waivers at 7 CFR 273.24(f)(1)(ii).

A noncontiguous State, per Section 10102(b)(2) of the OBBB, is a State that is not one of the 48 contiguous states, the District of Columbia, Guam, nor the U.S. Virgin Islands. In this rule, the Department refers to Alaska and Hawaii by name as the noncontiguous States. The Department proposes to include the definition of noncontiguous States in the list of definitions for the time limit at 7 CFR 273.24(a)(5).

*Additional Proposed Changes to Required Data for Waivers of the Time Limit*

In addition to codifying USDA's regulatory implementation of statutory changes to waivers of the time limit, the Department also proposes to amend current rules on requirements for data sources and time-periods to support unemployment rates of 10 percent. These updated standards would also apply to OBBB's new provision for assessing unemployment rates in noncontiguous states. The Department believes these changes are necessary to ensure the integrity of waivers.

Required Data—Unemployment Rate Over 10 Percent

Current rules at 7 CFR 273.24(f)(2)(i) provide examples of three kinds of data State agencies may use to demonstrate an area has an unemployment rate of over 10 percent including: a recent 12-month average unemployment rate over 10 percent; a recent three-month average unemployment rate over 10 percent; or a historical seasonal unemployment rate over 10 percent.

The Department proposes revising the data requirements to ensure that waivers are based on sustained, recent unemployment rates from a reputable source. The Department is concerned that historical seasonal unemployment data may not depict current unemployment challenges. Further, States have not typically requested waivers based on historical data and the Department has not approved a waiver under this criterion in more than two

decades. Similarly, the Department is concerned that using a recent three-month average unemployment rate risks reflecting a short-term aberration, rather than ongoing unemployment issues. Although FNA has approved waivers based on recent three-month average unemployment rates, this has not been nearly as common as using recent 12-month average unemployment rates. Consistent with the criterion for noncontiguous States, the Department proposes requiring at 7 CFR 273.23(f)(2)(i) that a State agency must provide data from the BLS or a BLS-cooperating agency demonstrating that an area has a recent 12-month average unemployment rate over 10 percent.

While the Department proposes removing the three-month average unemployment rate from 7 CFR 273.24(f)(2)(i), the proposed rule would allow waivers for areas based on a three-month average unemployment rate of over 10 percent if the State shows the recent data is tied to an exceptional circumstance affecting the area, as detailed below. However, historical seasonal unemployment rates would no longer be sufficient for waiver approval.

Required Data—Unemployment Rate 1.5 Times the National Average

The Department also proposes setting standards for the data required to demonstrate areas in noncontiguous States have unemployment rates at or above 1.5 times the national average unemployment rate. Establishing such standards is important to ensure any such waivers are based on recent and sustained qualifying unemployment rates, calculated using reputable data sources.

As discussed above, State agencies have historically been able to support waiver requests based on a range of data time periods under program rules at 7 CFR 273.24(f)(2). The Department maintains the need to ensure State agencies use reliable sources, therefore, the Department proposes to include at 7 CFR 273.24(f)(2)(ii) that noncontiguous States must provide data from the BLS or a BLS-cooperating agency that shows an area has a recent 12-month average unemployment rate at or above 1.5 times the national average to support waiver requests under this criterion, similar to the proposed data requirements for the waiver criterion available for all States, discussed previously.

The Department also understands that noncontiguous States have unique and remote geographies with distinct labor markets and data challenges, and proposes to account for some such scenarios, as described in the sections below on exceptional circumstances and areas with limited data or evidence. The Department also seeks comments on any other strategies to accurately assess unemployment rates in areas of noncontiguous States.

Required Data—Exceptional Circumstances

The Department recognizes exceptional circumstances may arise that cause the unemployment rate in an area to meet the required thresholds but cannot be demonstrated using the data criteria outlined in the proposed 7 CFR 273.24(f)(2). As such, the Department is proposing at 7 CFR 273.24(f)(3) to allow for waiver requests supported by data or evidence other than what is listed at 7 CFR 273.24(f)(2) if the request demonstrates an exceptional circumstance in the area that is ongoing at the time of request. This would not allow waivers of the time limit for reasons other than meeting unemployment rate thresholds required in law. Rather, it would allow State agencies to submit data covering a different period given an exceptional circumstance. For example, a State agency may submit data that shows an area has a most recent three-month average unemployment rate over 10 percent and there is a continued impact on unemployment rates due to an exceptional circumstance, such as a natural disaster impacting unemployment.

Required Data—Areas With Limited Data or Evidence

Although current regulations at 7 CFR 273.24(f)(2) require that waiver requests based on unemployment rates or labor force data rely on BLS data or methods, the Department recognizes that in some areas, such as a reservation area or U.S. Territory, data from BLS or a BLS-cooperating agency is limited or unavailable and the use of alternative data is reasonable. For instance, longstanding guidance allows for use of estimated unemployment rates for reservation areas based on available BLS data, in combination with data from the American Community Survey.[2] Additionally, the Department understands that some areas such as Tribal or Territory governments may generate and use their own labor force data. Given that the BLS or a BLS-cooperating agency is the national authority on unemployment data, the Department proposes that, when available, State agencies must continue to use BLS or BLS-cooperating data at 7 CFR 273.24(f)(2)(i) and (ii).

If data from the BLS or a BLS-cooperating agency is unavailable, the Department proposes to continue to allow State agencies to provide alternative data sources or methods. This is particularly important for reservation areas and remote areas in noncontiguous States for which there is limited BLS data. The Department proposes to implement these requirements at 7 CFR 273.24(f)(4).

*Additional Proposed Changes Restricting the Definition of Area for Waivers of the Time Limit*

As the Act does not define areas eligible for waivers of the time limit, the Department seeks to clarify the definition of area for waivers in regulation. Current rules at 7 CFR 273.24(f)(6) allow State agencies nearly unfettered discretion to define the geographic area included in waiver requests, which has led State agencies to create waiver areas that maximize the waiver's coverage as opposed to focusing on areas with the greatest unemployment. State agencies have used the flexibility of the definition of area to pick data that best expand waiver coverage rather than data that best reflect actual unemployment. Congress has recognized States have intentionally reduced enforcement of the SNAP work requirements through expansive waivers, leaving approximately 40 percent of these work-ready individuals under a waiver at the time of passage of the OBBB (H. Rept. 119–106 p.47). The Department maintains the need to tighten waiver standards to assist low-income adults in obtaining employment to increase their earnings and move towards self-sufficiency, consistent with SNAP's program purpose. Therefore, the Department proposes to establish reasonable, straightforward parameters by defining an ''area'' at 7 CFR 273.24(f)(5) to mean a Commuting Zone, county or county-equivalent, reservation area or a U.S. Territory.

Additionally, under current regulatory flexibilities, State agencies developed the practice of combining two or more sub-State areas, such as counties, together as a group (otherwise referred to as ''grouped'' areas or ''grouping''). The current regulations have two general conditions for the grouping of areas—that the areas must be either contiguous and/or share the same economic region. For example, two or more contiguous counties, or several contiguous counties and a township could be grouped together. The group's average unemployment rate

[2] *https://www.fna.usda.gov/snap/guide-supporting-requests-waive-time-limit-abawd.*

is calculated by combining the unemployment and labor force figures from each individual area—in this case each county and township included. Calculating aggregate unemployment rates in this manner can mask important differences in the unemployment rate and labor market of each area when examined individually.

State agencies frequently combine areas with lower unemployment rates with those with higher unemployment rates so that the whole group qualifies, even when some of the areas would not qualify individually. This has allowed entire States or large areas of States to qualify for waivers of the time limit, despite vastly different unemployment rates. For example, under the now repealed lack of sufficient jobs standard, California's Statewide waiver of the time limit beginning in FY 2025, grouped areas such as Imperial County on the Southeast border of the State where there was a 17.5 percent unemployment rate with San Mateo County, outside of San Francisco, where there was a 3.2 percent unemployment rate. Individuals are not reasonably traveling nearly 600 miles between these counties to work, yet the data supporting this waiver approval included both counties in the same economic area. This practice provides States with the broad flexibility to distort the data and maximize waiver areas rather than examine whether the job market in each area necessitates a waiver. This proposal would prevent grouping of such disparate areas in the future by restricting the definition of area to mean a Commuting Zone, county or county-equivalent, reservation area or a U.S. Territory, and omit Statewide groupings.

State agencies have also acknowledged motives for seeking waivers which do not conform to statutory intent. In 2016, a USDA Office of the Inspector General (OIG) review of the implementation of the time limit found that State agency officials reported that they specifically sought waivers in as many areas of the State as possible to avoid the burden of implementing the policy.[3] Other State agencies reported waivers of the time limit reduced their workloads. The Department reminds State agencies that even in waived areas, the State agency is responsible for tracking time-limited participants and ensuring its ability to accurately administer the time limit when the waiver expires. State agencies must also support time-limited participants engaging in the workforce or preparing for work, such as through employment and training programs—regardless of waiver status. Although the Department recognizes there is administrative burden, Congress designed the requirements to support work and move SNAP recipients on a path to self-sufficiency (H. Rept. 104–725, p. 262).

In recognition of the overly broad flexibility for defining areas and grouping areas to aggregate unemployment rates, the Department proposes to restrict the types of geographies that can qualify for waivers, as detailed below.

Definition of Area—Commuting Zones

The Department recognizes that some localities have interconnected unemployment conditions, and therefore, proposes to allow State agencies to use the most recent Commuting Zones as areas for waiving the time limit. USDA's Economic Research Service (ERS) first developed Commuting Zones in the 1980s as a way to better delineate local economies, as county boundaries are not always adequate confines for a local economy. ERS last updated Commuting Zones in 2026 using data from the 2020 Census.[4] Commuting Zones group counties and county equivalents into labor markets based on commuting patterns. Unlike other labor market designations, such as the Office of Management and Budget's Core Based Statistical Areas, Commuting Zone delineations include all county and county-equivalents in the 50 States and the District of Columbia. This allows better understanding of employment and labor force patterns, particularly in rural counties. The 2026 update to Commuting Zones groups the 3,144counties and county-equivalents in the U.S. into 588 labor markets. The Department proposes to allow Commuting Zones to qualify as an allowable area for waivers of the time limit given these geographic units of analysis are meant to closely reflect where people live and work in the local economy. This also would close the loophole that allows areas to be grouped together for a waiver solely due to contiguousness.

Since Commuting Zones can cross State borders, the Department is also proposing to allow the intrastate parts of interstate Commuting Zones to qualify based on data from the entire Commuting Zone. A State agency may only request a waiver for the intrastate portion of the commuting zone (the portion that falls within State lines), however, the data from the entire Commuting Zone may be used to support the request as it is reflective of the employment conditions for the intrastate portion. For instance, the Commuting Zone for Memphis, Tennessee includes bordering counties in Mississippi and Arkansas based on commuting data. Tennessee may request to waive the portion of the Commuting Zone within State boundaries using data reflecting that intrastate portion or the entire Commuting Zone.[5]

If the State agency's geographic boundaries are entirely within one interstate Commuting Zone, the entire State may qualify for a waiver based on data from the entire interstate Commuting Zone. For example, the District of Columbia falls entirely within a Commuting Zone that includes counties in Maryland and Virginia. Given people regularly commute between these areas for employment, it is reasonable to consider the unemployment rate for both the District of Columbia itself and the entire Commuting Zone.

The Department proposes to include Commuting Zones as a type of waiver area at 7 CFR 273.24(f)(5)(i). Additionally, the Department proposes paragraph 7 CFR 273.24(f)(6) to clarify requirements for areas that cross State borders.

Definition of Area—County or County-Equivalents

The Department is also proposing at 7 CFR 273.24(f)(4)(ii) to include counties or county-equivalents as allowable areas for waivers of the time limit. This would allow State agencies to request to waive individual counties or county-equivalents based on unemployment rates reflecting circumstances in that localized area. State agencies would not be able to group or aggregate data across counties or county-equivalents unless they comprise a Commuting Zone, as discussed in the prior section. The Department asserts a more targeted approach would ensure that waivers exist only in areas that meet the criterion at Section 6(o)(4)(A) of the Act.

Definition of Area—Reservation Areas and U.S. Territories

The Department proposes that waivers of the time limit may cover the intrastate portion of reservation areas

[3] USDA OIG report ''FNS Controls Over SNAP Benefits for Able-Bodied Adults Without Dependents'', available at *https://usdaoig.oversight.gov/sites/default/files/reports/2023-03/27601-0002-31_fr.pdf.*

[4] U.S. Department of Agriculture, Economic Research Service. *2020 Commuting Zones,* January 2026.

[5] See U.S. Department of Agriculture, Economic Research Service. *2020 Commuting Zones,* January 2026.

and those U.S. Territories participating in SNAP (Guam and U.S. Virgin Islands). Reservation areas and U.S. Territories are mentioned separately since they are not typically included in Commuting Zones and most do not have counties or county-equivalents. Reservation areas have unique geography, data availability, and may cross State borders. Consistent with Commuting Zones, the Department proposes to include the intrastate portion of reservation areas and to include U.S. Territories as allowable areas at 7 CFR 273.24(f)(4)(iii). Requests to waive the intrastate portion of a reservation may also be supported by data from the entire reservation.

The Department notes the potential overlap between waivers for reservation areas and the exceptions from the time limit for individuals who meet the definition of an ''Indian'', ''Urban Indian'', or ''California Indian'' per Section 6(o)(3) of the Act. However, not all individuals living in reservation areas will meet these exceptions. In other words, an individual living in a reservation area is subject to the time limit unless the individual meets the definition of an ''Indian'', ''Urban Indian'', or ''California Indian'', or the reservation area in which the individual resides is approved for a waiver.

Restriction on Grouping

Further, the Department proposes changes at 7 CFR 273.24(f)(7) to restrict the practice of grouping. This would only allow combining data from individual localities when they are collectively considered to be an entire Commuting Zone or entire intrastate portion of an interstate Commuting Zone. This will eliminate the opportunities to manipulate data to waive areas that do not meet the criteria outlined in the Act. It would also ensure that only areas that are economically tied are grouped together. Under this proposal, State agencies would use the unemployment and labor force data from the individual area to support their requests. Requests may still include multiple areas, so long as there is data provided that support each individual area that meets the standards outlined in the revised 7 CFR 273.24(f)(2).

*Additional Proposed Changes to Evaluating Requests for Waivers of the Time Limit*

The Department also proposes to improve the integrity of waivers via changes to the duration of waiver approval, ensuring the support of the chief executive in the State, and detailing the principle of Secretarial discretion on such requests.

Duration of Waivers of the Time Limit

The Department also examined the duration of time limit waivers and believes that, even with the proposed changes, the nexus between the data and a waiver becomes untenable after one year. Current rules at 7 CFR 273.24(f)(5) provide for a one-year approval period, generally, but also explain when the Department may or may not approve for this amount of time. These circumstances for varied approval lengths include using longer periods of data to support the length of the request, options to request a shorter approval period, and the Department's right to approve for longer periods if the reasons are compelling.

Over time, this flexibility for longer approval periods devolved into a standard option for two-year waiver approvals. Existing guidance allows for two-year approval periods when the request includes data that meets certain circumstances. The Department is concerned that this allows State agencies to receive longer approvals while incorporating older data.

To ensure that waivers reflect current economic conditions, not stale data, the Department proposes to streamline the duration of approval periods to one year but allow for a shorter period at a State agency's request by revising 7 CFR 273.24(f)(5) and redesignating 7 CFR 273.24(f)(8).

Chief Executive Officer Support of Waiver Requests

Section 4005(b)(2) of the Agricultural Improvement Act of 2018 (Pub. L. 115–334) amended the Act to require that a State agency's request to waive the time limit be supported by the State's chief executive officer. This requirement underscores the importance of ensuring State leadership is aligned in how the State agency supports work and addresses economic hardship in areas within the State. The Department is taking this opportunity to incorporate in regulation that the waiver request must have the support of the State chief executive officer. The Department proposes to incorporate this update at 7 CFR 273.24(f)(1).

Secretarial Discretion

In addition to establishing the required employment conditions for an area to be eligible to waive the time limit, Congress commits to the Secretary additional discretion in approving these waivers at Section 6(o)(4) of the Act (''the Secretary may waive the [time limit] to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—(i) has an unemployment of over 10 percent; or (ii) in a noncontiguous State and has an unemployment rate that is at or above 1.5 times the national unemployment rate.''). The language sets forth the mandatory conditions which must exist before the Secretary may consider granting a waiver request. The ''may waive'' language indicates that the Secretary is under no obligation to grant a State agency's request for a waiver even if the criteria in clause (i) or (ii) are met. The determination of such unemployment rate thresholds is the necessary first step before the Act empowers the Secretary with the discretion to render a decision on the waiver request.

In order to better conform with the statutory directive to the Secretary and avoid overly expansive waivers of time limits, the Department proposes adding a new paragraph 7 CFR 273.24(f)(9) that specifies FNA may deny requests to waive the time limit when contrary evidence pertaining to the employment prospects for time-limited participants in the requested area is available. The Department further proposes to eliminate current paragraph 7 CFR 273.24(f)(3), which allows for readily approvable waivers when a State agency provides certain economic data. These proposed changes would remove provisions that ignored the discretion provided to the Secretary by the statute and ensure State agencies are aware that FNA may deny a request even when it supplies the data required at 7 CFR 273.24(f)(2). Factors that may be considered in exercising this discretion may include the availability of recent, readily accessible, robust data that contradicts the information supplied by the State agency. The Department seeks comments on specific factors or measures it should consider as part of its Secretarial discretion to approve waivers.

*Section 10102(c) of the OBBB—Good Faith Exemptions From the Time Limit*

Section 10102(c) of the OBBB establishes a new, temporary type of exemption only for noncontiguous States at Section 6(o)(7) of the Act. The Department may approve a State request to exempt individuals in noncontiguous States from the time limit if it determines that the State agency is demonstrating a good faith effort to comply with the time limit requirements. This proposed rule would codify USDA's regulatory implementation of this authority at 7 CFR 273.24(m).

The definition of noncontiguous State for good faith exemptions at Section

6(o)(7)(A) of the Act is the same as for waivers of the time limit. This definition only applies to Alaska and Hawaii. As discussed in a previous section, the Department proposes to add this definition at 7 CFR 273.24(a)(5).

Under the OBBB, the Department will consider multiple factors to determine whether to approve a State agency for a good faith effort exemption. The factors include (1) any actions taken by the State agency toward compliance with the time limit requirements; (2) any significant barriers to or challenges in meeting those requirements, including barriers or challenges relating to funding, design, development, procurement, or installation of necessary systems or resources; (3) the State agency's detailed plan and timeline for achieving full compliance with those requirements, including key milestones; and (4) any other criteria determined appropriate by the Secretary. The Department proposes including subparagraph 7 CFR 273.24(m)(1) to require a State agency request for a good faith exemption to include a description for each of the aforementioned factors.

Given the authority to establish other criteria at Section 6(o)(7)(C)(iv), the Department proposes that the State agency must also submit plans for using performance metrics and applying the exceptions to certain populations.

The State agency must submit a detailed plan for tracking and analyzing performance metrics for cases subject to the time limit. Given good faith exemptions are designed to help State agencies reach full compliance with administering the time limit, it is important the State agency explain how it will take a data-informed approach to understand its progress. The Department proposes to include this requirement at 7 CFR 273.24(m)(1)(iv). The Department also seeks comments on specific metrics the State agency could include in its plan.

The State agency must also explain which populations in the State it would exempt under the requested good faith exemption. This is important for the Department to understand the limitations under which the State agency will exempt individuals in the State. For instance, as it works towards full compliance with administering the time limit, the State agency may target populations in certain geographic areas of the State, in a certain age range, or with other characteristics. The Department proposes to include this requirement at 7 CFR 273.24(m)(1)(v).

Good faith exemptions expire no later than December 31, 2028, and may not be renewed beyond that date per Section 6(o)(7)(D)(i) of the Act. This proposed rule would include the sunset clause at 7 CFR 273.24(m)(2).

Additionally, the Department may terminate a good faith exemption prior to the expiration date per Section 6(o)(7)(D)(ii) of the Act if it determines that the State agency has (1) failed to comply with the reporting requirements discussed in Section 6(o)(7)(E) of the Act; or (2) based on such reported information the State agency has failed to make continued good faith efforts towards compliance with the time limit requirements. The Department proposes to include this early termination clause at 7 CFR 273.24(m)(3).

If the Department grants a State agency a good faith exemption, the State agency must submit information to the Department in accordance with Section 6(o)(7)(E) of the Act. This information must include (1) quarterly progress reports on the status of the State agency in achieving the milestones toward full compliance with the time limit; and (2) information on specific risks or newly identified barriers or challenges to full compliance, including the State agency's plan to mitigate those risks, barriers, or challenges. The Department proposes such State agencies submit quarterly reports every three months following implementation of the good faith exemption. The Department proposes to include these State reporting requirements at 7 CFR 273.24(m)(4).

*Procedural Matters*

*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 regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has been determined to be economically significant under section 3(f)(1) of Executive Order 12866 and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

This proposed rule, if finalized as proposed, is expected to be exempt from otherwise-applicable requirements of Executive Order 14192, per footnote 1 of OMB's Accounting Methods.[6]

Regulatory Impact Analysis Summary

As required for all rules that have been designated as Significant by the Office of Management and Budget, a Regulatory Impact Analysis (RIA) was developed for this proposed rule. It follows this rule as an Appendix. The following summarizes the conclusions of the regulatory impact analysis:

*Need for Action:* This rulemaking codifies USDA's regulatory implementation of provisions of the One Big Beautiful Bill Act of 2025 (OBBB) (Pub. L. 119–21) addressing the time limit for receipt of Supplemental Nutrition Assistance Program (SNAP) benefits for certain individuals. In accordance with the OBBB, these changes would include modifying the list of exceptions from the time limit for certain populations; updating requirements for areas to qualify for waivers for the time limit; and adding temporary good faith exemptions in Alaska and Hawaii. Additionally, this rule also proposes to strengthen requirements for requesting waivers of the time limit and revise the SNAP definition of a homeless individual.

*Benefits:* The changes in this NPRM will align SNAP rules with the changes in the OBBB. This is necessary to facilitate changes to program implementation, thus reducing transaction cost of administering the changes.

*Costs:* This rule will result in annual costs to State agencies, the Federal Government, and households to request and approve waivers of the SNAP time limit and to issue and receive Notices of Adverse Action when participants are at risk of losing SNAP eligibility.

*Unquantified Effects:* The Regulatory Impact Analysis assesses the projected changes in transfer payments and the increase in administrative costs to individuals, States, and the Federal government.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it has been certified that this rule would not have a significant impact on a substantial number of small entities. This proposed rule would not have an impact on small entities because it

[6] *https://www.reginfo.gov/public/pdf/eo14192/Accounting_Methods_under_EO_14192.pdf.*

affects certification requirements for SNAP households, which are administered by State agencies.

*Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This proposed rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of $100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

*Executive Order 12372*

This Supplemental Nutrition Assistance Program is listed in the Catalog of Federal Domestic Assistance under Number 10.551 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

*Federalism Summary Impact Statement*

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132.

The Department has determined that this rule does not have Federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a Federalism summary impact statement is not required.

*Executive Order 12988, Civil Justice Reform*

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

*Civil Rights Impact Analysis*

USDA has reviewed the Proposed Rule, in accordance with the Agriculture Improvement Act of 2018, ''2018 Farm Bill'', Section 12403, *Civil Rights Analyses,* to identify and address any major civil rights impacts the Proposed Rule might have on specific groups. While the Department believes that the changes to the exception criteria and waiver criteria have the potential for impacting certain groups, these changes are required under the statute. Other changes proposed to strengthen requirements for waiver requests may also impact certain groups due to external factors affecting rates of employment of members of these groups. The Agency will implement the noted mitigation strategies and monitor complaint activity. Additionally, the Civil Rights Division will propose further outreach and mitigation strategies to alleviate any unforeseen impacts, if deemed necessary.

*Executive Order 13175*

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

FNA provided an opportunity for consultation on October 15, 2025. Additionally, five Tribal Organizations provided written comments. The Tribes provided comments, summarized below, about data accuracy, definitions of exceptions for ''Indians'', ''Urban Indians'' and ''California Indians'', verification standards, outreach, and SNAP access, and Tribal administration.

The Tribes had comments concerning availability and accuracy of unemployment data for tribal lands. Tribal Leaders indicated a desire to self-certify Tribal unemployment data when State agencies request waivers of the SNAP time limit due to discrepancies between the unemployment data reported by the BLS and the data maintained by the Tribes themselves. This proposed rule recognizes that data from the BLS or a BLS-cooperating agency is limited or unavailable for reservation areas. Given that the BLS or a BLS-cooperating agency is the national authority on unemployment data, the Department proposes that, when available, State agencies must continue to use such data. However, if data from the BLS or a BLS-cooperating agency is unavailable, the Department proposes to continue to allow State agencies to provide alternate data sources or methods.

Tribal Leaders also discussed the need for proactive guidance on new exceptions for ''Indians'', ''Urban Indians'', and ''California Indians'' under the Indian Health Care Improvement Act (IHCIA). One comment noted that the IHCIA definitions do not fully align with definitions in the Food and Nutrition Act of 2008 (the Act) or Tribal enrollment processes. FNA will work to provide technical assistance on these new exceptions and welcomes specific suggestions on opportunities to align definitions. One comment also requested FNA clarify that the exceptions apply regardless of residence on Reservation lands. FNA affirms that individuals must only meet the IHCIA definitions; there is no further requirement to live on Reservation lands.

Similarly, Tribal Leaders expressed concern about the risk of burdensome verification requirements and stressed the need to coordinate with Tribal Nations and federal agencies to streamline and allow flexibility for verification of Tribal status. As a reminder, State agencies must follow verification rules per 7 CFR 273.2(f) and 273.24(l), including verifying information if questionable and accepting multiple forms of documentation. FNA will also take further comments on specific ways to improve verification processes.

Additionally, Tribal Leaders expressed that State agencies should be required to provide notice of the changes and requested outreach funding for providing culturally appropriate information to Tribal members. Under

existing rules at 7 CFR 273.7(c)(1), State agencies must notify SNAP applicants and participants of exceptions from the time limit, which includes the exceptions for Indians, Urban Indians, and California Indians. Also, FNA encourages State agencies to conduct outreach to Tribal populations on such changes. Such outreach costs are allowable administrative costs eligible for partial reimbursement under Section 16 of the Act.

Additionally, Tribal Leaders expressed concern that the One Big Beautiful Bill Act of 2025 removes exceptions for older adults, veterans, and those aging out of foster care from meeting work requirements, which may lead to the ineligibility of some Tribal members currently participating in SNAP. While FNA recognizes this impact, these area statutory provisions required under the OBBB, and therefore, cannot be changed by this rulemaking. Additionally, FNA expects many of these individuals will retain eligibility due to the new exception from the time limit for individuals who meet the definition of ''Indian'', ''Urban Indian'', or ''California Indian'' under the IHCIA.

Lastly, Tribal Leaders expressed continued interest in Tribal administration of SNAP and voiced their support of SNAP being added to the Indian Self-Determination and Education Assistance Act to allow Tribes to self-administer the program. While FNA appreciates this feedback, this would be a statutory change and tribal administration of SNAP is beyond the scope of the proposed rule. In addition to the comments submitted during this consultation period, the Department will also consider written comments submitted during the proposed rule public comment period. If a Tribe requests further consultation in the future, FNA will work with the Office of Tribal Relations to ensure meaningful consultation is provided.

*Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number. In accordance with the Paperwork Reduction Act of 1995, this proposed rule would contain information collections that are subject to review and approval by the Office of Management and Budget; therefore, the Department is submitting for public comment the changes in the information collection burden that would result from adoption of the proposals in the rule. These burden estimates are contingent upon OMB approval under the Paperwork Reduction Act of 1995. When the final rulemaking information collection request is approved, the Department will publish a separate notice in the **Federal Register** announcing OMB's approval.

Comments on this proposed rule must be received by December 10, 2026. Send comments to Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for FNA, Washington, DC 20403, Fax: 202–395–7285, or email to *oira_submission@omb.eop.gov.* Please also send a copy of your comments to the SNAP Program Development Division at the Food and Nutrition Administration, U.S. Department of Agriculture, 5601 Sunnyside Ave., Beltsville, MD 20705. For further information please contact the SNAP Program Development Division, at the above address.

Comments on this proposed rule must be received by December 10, 2026. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

*Title:* Supplemental Nutrition Assistance Program: Work Requirements and Screening.

*OMB Number:* 0584–0479.

*Expiration Date:* 7/31/2028.

*Type of Request:* Revision to an existing collection.

*Abstract:* The proposed rule would amend SNAP regulations to implement changes made by the One Big Beautiful Bill Act (OBBB). Some of the changes would modify current regulations resulting in an increase in the reporting burden for State agencies and individuals, while others will result in no change.

The OBBB changed who is subject to the time limit. The Department estimates the changes to the age-based exception, dependent child exception, and FRA exceptions will result in an increase in the number of individuals subject to the time limit. Conversely, the new exceptions for individuals who are an ''Indian'', ''Urban Indian'', or ''California Indian'' will result in a slight decrease in individuals subject to the time limit. The Department anticipates these changes will result in additional State agency and household burden related to verification of work hours and countable months, as well as issuance and review of the Consolidated Work Notice, including oral explanation of the work requirements for individuals newly subject to the time limit. The Department further anticipates additional burden related to the issuance and review of the Notice of Adverse Action for individuals newly subject to the time limit who reach three countable months and are disqualified from SNAP. Additionally, the Department estimates the proposed rule will increase the burden related to screening, as more individuals must now be screened for exceptions from the time limit.

The OBBB also changed the criteria for qualifying for a waiver of the time limit. In addition to codifying USDA's regulatory implementation of these statutory changes to waiver criteria, this proposed rule would make changes to criteria for waivers of the time limit to define area and requirements for supporting data at 7 CFR 273.24(f) to ensure waivers reflect recent, sustained, and accurate unemployment rates. The Department estimates fewer State agencies will qualify for and request waivers of the time limit, leading to a decrease in State agency burden related to the preparation and submission of waiver requests. The Department estimates these changes will reduce the number of individuals covered by a waiver, resulting in additional State agency and household burden related to verification of work hours and countable months, issuance and review of the Consolidated Work Notice, and oral explanation of the work requirements for individuals newly subject to the time limit. The Department also anticipates additional burden related to the issuance and review of the Notice of Adverse Action for individuals newly subject to the time limit who reach three countable months and are disqualified.

The OBBB establishes a new, temporary type of exemption for noncontiguous States, referred to as ''good faith exemptions.'' The Department may approve a State agency request to exempt individuals in Alaska

and Hawaii from the time limit upon determination that the State agency is demonstrating a good faith effort to comply with the time limit requirements. This proposed rule would codify USDA's regulatory implementation of good faith exemptions, resulting in an increase in State agency burden related to the preparation and submission of a good faith exemption request.

The rule would also revert the definition of ''homeless individual'' at 7 CFR 271.2 to the language prior to the final rule ''Supplemental Nutrition Assistance Program: Program Purpose and Work Requirements Provisions of the Fiscal Responsibility Act of 2023'' (89 FR 102342). The Department does not anticipate any burden related to this change.

The Department anticipates start-up burden related to these statutory and regulatory changes. State agencies need to update their eligibility systems and notices to include the new exceptions and changes to the age-based exception. State agencies also need to update their policy manuals and documents with the changes to eligibility and the screening requirements for time-limited participants. Lastly, State agencies need to develop and provide training on the new requirements to State agency staff.

The new burden requirements for this rule require a revision to OMB Control Number: 0584–0479 (expiration date: 7/31/2028), which currently covers burden related to preparation and submission of time limit waivers, screening for the work requirements, and changes made by the FRA. The proposed rule would increase the burden covered under OMB Control Number 0584–0479. Additionally, the Department is making an adjustment to the burden related to screening to reflect more recent estimates of the number of time-limited participants, as well as updates to cost estimates based on more recent data on labor rates. State agencies submit time limit waivers via the Waiver Information Management System (WIMS), and the burden for this submission is covered which is covered under OMB Control Number 0584–0083 (Operating Guidelines, Forms, Waivers, Program and Budget Summary Statement; expiration date: 9/30/2026). The proposed rule would not make changes to burden covered under OMB Control Number 0584–0083.

Start-Up Burden

*Respondents:* State Agencies.

*Estimated Number of Respondents:* 53 State Agencies.

*Estimated Number of Responses per Respondent:* One (1) response.

*Estimated Total Annual Burden on Respondents:* 649,936 hours, an increase of 649,936 hours from current inventory of zero (0) hours in 0584–0479.

Ongoing Burden

*Respondents:* State Agencies and Individuals.

*Estimated Number of Respondents:* 53 State Agencies and 43,822,617 Individuals.

*Estimated Number of Responses per Respondent:* 824,792 responses per State Agency and 1 per Individual.

*Estimated Total Annual Burden on Respondents:* 6,163,351 hours (3,082,075 hours for State Agencies and 3,081,275 hours for Individuals), an increase of 2,131,335 hours from current inventory of 4,032,015 hours in 0584–0479.

The total burden for this rulemaking is 6,813,287 burden hours and 87,536,636 annual responses. The total burden for adjustments in this revision is 341,933 burden hours and 336,415 annual responses. This results in an increase to the burden hours for OMB Control Number 0584–0479, resulting in a total inventory of 4,133,782 burden hours and 61,090,148 annual responses.

This represents an increase to the burden hours for OMB Control Number 0584–0479, resulting in a total inventory of 6,813,287 burden hours (2,781,272 new burden hours + 4,032,015 existing burden hours) and 87,536,636 responses (27,873,701 new responses + 59,662,935 existing responses).

BILLING CODE 3410–30–P

| Activity | Citation | Number of Respondents | Frequency of Response | Total Annual Responses | Hours per Response | Annual Burden (hours) | Hourly Wage Rate | Total Annualized Cost of Respondent Burden | Previously Approved Burden Hours | Change in Burden Hours Due to Program Change | Change in Burden Hours Due to an Adjustment | Total Change in Burden Hours |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| A | B | C | D | E = C x D | F | G = E x F | H | I = (G x H) / 2 | J | K = G - J | | L = J + K |
| **Start-Up Burden** | | | | | | | | | | | | |
| **Affected Public: State Agencies** | | | | | | | | | | | | |
| Update of eligibility system with new requirements (including coding for modified exceptions, updating language on the Notice of Adverse Action and Consolidation Work Notice) | 7 CFR 271.2, 273.24(c), 273.24(f) | 53 | 1 | 53 | 5,911 | 313,296 | $56.87 | $17,817,408.37 | 0 | 313,296 | 0 | 313,296 |
| Update policy manuals, guidance, and other documents with new requirements | 7 CFR 271.2, 273.24(c), 273.24(f) | 53 | 1 | 53 | 100 | 5,300 | $56.38 | $298,807.11 | 0 | 5,300 | 0 | 5,300 |
| Develop and provide training to staff on new requirements | 7 CFR 271.2, 273.24(c), 273.24(f) | 53 | 1 | 53 | 100 | 5,300 | $56.38 | $298,807.11 | 0 | 5,300 | 0 | 5,300 |
| Take training on new requirements | 7 CFR 271.2, 273.24(c), 273.24(f) | 108,680 | 1 | 108,680 | 3 | 326,040 | $31.24 | $10,186,043.87 | 0 | 326,040 | 0 | 326,040 |
| **Reporting Burden Total for Start-Up Burden** | | **108,733** | **1** | **108,733** | **5.98** | **649,936** | **$44.01** | **$28,601,066.46** | **0** | **649,936** | **0** | **649,936** |
| **Ongoing Burden** | | | | | | | | | | | | |
| **Affected Public: State Agencies** | | | | | | | | | | | | |
| ***Burden Related to Modified Exception Criteria and Change in Waiver Coverage*** | | | | | | | | | | | | |
| Additional verification of hours worked and countable months in another State at initial or recertification application for time-limited participants newly subject to the work requirement | 7 CFR 273.2(f)(1), (f)(2), and (f)(8)(i) | 53 | 54,020.33 | 2,863,078 | 0.092 | 262,449 | $31.24 | $8,199,346.48 | 47,407 | 215,041 | 0 | 215,041 |

| Activity | Citation | Number of Respondents | Frequency of Response | Total Annual Responses | Hours per Response | Annual Burden (hours) | Hourly Wage Rate | Total Annualized Cost of Respondent Burden | Previously Approved Burden Hours | Change in Burden Hours Due to Program Change | Change in Burden Hours Due to an Adjustment | Total Change in Burden Hours |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Additional issuance of the Consolidated Work Notice for time-limited participants newly subject to the work requirement | 7 CFR 273.7(c)(1) | 53 | 54,020.33 | 2,863,078 | 0.083 | 238,590 | $31.24 | $7,453,951.35 | 43,098 | 195,492 | 0 | 195,492 |
| Additional review of the oral explanation of the work requirements for time-limited participants newly subject to the work requirement | 7 CFR 273.7(c)(1) | 53 | 54,020.33 | 2,863,078 | 0.083 | 238,590 | $31.24 | $7,453,951.35 | 43,098 | 195,492 | 0 | 195,492 |
| Additional issuance of the Notice of Adverse Action for time-limited participants newly subject to the work requirement who do not meet it | 7 CFR 273.13(a) | 53 | 41,445.47 | 2,196,610 | 0.067 | 146,441 | $31.24 | $4,575,055.38 | 18,804 | 127,637 | 0 | 127,637 |
| Screening for exemptions from the general work requirement at initial application | 7 CFR 273.7(b)(3) | 53 | 314,792.45 | 16,684,000 | 0.067 | 1,112,267 | $31.24 | $34,749,101.52 | 1,103,267 | 0 | 9,000 | 9,000 |
| Screening for exemptions from the general work requirement at recertification application | 7 CFR 273.7(b)(3) | 53 | 50,001.42 | 2,650,075 | 0.067 | 176,672 | $31.24 | $5,519,524.19 | 175,925 | 0 | 747 | 747 |
| Screening for exceptions from the time limit at initial application | 7 CFR 273.24(k) | 53 | 139,389.62 | 7,387,650 | 0.067 | 492,510 | $31.24 | $15,386,849.67 | 345,333 | 145,710 | 1,467 | 147,177 |
| Screening for exceptions from the time limit at recertification application or during the certification period | 7 CFR 273.24(k) | 53 | 117,101.28 | 6,206,368 | 0.067 | 413,758 | $31.24 | $12,926,499.14 | 238,495 | 175,263 | 0 | 175,263 |
| ***Burden Related to Time Limit Waiver Submissions*** | | | | | | | | | | | | |

| Activity | Citation | Number of Respondents | Frequency of Response | Total Annual Responses | Hours per Response | Annual Burden (hours) | Hourly Wage Rate | Total Annualized Cost of Respondent Burden | Previously Approved Burden Hours | Change in Burden Hours Due to Program Change | Change in Burden Hours Due to an Adjustment | Total Change in Burden Hours |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Preparation and submission of Labor Market Data to support time limit waiver request | 7 CFR 273.24(f) | 20 | 1 | 20 | 35 | 700 | $31.96 | $22,371.93 | 1,155 | -455 | 0 | -455 |
| Preparation and submission of Labor Surplus Area designation or EB Trigger Notice criteria to support time limit waiver request | 7 CFR 273.24(f) | 0 | 0 | 0 | 0 | 0 | $37.53 | $0.00 | 8 | -8 | 0 | -8 |
| ***Burden Related to Good Faith Exemption Submissions*** | | | | | | | | | | | | |
| Preparation and submission of request and plan to use good faith exemptions | 7 CFR 273.24(m) | 2 | 1 | 2 | 10 | 20 | $33.76 | $675.11 | 0 | 20 | 0 | 20 |
| Preparation and submission of quarterly progress reports | 7 CFR 273.24(m) | 2 | 4 | 8 | 10 | 80 | $33.76 | $2,700.43 | 0 | 80 | 0 | 80 |
| **Reporting Burden Sub-Total for Ongoing Burden to State Agencies** | | **53** | **824,791.82** | **43,713,967** | **0.071** | **3,082,075** | **$31.24** | **$96,290,026.54** | **2,016,589** | **1,054,273** | **11,213** | **1,065,486** |
| **Affected Public: Individuals** | | | | | | | | | | | | |
| Additional response to verification of hours worked and countable months in another State at initial or recertification application for time-limited participants newly subject to the work requirement | 7 CFR 273.2(f)(1), (f)(2), and (f)(8)(i) | 2,863,078 | 1 | 2,863,078 | 0.092 | 262,449 | $23.75 | $6,231,846.61 | 47,407 | 215,041 | 0 | 215,041 |
| Additional review of the Consolidated Work Notice for time-limited participants newly subject to the work requirement | 7 CFR 273.7(c)(1) | 2,863,078 | 1 | 2,863,078 | 0.083 | 238,590 | $23.75 | $5,665,315.10 | 43,098 | 195,492 | 0 | 195,492 |

| Activity | Citation | Number of Respondents | Frequency of Response | Total Annual Responses | Hours per Response | Annual Burden (hours) | Hourly Wage Rate | Total Annualized Cost of Respondent Burden | Previously Approved Burden Hours | Change in Burden Hours Due to Program Change | Change in Burden Hours Due to an Adjustment | Total Change in Burden Hours |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Additional review of the oral explanation of the work requirements for time-limited participants newly subject to the work requirement | 7 CFR 273.7(c)(1) | 2,863,078 | 1 | 2,863,078 | 0.083 | 238,590 | $23.75 | $5,665,315.10 | 43,098 | 195,492 | 0 | 195,492 |
| Additional review of the Notice of Adverse Action for time-limited participants newly subject to the work requirement who do not meet it | 7 CFR 273.13(a) | 2,196,610 | 1 | 2,196,610 | 0.067 | 146,441 | $23.75 | $3,477,233.63 | 18,804 | 127,637 | 0 | 127,637 |
| Screening for exemptions from the general work requirement at initial application | 7 CFR 273.7(b)(3) | 16,684,000 | 1 | 16,684,000 | 0.067 | 1,112,267 | $23.75 | $26,410,772.00 | 1,103,267 | 0 | 9,000 | 9,000 |
| Screening for exemptions from the general work requirement at recertification application | 7 CFR 273.7(b)(3) | 2,650,075 | 1 | 2,650,075 | 0.067 | 176,672 | $23.75 | $4,195,069.47 | 175,925 | 0 | 747 | 747 |
| Screening for exceptions from the time limit at initial application | 7 CFR 273.24(k) | 7,387,650 | 1 | 7,387,650 | 0.067 | 492,510 | $23.75 | $11,694,649.95 | 345,333 | 145,710 | 1,467 | 147,177 |
| Screening for exceptions from the time limit at recertification application or during the certification period | 7 CFR 273.24(k) | 6,206,368 | 1 | 6,206,368 | 0.067 | 413,758 | $23.75 | $9,824,680.54 | 238,495 | 175,263 | 0 | 175,263 |
| **Reporting Burden Sub-Total for Ongoing Burden to Individuals** | | **43,713,937** | **1** | **43,713,937** | **0.070** | **3,081,275** | **$23.75** | **$73,164,882.40** | **2,015,426** | **1,054,636** | **11,213** | **1,065,849** |
| **Reporting Burden Total for Ongoing Burden** | | **43,713,990** | **2** | **87,427,903** | **0.070** | **6,163,351** | **$27.49** | **$169,454,908.94** | **4,032,015** | **2,108,909** | **22,427** | **2,131,335** |
| **Reporting Burden Total for All Burden** | | **43,822,670** | **2** | **87,536,636** | **0.078** | **6,813,287** | **$29.07** | **$198,055,975.40** | **4,032,015** | **2,758,845** | **22,427** | **2,781,272** |

BILLING CODE 3410–30–C

*E-Government Act Compliance*

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

**List of Subjects**

*7 CFR Part 271*

Administrative practice and procedures, Employment, Supplemental Nutrition Assistance Program.

*7 CFR Part 273*

Administrative practice and procedure, Employment, Indian Reservations, Time limit, U.S. Territories, Waivers, Work requirements.

Accordingly, the Food and Nutrition Administration proposes to amend 7 CFR parts 271 and 273 as follows:

## PART 271—GENERAL INFORMATION AND DEFINITIONS

■ 1. The authority citation for part 271 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036.

■ 2. In § 271.2, revise the definition of ''homeless individual'' to read as follows:

**§ 271.2 Definitions.**

* * * * *

*Homeless individual* means an individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

(1) A supervised shelter designed to provide temporary accommodations (such as a welfare hotel or congregate shelter);

(2) A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

(3) A temporary accommodation for not more than 90 days in the residence of another individual; or

(4) A public or private place not designed for, or ordinarily used, as a regular sleeping accommodation for human beings (a hallway, a bus station, a lobby, or similar places).

* * * * *

## PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

■ 3. The authority citation for part 273 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036.

■ 4. Amend § 273.24 by revising the section heading, paragraphs (a)(5), (c), and (f), and adding paragraph (m) to read as follows:

■ 5. Revise the title to read ''SNAP Time Limit''

■ 6. In § 273.24, add paragraph (a)(5).

■ 7. In § 273.24, revise paragraph (c) to read as follows.

■ 8. In § 273.24, revise paragraph (f) to read as follows.

■ 9. In § 273.24, add paragraph (m).

The revisions and additions read as follows:

**§ 273.24 SNAP Time Limit.**

* * * * *

(a) * * *

(5) *Noncontiguous State* means a State agency other than the contiguous 48 States, the District of Columbia, Guam, and the U.S. Virgin Islands.

* * * * *

(c) *Exceptions.* The time limit does not apply to an individual if he or she is:

(1) Under 18 or 65 years of age or older;

(2) Determined by the State agency to be medically certified as physically or mentally unfit for employment. An individual is medically certified as physically or mentally unfit for employment if he or she:

(i) Is receiving temporary or permanent disability benefits issued by governmental or private sources;

(ii) Is obviously mentally or physically unfit for employment as determined by the State agency; or

(iii) If the unfitness is not obvious, provides a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist, a social worker, or any other medical personnel the State agency determines appropriate, that he or she is physically or mentally unfit for employment.

(3) Is a parent (natural, adoptive, or step) of a household member under age 14, even if the household member who is under 14 is not himself eligible for SNAP benefits;

(4) Is residing in a household where a household member is under age 14, even if the household member who is under 14 is not himself eligible for SNAP benefits;

(5) Is otherwise exempt from work requirements under section 6(d)(2) of the Food and Nutrition Act of 2008, as implemented in regulations at § 273.7(b)(1)(ii) through (vii);

(6) Is pregnant;

(7) an Indian or an Urban Indian (as such terms are defined in paragraphs (13) and (28) of section 4 of the Indian Health Care Improvement Act); or

(8) a California Indian described in section 809(a) of the Indian Health Care Improvement Act.

* * * * *

(f) *Waivers*—(1) *General.* The State agency, with the support of the chief executive officer of the State, may request FNA approval to temporarily waive the time limit for a group of individuals in the State in the area in which the individuals reside. To be considered for approval, the request must be supported by corresponding data or evidence demonstrating that the requested area:

(i) Has an unemployment rate of over 10 percent; or

(ii) is in a noncontiguous State and has an unemployment rate that is at or above 1.5 times the national unemployment rate.

(2) *Required Data.* FNA may approve waiver requests under paragraphs (f)(1)(i) and (ii) supported by any one of the following:

(i) Data from the Bureau of Labor Statistics (BLS) or a BLS-cooperating agency that shows an area has a recent 12-month average unemployment rate over 10 percent; or

(ii) Data from the BLS or a BLS-cooperating agency that shows an area in a noncontiguous State has a recent 12-month average unemployment rate at or above 1.5 times the national unemployment rate.

(3) *Other data and evidence in an exceptional circumstance.* FNA may approve waiver requests that are supported by data or evidence other than those listed under paragraph (f)(2) of this section if the request demonstrates an exceptional circumstance in an area. The request must demonstrate that the exceptional circumstance is accompanied by an unemployment rate over 10 percent or at or over 1.5 times the national average for noncontiguous States. For example, this may include data from the BLS or a BLS-cooperating agency that shows an area has a most recent three-month average unemployment rate meeting the required threshold. In addition, the request must demonstrate that the impact of the exceptional circumstance is ongoing at the time of the request. Supporting unemployment data provided by the State must rely on standard BLS data or methods, if available.

(4) *Areas with limited data or evidence.* Waiver requests for an area for which standard BLS data or data from a BLS-cooperating agency is limited or unavailable, such as a reservation area or U.S. Territory, must meet criteria in (f)(1) but, are not required to conform to

the criteria for approval under paragraphs (f)(2), (3), and (6) of this section. The supporting data or evidence provided by the State must be recent and must correspond to the requested area. FNA may approve waivers for these areas if the requests are supported by sufficient data or evidence, such as estimated unemployment rates based on available data from BLS and the U.S. Census Bureau.

(5) *Definition of area.* For the purposes of subsection (f), ''area'' means:

(i) A Commuting Zone recognized by the Economic Research Service (ERS);

(ii) A county or county-equivalent;

(iii) A reservation area or a U.S. Territory.

(6) *Areas that cross State borders.* Although Commuting Zones and reservation areas may cross State borders, the State agency may only request a waiver for areas within its State geographic boundaries. However, such a waiver request may be supported by data representative of the area within its State boundaries or the entire interstate area. For example, although the Commuting Zone for Memphis, Tennessee, includes counties in Mississippi and Arkansas, Tennessee may only request a waiver for the portion of the Commuting Zone within Tennessee borders. To support such a waiver request, Tennessee may submit data reflecting the Commuting Zone portion within Tennessee or the entire Commuting Zone.

(7) *Rules for combining data to group substate areas.* The State agency may only combine data from individual localities to assess unemployment rates for an area described in (f)(5)(i) or (iii).

(8) *Duration of waiver approvals.* In general, FNA will approve waivers for one year. FNA may approve waivers for a shorter period at the State agency's request.

(9) *Agency discretion.* FNA reserves the right to deny requests to waive the time limit when contrary, recent, readily-accessible, and robust evidence pertaining to the employment prospects for time-limited adults in the requested area is available.

* * * * *

(m) *Good faith effort determination.* The Secretary may approve a request from a noncontiguous State to exempt individuals from the time limit if the Secretary determines that the State agency is demonstrating a good faith effort to implement the time limit requirements.

(1) The State agency must submit a request to use such exemptions which describes:

(i) Any actions taken by the State agency toward compliance with the time limit requirements;

(ii) Any significant barriers to or challenges in meeting those requirements, including barriers or challenges relating to funding, design, development, procurement, or installation of necessary systems or resources;

(iii) The State agency's detailed plan and timeline for achieving full compliance with those requirements, including key milestones;

(iv) The State agency's plan for tracking and analyzing performance metrics for cases subject to the time limit, such as quality control metrics, timeliness rates, and other metrics as appropriate; and

(v) The State agency's plan for which individuals in the State it would exempt if the Secretary approves such exemptions under paragraph (m).

(2) *Duration of exemption.* Exemptions granted under paragraph (m) expire no later than December 31, 2028, and may not be renewed beyond that date.

(3) *Early termination.* The Secretary may terminate approval for exemptions granted under paragraph (m) prior to the expiration date of that exemption if the Secretary determines that the State agency:

(i) Has failed to comply with the reporting requirements described in subparagraph (4); or

(ii) Based on the information provided in such reports, has failed to make continued good faith efforts toward compliance with the time limit requirements.

(4) *Reporting requirements.* A State agency granted an exemption under subparagraph (m) must submit to the Secretary:

(i) Quarterly progress reports on the status of the State agency in achieving the milestones toward full compliance described in paragraph (1)(iii) of this section; and

(ii) Information on specific risks or newly identified barriers or challenges to full compliance, including the State agency's plan to mitigate those risks, barriers, or challenges.

**Shiela Corley,**

*Acting Administrator.*

[FR Doc. 2026–22944 Filed 11–9–26; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Administration

### 7 CFR Part 273

**[FNA–2026–0661]**

**RIN 0584–AF10**

## Supplemental Nutrition Assistance Program: Reforming Categorical Eligibility

**AGENCY:** Food and Nutrition Administration (FNA), USDA.

**ACTION:** Proposed rule.

**SUMMARY:** Under section 5(a) of the Food and Nutrition Act of 2008, households in which each member receives benefits under a State program funded by Temporary Assistance for Needy Families (TANF) are categorically eligible for the Supplemental Nutrition Assistance Program (SNAP). Current SNAP regulations consider TANF benefits to include both cash assistance and non-cash or in-kind benefits or services from TANF-funded programs. This proposal would limit categorical eligibility to only households that receive TANF assistance, as defined at 45 CFR 260.31. These revisions would ensure that SNAP benefits are targeted to needy households that have qualified for TANF assistance while still aligning categorical eligibility's statutory purpose of simplifying program administration.

A 100-word summary of this rule has been posted to *www.regulations.gov* and can be found here.

**DATES:** Written comments must be received on or before December 10, 2026 to be assured of consideration.

**ADDRESSES:** The Food and Nutrition Administration, USDA, invites interested persons to submit written comments on this proposed rule. Comments may be submitted in writing by one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Send comments to SNAP Program Development Division, Food and Nutrition Administration, 5601 Sunnyside Ave., Beltsville, MD 20705.
- *Website:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email:* Send comments to: *sm.fn.snappdbrules@usda.gov.* Include Docket ID Number [FNA–2026–0661], ''Supplemental Nutrition Assistance Program: Reforming Categorical Eligibility'' in the subject line of the message.

• All written comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNA will make the written comments publicly available on the internet via *http://www.regulations.gov.* The Department believes that this proposal to limit categorical eligibility to only households that receive TANF assistance, as defined at 45 CFR 260.31, aligns with SNAP's statutory eligibility requirements. However, the Department invites comments on whether there are alternative approaches to limit categorical eligibility with TANF that achieve the same policy goals.

**FOR FURTHER INFORMATION CONTACT:** SNAP Program Development Division, Food and Nutrition Administration, 5601 Sunnyside Ave., Beltsville, MD 20705, Phone: (703) 305–2022.

**SUPPLEMENTARY INFORMATION:**

## Prior Rulemaking

The U.S. Department of Agriculture (USDA or the Department) previously proposed changes to categorical eligibility on July 24, 2019. The proposed rule, titled ''Revision of Categorical Eligibility in the Supplemental Nutrition Assistance Program (SNAP),'' would have limited the Temporary Assistance for Needy Families (TANF) benefits that may be used to confer categorical eligibility for SNAP to those that were ongoing and substantial (84 FR 35570). Categorical eligibility allows households that have been determined eligible for TANF or certain other means-tested programs to also be eligible for SNAP. The Biden Administration withdrew the proposed rule on June 10, 2021 (86 FR 30795). The Department is now proposing revised changes to categorical eligibility rules to limit categorical eligibility only to households that receive TANF assistance, as defined at 45 CFR 260.31. As explained in the Regulatory Impact Analysis accompanying this rule, the Department acknowledges these revisions may result in some level of increased administrative burden on States, a reduction in SNAP benefit spending, and associated effects on school meals eligibility.

## Background

SNAP provides nutrition assistance to eligible, low-income households who apply for participation and meet nationwide income and resource standards created by Congress.[1] The Food Stamp Act of 1977 (Pub. L. 93–86) established eligibility for SNAP, then known as food stamps, based on household income and resources. The Omnibus Reconciliation Act of 1982 (Pub. L. 97–759) revised those income eligibility standards to create the Federal standards SNAP uses today. Currently, the Food and Nutrition Act of 2008 (7 U.S.C. 2011 *et seq.*) (the Act) requires that households without elderly or disabled members have a monthly gross income equal to or lower than 130 percent of the Federal Poverty Guidelines (FPG) and a net income equal to or lower than 100 percent of the FPG to be SNAP eligible. Households with an elderly or disabled member need only meet the net income limit. The Act also specifies resource limits for SNAP households.

To simplify the eligibility determination process for households that qualify for a variety of benefit programs in addition to SNAP, the Food Security Act of 1985 (Pub. L. 99–198) amended Section 5(a) of the Act to create a categorical eligibility pilot project which eliminated the need for State workers to repeat an eligibility determination for SNAP if a household had already been determined eligible for another means-tested assistance program with financial criteria equal to or more restrictive than SNAP. The Food Security Act of 1985 temporarily established SNAP categorical eligibility for households in which all members received Supplemental Security Income (SSI) benefits or cash benefits from the Aid to Families with Dependent Children (AFDC) program.

The Hunger Prevention Act of 1988 (Pub. L. 100–435) made categorical eligibility permanent. In describing the purpose of categorical eligibility, the Senate report on the Hunger Prevention Act of 1988 noted that ''relying on eligibility determinations made under other programs can greatly reduce the paperwork burden on both applicants and eligibility workers while assuring that food stamps go only to very needy individuals.'' [2]

SNAP certification starts with an eligibility determination, followed by a benefit calculation. Categorical eligibility impacts the eligibility determination by allowing State SNAP agencies to ''deem,'' or accept, specified eligibility factors from another means-tested program's eligibility determination for the purpose of determining SNAP eligibility. These factors are limited to resources, gross and net income limits, residency, social security number, and sponsored alien information, as described in 7 CFR 273.2(j)(2)(v). Individuals who are not eligible for SNAP based on certain nonfinancial factors, including alien ineligibility, student ineligibility, and failure to comply with work requirements, cannot become eligible via categorical eligibility. Current SNAP regulations do not require State agencies to verify categorically eligible households' incomes to determine their *eligibility,* but they must verify all households' incomes to determine their *benefit calculation.*

At the time Congress created categorical eligibility, AFDC and SNAP had similar eligibility requirements and served a similar population. AFDC provided cash assistance to needy families with children. While States had flexibility under AFDC to define need, set benefit levels, and establish resource limits, the income and resource limits had to fall within Federal limitations, which in most cases aligned with or were more stringent than those of SNAP.[3] Almost all AFDC families were income-eligible for SNAP, and about 85 percent of AFDC families also received SNAP.[4] Therefore, Congress authorized categorical eligibility permanently based on similarities between the programs at the time.

The close alignment between the programs began to shift with the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). PRWORA replaced AFDC with the Temporary Assistance for Needy Families (TANF) block grant program. This represented a fundamental change in the program, transitioning from primarily cash assistance to cash assistance and other non-cash services.[5] States gained

[1] The terminology used in the Food and Nutrition Act of 2008 (the Act) differs somewhat from that used in SNAP regulations. While the Act uses both the terms ''resources'' and ''assets,'' SNAP regulations typically use the term ''resources.''

[2] Senate report 100–397; June 23, 1988.

[3] Federal law specified that families with more than $1,000 in countable resources were ineligible for AFDC. *See* 42 U.S.C. 602(a)(7)(B). In addition, while no Federal income limit was established under AFDC, the income of eligible AFDC families could not exceed 185 percent of the State-defined standard of need. *See* 42 U.S.C. 602(a)(18) (1981) The provision was implemented through federal regulation at 45 CFR 233.20(a)(3)(xiii)(C) (1984), which required states to deny AFDC assistance to families whose gross income exceeded 185 percent of the state's need standard.

[4] *https://www.govinfo.gov/content/pkg/GPO-CPRT-105WPRT37945/pdf/GPO-CPRT-105WPRT37945-2-7.pdf.*

[5] States must use TANF funding to provide income support and services designed to accomplish the program's four broad purposes. The four purposes of TANF are to: (1) Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives; (2)

Continued

significant control over TANF eligibility criteria, and the Federal parameters for income and resource limits under AFDC were eliminated. While States continued to offer cash assistance, many States began to use TANF funds on non-cash benefits, such as programs and benefits without the income and resource limits that had defined AFDC. TANF allows States to fund a wide range of services, including childcare, work, education and training activities, pre-K and Head Start, nonrecurrent short-term benefits, child welfare services, and a variety of other family support services.[6] Resource limits are set by States, and not Federally required, for TANF-funded benefits, and States' income criteria for non-cash assistance vary greatly and can sometimes far exceed SNAP limits. The proliferation of programs with eligibility criteria significantly different from SNAP standards has created a challenge for the Department in preserving categorical eligibility as originally intended.

In the wake of PRWORA, the Department acknowledged the complexity introduced by the change from AFDC to TANF but reaffirmed categorical eligibility's original purpose of supporting program administration. A July 14, 1999, policy memo noted that the intent of categorical eligibility was ''to deem eligibility for food stamp families already subjected to an income and resource test'' under TANF.[7] Therefore, the memo affirmed, States have discretion over whether to confer categorical eligibility to recipients of TANF-funded benefits that are not limited to needy families.[8]

Less than two years later, with the publication of a final rule codifying PRWORA changes to SNAP,[9] the Department acknowledged the degree of State discretion allowed by the 1999 memo had ''allowed State agencies to use categorical eligibility beyond the scope of what was originally intended.'' The rule attempted to place bounds, that were still beyond the scope of what was originally intended, on categorical eligibility by establishing a 200 percent FPG gross income limit for TANF- or state maintenance of effort (MOE)-funded programs not designed to target ''needy families.'' In doing so, the rule acknowledged that the changes made by PRWORA allowed States to fund in-kind and non-cash TANF benefits, including some benefits (under TANF purposes three and four) without income eligibility criteria. However, the rule reiterated the Department's understanding that the purpose of categorical eligibility was to eliminate superfluous eligibility tests, not to increase income eligibility criteria, or eliminate eligibility criteria entirely.

Despite the guardrails the rule attempted to establish, the practice of using non-cash TANF-funded programs to confer categorical eligibility continued and, in fact, expanded. Initially, these non-cash programs included benefits, such as work supports, kinship care resources, and transitional benefits. Beginning in 2009, States began implementing particularly expansive categorical eligibility policies, known as ''broad-based categorical eligibility'' or BBCE.[10] At the time, data indicated many eligible low-income households were not accessing SNAP benefits. SNAP participation had dropped after the passage of PRWORA [11] and BBCE was seen as a way to increase participation among eligible households. From FY 2008 to FY 2011 the number of States implementing BBCE policies grew from 18 to 43. This widescale adoption of the policy was not organic but was encouraged formally by USDA under the Obama administration explicitly ''to increase SNAP participation''.[12] There was a corresponding rise in the number of SNAP participants overall reaching a record of nearly 45 million participants,[13] and also an increase in households that exceeded SNAP's Federal income and resource limits for SNAP, reflecting their eligibility only due to BBCE. In recent years, the share of participants in households with income and/or resources exceeding the Federal limits for SNAP has increased to 17.6 percent (as shown in the Regulatory Impact Analysis).[14]

States were encouraged specifically by USDA to use benefits of nominal value, such as ''an informational pamphlet or an 800-number to call to locate TANF-funded services,'' as the ''benefit'' to confer categorical eligibility.[15] BBCE has enabled States to use non-cash TANF program eligibility criteria to create a de facto and significant increase in the SNAP gross income and significant increases and even total elimination of resource statutory limits. Such an expansion has compromised the statutory underpinnings of categorical eligibility, as it goes beyond flexibility to reduce administrative burdens and increases eligibility for households who would not otherwise qualify based on the income and resource limits established in law. The Department believes the proposed changes would ensure States implement categorical eligibility in accordance with its original intent and would address concerns that States used BBCE to expand SNAP eligibility beyond congressionally approved limits intended to preserve benefits for the truly needy.

Over time, BBCE has created a varied ''patchwork'' of eligibility criteria across States. Many States now use income and resource limits for their non-cash TANF benefits that are higher than the statutory standards for SNAP

End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage; (3) Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and (4) Encourage the formation and maintenance of two-parent families. 42 U.S.C. 601(a); 45 CFR 260.20.

[6] HHS, ''TANF and MOE Spending and Transfers by Activity, FY 2023 Charts''. September 2024. *https://acf.gov/sites/default/files/documents/ofa/fy2023_tanf_moe_national_data_pie_chart.pdf.*

[7] Food and Nutrition Service, ''Letter to Regions on Categorical Eligibility,'' July 14, 1999, *https://www.fns.usda.gov/snap/letter-regions-categorical-eligibility.*

[8] TANF-funded benefits that further the first or second statutory TANF purposes one or two, as well as any benefit funded with State maintenance-of-effort (MOE) funds, are limited to needy families, and State TANF agencies define ''needy.'' TANF-funded benefits that further TANF purposes three or four are not limited to needy families and are not required to have income eligibility criteria. See footnote 5 for a discussion of the four TANF purposes.

[9] ''Food Stamp Program: Noncitizen Eligibility, and Certification Provisions of Public Law 104–193, as Amended by Public Laws 104–208, 105–33 and 105–185,'' 65 FR 70134, November 21, 2000.

[10] ''Improving Access to SNAP through Broad-Based Categorical Eligibility,'' September 30, 2009, *https://www.usda.gov/sites/default/files/guidance-documents/fns.snap-improvingAccessBBCE.pdf;* ''Categorical Eligibility Questions and Answers,'' November 20, 2009, December 15, 2009, and January 26, 2010, *https://www.fns.usda.gov/snap/eligibility/BBCE-questions-answers.*

[11] Food and Nutrition Service, Report Series—Estimates of State SNAP Participation Rates (Reaching Those in Need), January 1994–FY 2008, *https://www.fns.usda.gov/research/snap/state-participation-rates.*

[12] ''Improving Access to SNAP through Broad-Based Categorical Eligibility,'' September 30, 2009, *https://www.usda.gov/sites/default/files/guidance-documents/fns.snap-improvingAccessBBCE.pdf;.*

[13] USDA, Food and Nutrition Service, Office of Research and Analysis, ''Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2011,'' *https://fns-prod.azureedge.us/sites/default/files/2011Characteristics.pdf.*

[14] The estimates here and in the Regulatory Impact Analysis use data from the U.S. Census Bureau's Survey of Income and Program Participation (SIPP) for December 2019 in an algorithm used to estimate SNAP households' resource levels. The prior years used data from the SIPP for August 2009.

[15] ''Improving Access to SNAP through Broad-Based Categorical Eligibility,'' September 30, 2009, *https://www.usda.gov/sites/default/files/guidance-documents/fns.snap-improvingAccessBBCE.pdf.*

eligibility.[16] As of December 2025, forty-six States are currently using BBCE to expand eligibility to households that receive non-cash TANF benefits of nominal value.[17] Of those, thirty-seven States have gross income limits higher than the SNAP gross income limit and forty-one States have no resource limit at all.

The expansion of SNAP eligibility under BBCE policies may threaten the integrity of the program by eroding public trust that SNAP benefits are available only to those who meet the eligibility limits set in law. For example, in States with no resource limit, a household with a million dollars or more in available resources but no regular income could apply for and be eligible to receive SNAP benefits. ''Resources'' in SNAP include liquid or near liquid assets, with many exclusions including a home and retirement and pensions. The Department is aware of instances where millionaires have received SNAP benefits.[18] It is irresponsible to Congress and the taxpayer to support regulations that permit this practice.

Federal audits have also raised concerns about BBCE's implications for the integrity of the SNAP eligibility determination process. A 2012 Government Accountability Office (GAO) report exposed weaknesses of categorical eligibility policies, describing them as having ''a potentially negative effect on SNAP program integrity'' and suggested that BBCE may contribute to more payment errors.[19] In particular, there were payment errors for 17.2 percent of SNAP households eligible under BBCE that had incomes over the Federal limits in Fiscal Year (FY) 2010, compared to just 6.7 percent of other SNAP households. Findings from a 2015 USDA Office of Inspector General (OIG) audit identified similar vulnerabilities with BBCE. The audit took issue with the way BBCE essentially deferred SNAP eligibility determinations to TANF and seemed to solidify the perception of those outside of SNAP that BBCE lacks rigor.[20] Together, these findings demonstrate a policy out of sync with the directive of Congress to ensure that SNAP benefits are reserved for the most vulnerable households.[21]

The Department is also strongly committed to responsible stewardship of taxpayer dollars and ensuring SNAP benefits are targeted to needy households. In contrast, many State BBCE policies expand SNAP to households that would otherwise not qualify under the SNAP income and resource limits established in law, adding unnecessary program costs. In FY 2010, only about four percent of SNAP participants were in households with income and/or resources exceeding the Federal limits,[22] indicating that they were only eligible due to BBCE. The share doubled to eight percent by FY 2013 and remained relatively constant reaching a peak of 10 percent in FY 2018.[23] [24] More recent 2019 U.S. Census Bureau data suggests that the proportion of participating households exceeding the resource limit has grown substantially since that time. The Department estimates that 11.5 percent of participating SNAP households in FY2024 (2.5 million households containing 5.4 million individuals) had resources above the SNAP limit and 5.4 percent of households (1.2 million households containing 2.0 million individuals) had incomes above the Federal SNAP gross or net income limits.[25] [26]

BBCE households, like other SNAP households, with three members or more must have net incomes low enough to receive a SNAP benefit. The SNAP benefit is calculated after eligibility is established, so some households determined eligible for SNAP through BBCE may receive zero SNAP benefits. However, all SNAP-eligible households with one or two members get at least the minimum SNAP benefit regardless of their income or deductions.[27] The Department estimates in the Regulatory Impact Analysis (RIA) that more than 840,000 one- and two-person households received the minimum SNAP benefit in 2024 only because they were determined to be categorically eligible for SNAP through BBCE. Most of these households (94 percent) would have been ineligible for SNAP under the SNAP income and resource limits and thus receive no SNAP benefit in the absence of BBCE. This represents nearly $214 million to households whose incomes or resources exceeded SNAP's statutory limits in 2024, but still received a minimum benefit. This spending does not align with Congress' intent or the Secretary's guiding principle to support policy options that protect both truly needy recipients and the American taxpayer.[28] A rule change is necessary to avoid the continuation of SNAP regulations that allow a categorical eligibility policy that expands SNAP to households without demonstrated needs and reaches far beyond the congressional intent to simplify eligibility determinations for needy households.

Therefore, the Department proposes aligning categorical eligibility more closely to the policy originally implemented in 1985 based on Federal law, under which categorical eligibility was conferred only to those households receiving cash assistance payments, rather than those receiving non-assistance benefits, such as childcare, training, or other services. Specifically, the proposed rule would revise regulations at 7 CFR 273.2(j)(2) to align with the definition of TANF assistance

[16] The most recent chart indicating States that have taken the BBCE option can be found here: *https://www.fns.usda.gov/snap/broad-based-categorical-eligibility.* The chart lists the TANF/MOE program benefit that confers categorical eligibility in each State and the gross income and resource limits for these programs. This chart is based on State-reported information.

[17] USDA. ''Broad-Based Categorical Eligibility (BBCE). Updated December 2025. Accessed Dec. 10, 2025. *https://www.fns.usda.gov/snap/broad-based-categorical-eligibility.*

[18] *https://www.cbsnews.com/minnesota/news/waite-park-millionaire-food-stamps-loophole-minnesota-legislature/.*

[19] Government Accountability Office. ''Supplemental Nutrition Assistance Program: Improved Oversight of State Eligibility Expansions Needed,'' July 2012, Available at: *https://www.gao.gov/products/gao-12-670.* Note that the GAO estimates measures the percentage of SNAP households with errors. This estimate differs from the SNAP payment error rate, which is the percentage of SNAP benefits paid in error, including both underpayments and overpayments.

[20] Office of the Inspector General. September 2015, ''FNS Quality Control Process for SNAP Error Rate.'' *https://www.oversight.gov/reports/audit/fns-quality-control-process-snap-error-rate.*

[21] Senate report 100–397; June 23, 1988.

[22] Food and Nutrition Service. ''Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2010,'' p. 43: *https://fns-prod.azureedge.us/sites/default/files/Trends2010.pdf.*

[23] Food and Nutrition Service. ''Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2013,'' p. 77: *https://fns-prod.azureedge.us/sites/default/files/ops/Trends2010-2013.pdf.*

[24] Food and Nutrition Service. ''Supplemental Nutrition Assistance Program Participation Rates: Fiscal Year 2013,'' p. 54: *https://fns-prod.azureedge.us/sites/default/files/resource-files/Trends2016-2018.pdf.*

[25] To avoid double-counting, households and individuals who fail both the income and resource tests are only included in the total for those failing the income test.

[26] Current regulations at 7 CFR 273.2 (j)(2)(i)(C) and (ii)(B) permit categorical eligibility to be conferred from certain TANF/State MOE-funded programs that have a maximum gross monthly income at or below 200 percent of the Federal poverty level.

[27] In accordance with Sec. 8(a) of the Food and Nutrition Act and regulations at 7 CFR 273.10(e)(2)(ii)(C), all one- or two-person SNAP households receive at least a minimum benefit, which is 8 percent of the maximum allotment for a household of one, rounded to the nearest whole dollar. In FY 2025, the minimum SNAP benefit is $23.

[28] Secretary Brook L. Rollins, ''Secretary Rollins' Vision for the Department's 16 Nutrition Programs,'' February 13, 2025, *https://www.fns.usda.gov/rollins-statement-nutrition-programs.*

in 45 CFR 260.31(a). Under 45 CFR 260.31(a), TANF ''assistance'' includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs, which includes certain non-cash supportive services, such as child care and transportation assistance for parents who are unemployed.[29] The U.S. Department of Health and Human Services (HHS) uses the term ''non-assistance'' to refer to the variety of other TANF-funded services, as described at 45 CFR 260.31(b), which includes the types of benefits used in BBCE policies. Current SNAP regulations do not distinguish between TANF ''assistance'' and ''non-assistance,'' but rather between ''cash'' and ''non-cash or in-kind benefits or services.'' In this rule, ''TANF assistance'' refers to the cash and non-cash supportive services referred to in 45 CFR 260.31(a), while ''non-cash or in-kind benefits or services'' means the TANF ''non-assistance'' described in 45 CFR 260.31(b).[30] This proposed change would limit categorical eligibility conferred through TANF to those households receiving TANF assistance, rather than the non-cash or in-kind services from TANF-funded programs that also currently confer categorical eligibility.

Like AFDC before it, TANF assistance as defined at 45 CFR 260.31(a) is largely a cash payment benefit designed to meet the basic needs of families with incomes and resources below the SNAP statutory requirements. The definition of TANF assistance includes cash, payments, vouchers, and other forms of benefits designed to meet a family's ongoing basic needs. Additionally, TANF assistance programs have a robust eligibility determination that thoroughly reviews household income and resources. Income standards used to determine TANF assistance eligibility vary by State but are typically lower than SNAP standards.[31]

**Summary of Proposed Approach**

The proposed rule would change SNAP categorical eligibility regulations at 7 CFR 273.2(j)(2) by limiting the TANF benefits that a State agency can use to confer categorical eligibility to only TANF assistance, defined at 45 CFR 260.31(a). To conform with this change, the proposed rule would also eliminate the use of ''non-cash or in-kind benefits or services'' to confer categorical eligibility for SNAP. Finally, the Department proposes several conforming amendments.

*Categorical Eligibility From TANF Assistance*

Current regulations at 7 CFR 273.2(j)(2)(i)(A) require States to confer categorical eligibility to households in which all members receive or are authorized to receive ''cash'' through a TANF program. The Department proposes to amend 7 CFR 273.2(j)(2)(i)(A) to replace ''cash'' with ''assistance as defined at 45 CFR 260.31(a).'' The vast majority of TANF assistance is cash or cash equivalents, intended to meet families' basic needs.[32] Aligning the terminology in SNAP regulations with that used in TANF regulations promotes consistency between the programs. Additionally, such a change would close the loophole that has allowed for 17.6 percent of the SNAP participant caseload to be eligible solely due to receiving TANF non-assistance, *i.e.,* non-cash benefits with eligibility criteria that far exceed Federal SNAP limits.

*Eliminating Categorical Eligibility From Non-Cash or In-Kind Benefits or Services*

Current SNAP regulations provide two ways in which non-cash or in-kind benefits or services from a TANF-funded program may confer categorical eligibility: a mandatory requirement, described at 7 CFR 273.2(j)(2)(i)(B) and (C), and a State option, described at 7 CFR 273.2(j)(2)(ii). These various provisions are based on the proportion of the program funded by TANF or State MOE funding, the TANF purposes that the program furthers, and the gross income limit of the program.

The proposed rule would remove 7 CFR 273.2(j)(2)(i)(B), (2)(i)(C), and (2)(ii), meaning States would no longer be permitted to confer categorical eligibility for SNAP to households that receive non-cash or in-kind TANF- or State MOE-funded benefits or services, other than TANF assistance. This would eliminate the practice of States using nominal TANF benefits from programs with a variety of weaker gross income and resource limits to confer categorical eligibility. The proposed change would help ensure closer alignment with congressional intent.

*Authorized To Receive*

Current regulations throughout 7 CFR 273.2(j) apply categorical eligibility for SNAP to households in which all members receive or are ''authorized to receive'' specified TANF, Supplemental Security Income (SSI), or general assistance (GA) benefits. The ''authorized to receive'' language does not align with Congress's intent for categorical eligibility and creates a loophole that could make households categorically eligible for SNAP based on their eligibility for a TANF benefit, even if they do not actually receive it.[33] The Department wants to strike the right balance between administrative streamlining and ensuring that households actually receive the benefit that confers categorical eligibility. Therefore, the Department is removing the ''authorized to receive'' language throughout 7 CFR 273.2.

*Conforming Amendments*

The Department proposes to amend the regulations at 7 CFR 273.2(j)(2)(iv), 273.2(j)(4)(vi), and 273.8(e)(17) to update or remove the citations to conform with the regulations redesignated or removed by this rule.

**Alternate Approach for Consideration**

The Department also considered an alternative approach, which is the ''ongoing and substantial'' framework proposed in the 2019 proposed rule (described below). The Department believes the current proposal to align SNAP categorical eligibility with receipt of TANF assistance is the best solution because it eliminates discrepancies between SNAP and TANF regulations and is easier to operationalize than the two alternatives; however, the Department is seeking public comment on how this alternate approach would compare to the proposed approach.

*Alternative Approach*

The Department considered returning to the categorical eligibility framework originally proposed in the July 24, 2019, proposed rule, ''Revision of Categorical

[29] 45 CFR 260.31(a)(3).

[30] GAO makes a similar distinction in its December 2012 report, ''Temporary Assistance for Need Families: More Accountability Needed to Reflect Breadth of Block Grant Services,'' GAO–13–33, pg. 1, pg. 5, *https://www.gao.gov/assets/gao-13-33.pdf.*

[31] The Welfare Rules Databook: State and Territory TANF Policies as of July 2023, available at *https://acf.gov/opre/report/welfare-rules-databook-state-and-territory-tanf-policies-july-2023.*

[32] TANF assistance also includes some non-cash supportive services, such as transportation and childcare for unemployed families, but USDA understands from HHS that these supportive services largely go to families who are also receiving cash TANF and include similar eligibility requirements. For all practical purposes, those receiving TANF assistance are receiving cash, while those receiving TANF ''non-assistance'' are receiving other non-cash services of the kind used to confer BBCE.

[33] Government Accountability Office. ''Supplemental Nutrition Assistance Program: Improved Oversight of State Eligibility Expansions Needed,'' July 2012, pg. 34–36. Available at: *https://www.gao.gov/products/gao-12-670;* Office of the Inspector General. September 2015, ''FNS Quality Control Process for SNAP Error Rate,'' pg. 36–37. Available at: *https://www.oversight.gov/reports/audit/fns-quality-control-process-snap-error-rate.*

Eligibility in the Supplemental Nutrition Assistance Program (SNAP)''.[24] Under the ''ongoing and substantial'' framework of the 2019 proposed rule, both cash and non-cash TANF benefits could confer categorical eligibility but only if those benefits were ''ongoing and substantial''. To be considered ''ongoing,'' the benefits would be those a household receives for a period of at least six months. To be considered ''substantial,'' the benefits would be valued at a minimum of $50 per month or, should HHS develop a minimum threshold amount for TANF cash benefits, the higher of the two standards.

In addition, non-cash categorical eligibility would be limited to specific types of TANF benefits—subsidized employment, work supports, and/or childcare—that support family self-sufficiency and involve meaningful eligibility determinations. The Alternative approach would remove mention of TANF purposes from 7 CFR 273.2(j)(2), since the Department understands from HHS that these distinctions are not necessarily meaningful in conferring non-cash categorical eligibility because different States may consider similar benefits to be furthering different TANF purposes. Instead, the Alternative approach would link categorical eligibility to specific types of TANF *benefits* rather than to TANF block grant *purposes.*

Finally, the Alternative approach would also simplify the terminology used at 7 CFR 273.2(j)(2) from ''non-cash or in-kind benefits or services'' to ''non-cash benefits.'' For oversight purposes, the proposal would also require State agencies to inform FNA of all non-cash TANF benefits conferring categorical eligibility.

With the introduction in the Alternative of the ''ongoing'' and ''substantial'' requirements, the Department would seek to eliminate the practice of conferring categorical eligibility based on receipt of nominal, one-time benefits. Categorical eligibility based on the receipt of benefits that are nominal in value encourages cursory or nonexistent eligibility determinations because the value of those TANF benefits do not warrant the cost of staff time and resources to conduct robust eligibility determinations. Requiring the benefits to be substantial limits categorical eligibility to only those TANF benefits for which a State is more likely to establish a meaningful eligibility determination.

In addition, the types of benefits conferring categorical eligibility under the Alternative approach would be limited to those that provide opportunities for households to obtain employment and financial stability. The emphasis on TANF benefits that directly encourage self-sufficiency aligns with the amendments to the Act made by Sec. 313 of the Fiscal Responsibility Act of 2023 (FRA, Pub. L. 118–5). In June 2023, the FRA expanded SNAP's purpose to include assisting low-income adults in obtaining employment and increasing their earnings. The Department believes this reaffirms efforts to reduce dependency on public assistance programs and increase self-sufficiency. The framework of the Alternative approach would align categorical eligibility with the new statutory purpose of the program, which is explicitly tailored to support work.

In withdrawing the 2019 proposed rule, the Department determined the proposed revisions did not sufficiently justify the impact on SNAP households or the costs to State agencies to implement the change. However, the Department believes that the Alternative approach merits reconsideration at this time. Unlike the proposal in this NPRM, it acknowledges that some TANF non-assistance, non-cash benefits may comport with SNAP's standards for eligibility requirements and SNAP's mission to support participants' self-sufficiency through employment. Ultimately, the Department chose the proposal in this NPRM because implementation of categorical eligibility based on alignment with TANF assistance would be less administratively burdensome for State agencies than the ''ongoing and substantial'' standard.

**Additional Request for Comment**

Current regulations at 7 CFR 273.2(j)(2)(i)(A) limit categorical eligibility from TANF cash programs to those program ''funded in full or in part'' by Federal TANF money or State MOE funds. Regulations at 7 CFR 273.2(j)(2)(i)(B) and (C) are more specific, creating a requirement for categorical eligibility for specified programs ''more than 50 percent funded'' by Federal TANF or State MOE money. Similarly, 7 CFR 273.2(j)(2)(ii)(A) and (B) create a State option for categorical eligibility for specified programs ''less than 50 percent funded'' with Federal TANF or State MOE money. Although this proposed rule would remove the regulations at 7 CFR 273.2(j)(2)(i)(B), (i)(C), (ii)(A) and (ii)(B), the Department seeks public comment on the impact of adding specific funding percentage requirements to TANF assistance programs at 7 CFR 273.2(j)(2)(i)(A), particularly if it were to advance an alternative option.

**Procedural Matters**

**Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 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). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has been determined to be economically significant under section 3(f)(1) of Executive Order 12866 and was reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

*Regulatory Impact Analysis*

A Regulatory Impact Analysis (RIA) was developed for this proposed rule, consistent with the requirements of Executive Order 12866. It follows this rule as an Appendix. The following summarizes the conclusions of the regulatory impact analysis:

The Department estimates the total reduction in Federal SNAP transfers (SNAP benefit spending) associated with the provisions of this proposed rule to be approximately $44.649 billion over the five-year period FY 2027–FY 2031. Effects on Federal reimbursement of State administrative costs are estimated to be approximately $309.5 million over the five-year period FY 2027–FY 2031. The Department also estimates a net reduction in State spending on SNAP (per Section 10105 of Pub. L. 119–21) to be approximately $5.243 billion over the five year period, including an estimated reduction in State transfers of approximately $6.172 billion and an increase in State SNAP administrative costs of approximately $928.5 million. Effects on household burden are estimated to be approximately $71.7 million over the five-year period FY 2027–FY 2031.

The Department estimates that approximately 16.9 percent of participating SNAP households (17.6 percent of SNAP participants) would no longer receive SNAP benefits because their income or resources exceed the Federal statutory limits for SNAP. This represents 3.2 million households containing 6.3 million individuals in FY 2029, the first year the proposed rule is expected to reach its full effects.

The proposed rule impacts other nutrition assistance programs where SNAP participation confers eligibility in lieu of an income assessment. The programs measurably impacted are the National School Lunch Program and School Breakfast Program (collectively referred to as the School Meals programs), Summer Electronic Benefit Transfer (SEBT), and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). The Department estimates about 1.78 million children would no longer be categorically eligible for free school meals due to this rule, although almost all such children (approximately 97 percent) would still retain eligibility for free or reduced price school meals based on their household income and could certify for school meals through a different process. About 1.66 million of these children would still receive free school meals, 93,000 children would move from free to reduced price school meals, and 28,000 would pay full price for their school meals based on their households' resources. The Department estimates that approximately 42,000 children could potentially no longer receive SEBT beginning in the summer of 2029, including an estimated 13,000 children who would choose not to apply for SEBT, even though they remain eligible. The Department also estimates that 16,500 of 22,000 WIC participants eligible through BBCE would remain income eligible for WIC and could certify through a different process. The remaining 5,500 women, infants, and children would no longer be eligible for WIC based on an accurate, individualized assessment of eligibility. There were a total of approximately 6.87 million WIC recipients in FY 2025.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. As discussed in the Regulatory Impact Assessment, school districts nationwide would face a small increase in administrative costs as a result of this rule. In total, the Department estimates that school districts would need to process 197,000 additional applications for the School Meals programs, which would take an estimated 30,000 additional hours and add costs of about $2.0 million in SY 2028–29 and about $6.3 million over the five-year period of FY 2027 to FY 2031. About 30 million children are served through the school meals program each year. The Department does not have geographic data to estimate what share of this burden would fall to small jurisdictions, but the reduction in SNAP benefits overall will reduce SNAP redemptions, so some small retailers may experience reductions in sales.

**Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

The Regulatory Impact Analysis conducted by the Department in connection with this proposed rule includes a cost/benefit analysis. Based on this analysis, the Department believes there are no alternatives to the proposal that would accomplish the stated objectives in a less burdensome manner. However, the Department invites comments regarding less burdensome approaches to achieving the stated objectives. Per the Food and Nutrition Act, the Federal government would pay 25 percent of allowable State administrative costs required under this proposed rule, beginning in FY 2027.

**Executive Order 12372**

This Supplemental Nutrition Assistance Program is listed in the Catalog of Federal Domestic Assistance under Number 10.551 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

**Federalism Summary Impact Statement**

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13132.

The Department has determined that this rule does not have Federalism implications. This rule does not impose substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a Federalism summary impact statement is not required.

**Executive Order 12988, Civil Justice Reform**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the Effective Dates section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

**Civil Rights Impact Analysis**

USDA has reviewed the proposed rule, in accordance with the Agriculture Improvement Act of 2018, ''2018 Farm Bill'', Section 12403, Civil Rights Analyses, to identify and address any major civil rights impacts the proposed rule might have on specific groups. While we expect that a change in the categorical eligibility requirements has the potential to impact households where the head of household is Asian, Hispanic, or reported multiple races, as well as households with children and households with elderly members, the implementation of mitigation strategies and monitoring by SNAP and CRD will likely lessen these impacts. The mitigation strategies include: working to ensure State agencies fully understand the changes in the rule prior to implementation; publishing rule guidance on the USDA public website; providing technical assistance to State agencies and assisting them in developing their plans; and encouraging State agencies to target program information activities to potentially impacted households. USDA will conduct monitoring through the SNAP Management Evaluation (ME) process, the CRD ongoing monitoring of trends in program discrimination complaint activity, and oversight of programmatic inquiries concerning the proposed rule at the State level. Additionally, CRD will propose further outreach and mitigation strategies to alleviate any unforeseen impacts, if deemed necessary. All relevant mitigation and outreach strategies and monitoring

activity will be conducted in accordance with applicable Federal laws and regulations. Additionally, CRD will propose further outreach and mitigation strategies to alleviate any unforeseen impacts, if deemed necessary.

**Executive Order 13175**

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

This rule may contain policies that require consultation. USDA will have a consultation before the issuing of the final rule. FNA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided.

**Executive Order 14192**

Executive Order 14192, titled ''Unleashing Prosperity Through Deregulation,'' was issued on January 31, 2025, and requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. This proposed rule, if finalized as proposed, is expected to be exempt from otherwise-applicable requirements of E.O. 14192, per footnote 1 of OMB's Accounting Methods.[34]

**Paperwork Reduction Act**

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

In accordance with the Paperwork Reduction Act of 1995, this proposed rule would contain information collections that are subject to review and approval by the Office of Management and Budget; therefore, FNA is submitting for public comment the changes in the information collection burden that would result from adoption of the proposals in the rule.

Comments on this proposed rule must be received by December 10, 2026. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

*Title:* Supplemental Nutrition Assistance Program: Student Eligibility, Convicted Felons, Lottery and Gambling, and State Verification.

*OMB Number:* 0584–0621.

*Expiration Date:* 1/31/2029.

*Type of Request:* Revision to existing collection.

*Abstract:* Section 5(a) of the Food and Nutrition Act of 2008, as amended, (the Act), provides that households in which each member receives benefits under a State program funded under Part A of Title IV of the Social Security Act (SSA) (also known as Temporary Assistance for Needy Families (TANF) block grants) shall be categorically eligible for SNAP. Current SNAP regulations consider TANF benefits to include both cash assistance and non-cash or in-kind benefits or services from TANF-funded programs. This proposal would limit categorical eligibility to only households that receive TANF assistance, as defined at 45 CFR 260.31. These revisions would ensure that SNAP benefits are targeted to households that have sufficiently demonstrated need by qualifying for TANF assistance while aligning categorical eligibility's statutory purpose of streamlining program administration.

Congress established categorical eligibility to reduce administrative burden, not to increase eligibility in the program. However, States have used the flexibility of the TANF program to implement particularly expansive categorical eligibility policies, known as ''broad-based categorical eligibility'' or BBCE. BBCE has enabled States to use non-cash TANF program eligibility criteria to create a de facto increase in the SNAP gross income and resource statutory limits. Under the Act's regular program rules, households without an elderly or disabled member must have a gross income of no more than 130 percent of the Federal Poverty Guidelines (FPG) to qualify for SNAP; under BBCE, States can increase such limits to as much as 200 percent FPG. The Act also specifies resource limits for SNAP households, but under BBCE policies, States can increase or entirely eliminate resource limits. Such an expansion has compromised the statutory underpinnings of categorical eligibility, as it goes beyond flexibility to reduce administrative burdens and increases eligibility for households who would not otherwise qualify.

The proposed rule would provide more uniform SNAP eligibility across the country by limiting categorical eligibility through TANF to households that qualify for TANF assistance, rather than the non-cash or in-kind services from TANF-funded programs that also currently confer categorical eligibility. Section 5(j) of the Act indicates that households who are categorically eligible are considered to have met the SNAP resource limit and therefore these households do not undergo another resource determination. The proposed rule would reduce the number of households who would be categorically eligible. Therefore, States would have to apply regular SNAP income and resource tests to determine SNAP eligibility for more households. The Department estimates that 11.5 percent of currently participating SNAP households (2.5 million households or 5.4 million individuals) have resources above the SNAP limit and 5.4 percent (1.2 million households or 2.0 million individuals) have incomes above the Federal SNAP gross income limit of 130 percent FPG and/or net income limit of 100 percent FPG. While States do not verify categorically eligible households' incomes to determine their *eligibility,* they must verify all households' incomes to determine their *benefit calculation.* However, as noted earlier, some States have BBCE policies that entirely eliminate resource limits. Under this rule, those States would need to add resource assessments to their SNAP eligibility determination process for an increased number of non-categorically eligible households.

FNA is requesting to revise OMB Control Number 0584–0621 for the requirements in this proposed rule, Supplemental Nutrition Assistance Program: Reforming Categorical Eligibility. Because State agencies do

[34] Accounting Methods under Executive Order 14192, *https://www.reginfo.gov/public/pdf/eo14192/Accounting_Methods_under_EO_14192.pdf.*

not verify resources for applicants that are categorically eligible per 5(j) of the Act, they would be required to make changes to their application process to assess the resources of those households' that would no longer be categorically eligible. As of December 2025, 46 out of the 53 State agencies have adopted BBCE, and 41 States are not currently assessing resource information as part of the SNAP eligibility determination process.[35]

FNA will reconcile the burden hours associated with the final rulemaking for this rule for all States by revising OMB Control Number 0584–0621.There is no new recordkeeping burden required for this information collection request. The recordkeeping burden for State agencies is currently covered under the approved information collection burden for application processing, OMB Control Number 0584–0064 (expiration date: 6/30/2027), which already accounts for the case file documentation that States must maintain for each SNAP household at 7 CFR 273.2(f)(6).

*Description of Costs and Assumptions:* This proposed rule would limit categorical eligibility through TANF only to households that receive TANF assistance, as defined at 45 CFR 260.31(a). The proposed restriction of categorical eligibility would reduce the number of households who would be categorically eligible for SNAP and require States to assess more households' resources to determine if they are eligible for SNAP. Under the rule, the 45 State agencies that have expanded categorical eligibility would now be required to assess resource information from more households. For example, States and households would need to contact financial institutions, Departments of Motor Vehicles, or other entities to obtain documentation of household resources. The proposed rule may require the States that do not currently assess resources to modify their eligibility systems to both collect and verify household resource information as needed. System costs include the cost of requirements gathering, design, development, testing, implementation, and operations and maintenance.

*Reporting Burden Activities:* Currently, all applicant households are required to meet the SNAP resource limits at 7 CFR 273.8 (Resource eligibility standards); applicants who are categorically eligible are considered to have met the SNAP resource limit (Section 5(j) of the Act). Under this rulemaking, fewer SNAP households would be categorically eligible through their receipt of non-cash TANF benefits. As fewer SNAP households would be categorically eligible, more households would therefore need to have their resources assessed by SNAP eligibility workers to determine whether the households meet the SNAP resource limit. Resources are one of several factors used to determine SNAP eligibility and are subject to verification if questionable (7 CFR 273.2 (f)(2)).

*State Agency Burden Assessment Feedback*

FNA used the estimates in OMB Control Number 0584–0621 (expiration date: 1/31/2029) to estimate the amount of time that resource verification would take for the additional 45 State agencies that have expanded categorical eligibility. FNA estimates that 11 States would verify resources for households at all times (''Always'' States), 10 States would verify resources only when deemed questionable (''Self-Attestation States''), and 24 States would adopt a policy to verify a household's resources if close to the resource limit (''High Limit States'').

Using the estimates in OMB Control Number 0584–0621 (expiration date: 1/31/2029), FNA estimates that State agency staff in ''Always'' States would on average spend 32.5 minutes (.534 hours) per case at initial certification and 19.16 minutes (.321 hours) per case at recertification. FNA estimates that State agency staff in ''Self-Attestation'' States would on average spend 12.4 minutes (.201 hours) per case at initial certification and 8.8 minutes (0.135 hours) per case at recertification. FNA estimates that State agency staff in ''High Limit'' States would on average spend 33.15 minutes (0.554 hours) per case at initial certification and 33.2 minutes (0.550 hours) per case at recertification to verify resources.

FNA then needed to estimate the percentage of a State's caseload that would be subject to these resource verification requirements to calculate the State agency burden. In the estimated 11 ''Always'' States, the entire caseload would be subject to verification. In ''Self-Attestation'' and ''High Limit'' States, only a certain percent of SNAP applicants would meet the criteria (*e.g.,* substantial resources or questionable information) that would necessitate the caseworker undertaking resource verification.

Using caseload data, FNA estimates that ''High Limit'' States would have to verify household resources about 27 percent of the time; FNA rounded up to 30 percent to take into account caseworker discretion to verify when questionable. FNA estimates that ''Self-Attestation States'' States would have to verify household resources 10 percent of the time. Accordingly, the estimated number of households whose resources would be verified by a caseworker are adjusted to 30 percent of the caseload in the estimated 24 ''High Limit'' States and 10 percent of the caseload in the estimated 10 ''Self-Attestation'' States. The estimated number of households for the 11 ''Always'' States would be 100 percent of the SNAP applicant households in those States.

In addition, the Department anticipates one-time costs related to changes to application forms, staff training, and modifications to State systems. The Department has limited data on the potential costs of these changes, particularly the system changes. System costs include the cost of requirements gathering, design, development, testing, and implementation. For the purpose of calculating the burden for this proposed rule, FNA assumes that all 45 State agencies that confer expanded categorical eligibility collect, but do not currently verify, resource information from households. The Department seeks additional comment on whether this assumption is correct, and if not, how long it would take States to make changes to their systems to gather, review, and verify this information beyond the efforts described above.

*Household Burden*

Recent data [36] shows that 21.8 percent of SNAP households are categorically eligible through receipt of SSI, cash TANF, or General Assistance (GA). Under the proposed rule, these households will still be considered categorically eligible. Other categorically eligible households, *i.e.,* households eligible through BBCE, make up 73.9 percent of the SNAP households. Therefore, the household estimates in this burden narrative only include the 73.9 percent of households who would lose categorical eligibility under this proposed rulemaking and would be subject to the additional burden.

The Department then estimated the burden hours for households to provide verification. FNA referenced the currently approved estimated number of applicants in OMB Control Number 0584–0064 (expiration date: 6/30/2027) and updated these numbers to reflect the most recently available participation data (Fiscal Year (FY) 2024) for SNAP initial applicants and recertification applicant households.[37]

[35] The burden hours and cost estimates in this PRA were prepared prior to Alaska implementing BBCE on July 1, 2025. Hence the estimates are based on 45 States, rather than 46 States, having BBCE.

The Department finds it reasonable to use the estimates in OMB Control Number 0584–0064 (expiration date: 6/30/2027) regarding household burden for providing verification and estimates that providing verification would take 4 minutes or .0668 hours per household at initial certification and 6 minutes or .1002 hours at recertification. Using the estimates above for the number of households in each State subject to verification requirements (100 percent in 11 States, 10 percent in 10 States, and 30 percent in 24 States), we then calculated the total number of households that would have to participate in this annual burden. We have rounded these burden times in the chart below.

The Department is interested in States' comments on the requested information burden, as the vast majority of households in most States have been certified under BBCE and therefore have not been subject to a SNAP resource assessment in recent years. All comments will be reviewed and considered in the final rulemaking process.

The overall estimated burden we are requesting for both the Individuals/Households and State agencies is 14,981,300.28 total annual burden hours and 26,931,893 total annual responses. The reporting burden details are provided below for State Agencies and SNAP applicant households. This request associated with rulemaking reflects an increase of 13,425,498.31 total annual burden hours and 11,649,207.97 total annual responses for State agencies and 914,934.84 total annual burden hours and 11,606,509.97 total annual responses for Households (SNAP Participants).

*Respondents:* State Agencies.

*Estimated Number of Respondents:* 45.

*Estimated Number of Responses per Respondent:* 258,871.29.

*Estimated Total Annual Burden on Respondents:* 11,649,207.97.

*Estimated Time per Response:* 1.15248164.

*Estimated Total Annual Burden Hours:* 13,425,498.31.

*Respondents:* SNAP households.

*Estimated Number of Respondents:* 11,606,510.

*Estimated Frequency of Response per Year:* 1.00.

*Estimated Total Annual Responses:* 11,606,509.97.

*Estimated Time per Response:* 0.078829453.

*Estimated Total Annual Burden Hours:* 914,934.84.

**BILLING CODE 3410–30–P**

| Reg. Section | Respondent Type | Description of Activity | Estimated Number of Respondents | Estimated Frequency of Response | Total Annual Responses | Number of Burden Hours Per Response | Estimated Total Burden Hours | Previous Burden in Use Without Approval | Differences Due to Program Changes | Difference Due to Adjustments | Hourly Wage Rate* | Estimated Cost to Respondents (50 percent cost share) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Affected Public: State Agencies | | | | | | | | | | | | |
| 7 CFR 273.2(f)(1) & (2) | State Agency Eligibility Worker | Verification of resources at initial application (States verifying all resources) | 11 | 386,784.96 | 4,254,634.60 | 0.534 | 2,271,974.88 | 0 | 2,271,974.88 | 2,271,974.88 | $31.24 | $35,488,247.57 |
| 7 CFR 273.2 (f)(1) & (2) | State Agency Eligibility Worker | Verification of resources at initial application (States verifying resources if questionable) | 10 | 38,678.50 | 386,784.96 | 0.201 | 77,743.78 | 0 | 77,743.78 | 77,743.78 | $31.24 | $1,214,357.81 |
| 7 CFR 273.2 (f)(1) & (2) | State Agency Eligibility Worker | Verification of resources at initial application (States verifying resources if close to limit) | 24 | 116,035.49 | 2,784,851.74 | 0.554 | 1,542,807.86 | 0 | 1,542,807.86 | 1,542,807.86 | $31.24 | $24,098,658.82 |
| 7 CFR 273.2 (f)(8)(i) | State Agency Eligibility Worker | Verification of resources at recertification (States verifying all resources) | 11 | 217,720.76 | 2,394,928.41 | 0.321 | 768,772.02 | 0 | 768,772.02 | 768,772.02 | $31.24 | $12,008,218.93 |
| 7 CFR 273.2 (f)(8)(i) | State Agency Eligibility Worker | Verification of resources at recertification (States verifying resources if questionable) | 10 | 21,772.08 | 217,720.76 | 0.135 | 29,392.30 | 0 | 29,392.30 | 29,392.30 | $31.24 | $459,107.78 |
| 7 CFR 273.2 (f)(8)(i) | State Agency Eligibility Worker | Verification of resources at recertification (States verifying resources if close to limit) | 24 | 65,316.23 | 1,567,589.50 | 0.550 | 862,174.23 | 0 | 862,174.23 | 862,174.23 | $31.24 | $13,467,161.41 |
| 8 CFR 273.2 (f)(8)(i) | State Agency Eligibility Worker | Staff Training | 45 | 945 | 42,525.00 | 19.13 | 813,503.25 | 0 | 813,503.25 | 813,503.25 | $31.24 | $12,706,920.77 |
| 7 CFR 273.2 (f)(1) & (2) | State Agency IT Staff | Modify State systems to the gross income limit | 38 | 1 | 38.00 | 1710 | 64,980.00 | 0 | 64,980.00 | 64,980.00 | $81.66 | $2,653,198.38 |
| 7 CFR 273.2 (f)(1) & (2) | State Agency IT Staff | Modify State systems to add the net income test | 45 | 1 | 45.00 | 33660 | 1,514,700.00 | 0 | 1,514,700.00 | 1,514,700.00 | $81.66 | $61,846,715.70 |
| 7 CFR 273.2 (f)(1) & (2) | State Agency IT Staff | Modify State systems to collect resource information | 40 | 1 | 40.00 | 134680 | 5,387,200.00 | 0 | 5,387,200.00 | 5,387,200.00 | $81.66 | $219,964,763.20 |
| 7 CFR 273.2 (f)(1) & (2) | State Agency IT Staff | Modify State systems to collect resource information | 5 | 1 | 5.00 | 225 | 1,125.00 | 0 | 1,125.00 | 1,125.00 | $81.66 | $45,934.88 |
| 7 CFR 273.2(f)(1) & (2) | State Agency IT Staff | Revise the indicator or system rules to identify categorically eligible households | 45 | 1 | 45.00 | 2025 | 91,125.00 | 0 | 91,125.00 | 91,125.00 | $81.66 | $3,720,724.88 |
| Sub-Total State Agencies: | | | 45 | 258,871.29 | 11,649,207.97 | 1.15248164 | 13,425,498.31 | 0.00 | 13,425,498.31 | 13,425,498.31 | $28.88 | $387,674,010.11 |
| Affected Public: Individual/Households | | | | | | | | | | | | |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 7 CFR 273.2 (f)(1) & (2) | Applicants for initial certification | Verification of resources at initial application | 7,426,271 | 1 | 7,426,271.30 | 0.0668 | 496,074.92 | 0 | 496,074.92 | 496,074.92 | $22.96 | $11,389,880.23 |
| 7 CFR 273.2 (f)(8)(i) | Applicants for recertification | Verification of resources at recertification | 4,180,239 | 1 | 4,180,238.67 | 0.1002 | 418,859.91 | 0 | 418,859.91 | 418,859.91 | $22.96 | $9,617,023.65 |
| Sub-Total Individual/Households | | | 11,606,510 | 1 | 11,606,509.97 | 0.078829453 | 914,934.84 | 0.00 | 914,934.84 | 914,934.84 | $22.96 | $21,006,903.88 |
| Existing Burden in 0584-0621 | | | 1,838,188 | 2 | 3,676,176.00 | 0.174329828 | 640,867.13 | 640,867.13 | 0.00 | 640,867.13 | $13.33 | $8,542,070.98 |
| Reporting Grand Total Burden Estimates | | | 13,444,742.97 | 2.00 | 26,931,893.95 | 0.556266125 | 14,981,300.28 | 640,867.13 | 14,340,433.15 | 14,340,433.15 | $29.09 | $417,222,984.97 |

**BILLING CODE 3410–30–C**

## E-Government Act Compliance

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

## List of Subjects

*7 CFR Part 273*

Administrative practice and procedure, Employment, SNAP, Government employees, Grant programs-social programs, Reporting and recordkeeping requirements, Supplemental Security Income, Wages.

Accordingly, 7 CFR part 273 is proposed to be amended as follows:

## PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

■ 1. The authority citation for part 273 continues to read as follows:

**Authority:** 7 U.S.C. 2011–2036.

■ 2. In 7 CFR 273.2:
■ a. Amend the introductory paragraph (j) by removing the last four sentences;
■ b. Revise paragraph (j)(2)(i)(A);
■ c. Remove paragraphs (j)(2)(i)(B) and (j)(2)(i)(C);
■ d. Revise paragraph (j)(2)(i)(D) and redesignate as (j)(2)(i)(B);
■ e. Revise paragraph (j)(2)(i)(E) and redesignate as (j)(2)(i)(C);
■ f. Remove and reserve paragraph (j)(2)(ii);
■ g. Remove and reserve paragraph (j)(2)(iii);
■ h. Remove and reserve paragraph (j)(2)(iv);
■ i. Remove the first sentence of paragraph (j)(2)(vi);
■ j. Revise paragraph (j)(4)(vi); and
■ k. Amend the introductory paragraph (k) by revising the fourth sentence.

### § 273.2 Office operations and application processing.

* * * * *

(j) *PA, GA and categorically eligible households.* The State agency must notify households applying for public assistance (PA) of their right to apply for SNAP benefits at the same time and must allow them to apply for SNAP benefits at the same time they apply for PA benefits. The State agency must also notify such households that time limits or other requirements that apply to the receipt of PA benefits do not apply to the receipt of SNAP benefits, and that households which cease receiving PA benefits because they have reached a time limit, have begun working, or for other reasons, may still qualify for SNAP benefits. If the State agency attempts to discourage households from applying for cash assistance, it shall make clear that the disadvantages and requirements of applying for cash assistance do not apply to SNAP benefits. In addition, it shall encourage applicants to continue with their application for SNAP benefits. The State agency shall inform households that receiving SNAP benefits will have no bearing on any other program's time limits that may apply to the household. The State agency may process the applications of such households in accordance with the requirements of paragraph (j)(1) of this section, and the State agency must base their eligibility solely on SNAP eligibility criteria unless the household is categorically eligible, as provided in paragraph (j)(2) of this section. If a State has a single Statewide GA application form, households in which all members are included in a State or local GA grant may have their application for SNAP benefits included in the GA application form. State agencies may use the joint application processing procedures described in paragraph (j)(1) of this section for GA recipients in accordance with paragraph (j)(3) of this section. The State agency must base eligibility of jointly processed GA households solely on SNAP eligibility criteria unless the household is categorically eligible as provided in paragraph (j)(4) of this section. The State agency must base the benefit levels of all households solely on SNAP criteria. The State agency must certify jointly processed and categorically eligible households in accordance with SNAP procedural, timeliness, and notice requirements, including the 7-day expedited service provisions of paragraph (i) of this section and normal 30-day application processing standards of paragraph (g) of this section. * * *

(2) * * *

(i) * * *

(A) Any household (except those listed in paragraph (j)(2)(vii) of this section) in which all members receive assistance as defined at 45 CFR 260.31(a) through a PA program funded with Federal money under Title IV–A or with State money counted for maintenance of effort (MOE) purposes under Title IV–A;

(B) Any household in which all members receive SSI benefits, except that residents of public institutions who apply jointly for SSI and SNAP benefits prior to their release from the institution in accordance with § 273.1(e)(2), are not categorically eligible upon a finding by SSA of potential SSI eligibility prior to such release. The State agency must consider the individuals categorically eligible at such time as SSA makes a final SSI eligibility and the institution has released the individual.

(C) Any household in which all members receive PA and/or SSI benefits in accordance with paragraphs (j)(2)(i)(A) through (j)(2)(i)(B) of this section.

(ii) [Reserved]

(iii) [Reserved]

(iv) [Reserved]

(v) * * *

(vi) Categorical eligibility shall be assumed at recertification in the absence of a timely PA redetermination. If a recertified household is subsequently terminated from PA benefits, the procedures in § 273.12(f)(3), (4), and (5) shall be followed, as appropriate. * * *

* * * * *

(4) * * *

(vi) *Combination households.* Households consisting entirely of recipients of PA, SSI and/or GA from a program that meets the requirements of § 273.2(j)(4)(i) shall be categorically eligible in accordance with the provisions for paragraph (j)(2)(v) of this section for members receiving PA and SSI or provisions of paragraphs (j)(4)(iv) and (v) of this section for members receiving GA.

* * * * *

(k) * * * However, households in which all members are either PA or SSI recipients (as discussed in § 273.2(j)) shall be SNAP eligible based on their PA/SSI status as provided for in § 273.2(j)(1)(iv) and (j)(2). * * *

■ 3. In 7 CFR 273.8, revise (e)(17). The revisions read as follows:

**§ 273.8 Resource eligibility standards.**

(e) * * *

(17) The resources of a household member who receives SSI or PA benefits. Individuals entitled to Medicaid benefits only are not considered recipients of SSI or PA.

* * * * *

**Stephen A. Vaden,**

*Deputy Secretary.*

[FR Doc. 2026–22936 Filed 11–9–26; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2026–13807; Project Identifier MCAI–2026–00620–T]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2021–13–20, which applies to certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. AD 2021–13–20 requires inspecting the waste box, waste access doubler, and waste service door for corrosion, and doing applicable on-condition actions. Since the FAA issued AD 2021–13–20, the FAA has determined that a full secondary fuel vapor barrier must be applied. This proposed AD would retain all requirements of AD 2021–13–20 and would also require, for certain airplanes, an additional inspection of the waste box, waste access doubler, and waste service door for corrosion, and applicable on-condition actions. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by December 28, 2026.

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

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

*AD Docket:* You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–13807; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

*Material Incorporated by Reference:*

- For Transport Canada material identified in this proposed AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca.* You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation.* It is also available at *regulations.gov* under Docket No. FAA–2026–13807.
- 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:** Camille Seay, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5149; email: *Camille.L.Seay@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–2026–13807; Project Identifier MCAI–2026–00620–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 Camille Seay, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5149; email: *Camille.L.Seay@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 2021–13–20, Amendment 39–21625 (86 FR 38223, July 20, 2021) (AD 2021–13–20), for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. AD 2021–13–20 was prompted by an MCAI originated by Transport Canada, which is the aviation authority for Canada. Transport Canada issued AD CF–2020–42, dated October 16, 2020 (Transport Canada AD CF–2020–42), to correct an unsafe condition.

AD 2021–13–20 requires inspecting the waste box, waste access doubler, and waste service door for corrosion, and doing applicable on-condition actions. The FAA issued AD 2021–13–20 to address this corrosion, which could lead to cracking or holes in the waste box or airplane skin, and consequent cabin pressure leakage and catastrophic structural damage of the airplane.

**Actions Since AD 2021–13–20 Was Issued**

Since the FAA issued AD 2021–13–20, Transport Canada superseded Transport Canada AD CF–2020–42 and issued Transport Canada AD CF–2026–26, dated June 19, 2026 (Transport Canada AD CF–2026–26) (also referred to as the MCAI), to correct an unsafe condition for certain Model BD–500–1A10 and BD–500–1A11 airplanes.

The MCAI states that corrosion, caused by leakage of wastewater from the waste service panel ball valve, has been reported on the waste box, waste access doubler, and waste service door at the rear fuselage, and that some corrosion findings have been severe enough to require structural repairs or replacement of the affected parts. Since Transport Canada AD CF–2020–42 was issued, the manufacturer revised the service information, designating the existing instructions as Part A and introducing a new Part B applicable to certain airplanes; Part A improves the prior instructions (*i.e.,* Part A ensures a full application of secondary fuel vapor barrier to the entire waste box), and Part B adds repairs to the waste access doubler, replacement of fillet sealant, removal of corrosion-inhibiting compound, and application of secondary fuel vapor barrier (to the Part B inspection of the waste box, waste access doubler, and waste service door for corrosion, and applicable on-condition actions).

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–2026–13807.

**Explanation of Retained Requirements**

Although this proposed AD does not explicitly restate the requirements of AD 2021–13–20, this proposed AD would retain all of the requirements of AD 2021–13–20. Those requirements are referenced in Transport Canada AD CF–2026–26, which, in turn, is referenced in paragraph (g) of this proposed AD.

**Material Incorporated by Reference Under 1 CFR Part 51**

Transport Canada AD CF–2026–26 specifies procedures for a general visual inspection of the waste box, waste access doubler, and waste service door for corrosion, applying secondary fuel barrier sealant (for certain airplanes), and applicable on-condition actions. On-condition actions include repairing any corrosion found, applying secondary fuel barrier to the entire waste box, and applying corrosion protection.

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

**FAA's Determination**

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

**Proposed AD Requirements in This NPRM**

This proposed AD would retain all of the requirements of AD 2021–13–20. This proposed AD would require accomplishing the actions specified in Transport Canada AD CF–2026–26 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate Transport Canada AD CF–2026–26 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2026–26 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Material required by Transport Canada AD CF–2026–26 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2026–13807 after the FAA final rule is published.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 32 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 2021–13–20 | 8 work-hours × $85 per hour = $680 | $0 | $680 | $21,760 |
| New proposed actions | 8 work-hours × $85 per hour = $680 | * 0 | 680 | 21,760 |

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

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

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or

on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2021–13–20, Amendment 39–21625 (86 FR 38223, July 20, 2021); and

■ b. Adding the following new AD:

**Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.):** Docket No. FAA–2026–13807; Project Identifier MCAI–2026–00620–T.

**(a) Comments Due Date**

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

**(b) Affected ADs**

This AD replaces AD 2021–13–20, Amendment 39–21625 (86 FR 38223, July 20, 2021) (AD 2021–13–20).

**(c) Applicability**

This AD applies to Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada AD CF–2026–26, dated June 19, 2026 (Transport Canada AD CF–2026–26).

**(d) Subject**

Air Transport Association (ATA) of America Code 53, Fuselage.

**(e) Unsafe Condition**

This AD was prompted by reports of corrosion on the waste box, waste access doubler, and waste service door at the aft waste service port, caused by leakage of wastewater from the waste service panel ball valve. The FAA is issuing this AD to address this corrosion, which could lead to cracking or holes in the waste box or airplane skin, and consequent cabin pressure leakage and catastrophic structural damage of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2026–26.

**(h) Exception to Transport Canada AD CF–2026–26**

(1) Where Transport Canada AD CF–2026–26 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2026–26 refers to hours air time, this AD requires using flight hours.

(3) Where Part I of Transport Canada AD CF–2026–26 specifies a compliance time of ''Within 14,200 flight cycles or 56 months from the aeroplane date of manufacture, as identified on the identification plate of the aeroplane, whichever occurs first'' or ''Within 9,900 flight cycles or 56 months from the aeroplane date of manufacture, as identified on the identification plate of the aeroplane, whichever occurs first'', depending on airplane configuration, to accomplish all applicable actions, this AD requires that corrosion repair be done before further flight after detection of corrosion, as identified in the applicable service information specified in Transport Canada AD CF–2026–26.

(4) Where Part II of Transport Canada AD CF–2026–26 specifies ''repair any corrosion found'', for this AD, replace that text with ''repair any corrosion found before further flight''.

**(i) Additional AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) 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 Transport Canada; or Airbus Canada Limited Partnership's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(j) Additional Information**

For more information about this AD, contact Camille Seay, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 817–222–5149; email: *Camille.L.Seay@faa.gov.*

**(k) Material Incorporated by Reference**

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

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

(i) Transport Canada AD CF–2026–26, dated June 19, 2026.

(ii) [Reserved]

(3) For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca.* You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 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 November 6, 2026.

**Lona C. Saccomando,**

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

[FR Doc. 2026–22919 Filed 11–9–26; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. FAA–2026–13808; Project Identifier MCAI–2024–00785–T]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc., Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–2B16 (604 Variants) airplanes. This proposed AD was prompted by reports of cracks being found on the lower wing plank at the rear spar wing station (WS) 59 to WS 65 web and/or flange. This proposed AD would require inspecting the lower wing plank rear spar web and lower flange, the forward surface of the pressure bulkhead frame under the stiffeners, and the vertical stabilizer front spar to frame attachment fitting lower legs for cracks, and repair or rectification if applicable. 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 28, 2026.

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

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

*AD Docket:* You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–13808; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

**Material Incorporated by Reference**

- For Transport Canada material identified in this proposed AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca*. You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation.* It is also available at *regulations.gov* under Docket No. FAA–2026–13808.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

**FOR FURTHER INFORMATION CONTACT:** Christopher Spencer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; email: *9-avs-nyaco-cos@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–2026–13808; Project Identifier MCAI–2024–00785–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 Christopher Spencer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; email: *9-avs-nyaco-cos@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**

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2024–47, dated December 23, 2024 (Transport Canada AD CF–2024–47) (also referred to as the MCAI), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B16 (604 Variants) airplanes. The MCAI states that there were reports of cracks being found on the lower wing plank at the rear spar WS 59 to WS 65 web and/or flange. Further investigation revealed that six non-destructive testing manual procedures associated with airworthiness limitations tasks could lead to undetected cracks, which could lead to structural failure of the airplane.

The FAA is proposing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–13808.

**Material Incorporated by Reference Under 1 CFR Part 51**

Transport Canada AD CF–2024–47 specifies procedures for eddy current and ultrasonic inspections for cracks of the lower wing plank at the rear spar web WS 59 to WS 65 and lower flange, the forward surface of the pressure bulkhead frame under the stiffeners between left buttock line 9.00 and right buttock line 9.00 at fuselage station 409.00, and the vertical stabilizer front spar to frame attachment fitting lower legs at fuselage station 755.00; it also specifies procedures for repair or rectification of cracks.

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

**FAA's Determination**

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

**Proposed AD Requirements in This NPRM**

This proposed AD would require accomplishing the actions specified in Transport Canada AD CF–2024–47 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate Transport Canada AD CF–2024–47 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2024–47 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Material required by Transport Canada AD CF–2024–47 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–13808 after the FAA final rule is published.

**Interim Action**

The FAA considers that this proposed AD would be an interim action. If final action is later identified, the FAA might consider further rulemaking then.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 201 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| Up to 24 work-hours × $85 per hour = $2,040 | $0 | Up to $2,040 | Up to $410,040. |

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

**Authority for this Rulemaking**

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

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

**Regulatory Findings**

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

Bombardier, Inc.: Docket No. FAA–2026–13808; Project Identifier MCAI–2024–00785–T.

**(a) Comments Due Date**

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

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc., Model CL–600–2B16 (604 Variants) airplanes, certificated in any category, as identified in Transport Canada AD CF–2024–47, dated December 23, 2024 (Transport Canada AD CF–2024–47).

**(d) Subject**

Air Transport Association (ATA) of America Code 53, Fuselage; 55, Stabilizers; and 57, Wings.

**(e) Unsafe Condition**

This AD was prompted by reports of cracks being found on the lower wing plank at the rear spar wing station 59 to wing station 65 web and/or flange. The FAA is issuing this AD to address undetected cracks. The unsafe condition, if not addressed, could result in structural failure of the airplane.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2024–47.

**(h) Exception to Transport Canada AD CF–2024–47**

Where Transport Canada AD CF–2024–47 refers to its effective date, this AD requires using the effective date of this AD.

**(i) No Reporting Requirement**

Although the material referenced in Transport Canada AD CF–2024–47 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Additional AD Provisions**

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or Transport Canada; or Bombardier's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(k) Additional Information**

For more information about this AD, contact Christopher Spencer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 516–228–7300; email: *9-avs-nyaco-cos@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) Transport Canada AD CF–2024–47, dated December 23, 2024.

(ii) [Reserved]

(3) For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca.* You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 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 November 5, 2026.

**Steven W. Thompson,**

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

[FR Doc. 2026–22899 Filed 11–9–26; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2026–13796; Project Identifier MCAI–2026–00015–R]**

**RIN 2120–AA64**

## Airworthiness Directives; Leonardo S.p.a. Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2024–05–07, which applies to all Leonardo S.p.a. Model AW189 helicopters. AD 2024–05–07 requires revising the airworthiness limitations section (ALS) of the existing helicopter maintenance manual or instructions for continued airworthiness (ICA) and the existing approved maintenance or inspection program, as applicable. Since the FAA issued AD 2024–05–07, it was determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would require revising the ALS of the existing maintenance manual or ICA and the existing approved maintenance or inspection program, as applicable. 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 28, 2026.

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

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

*AD Docket:* You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–13796; 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 Air vehicle maintenance planning information material identified in this proposed AD, contact Leonardo Helicopters, Via Giovanni Agusta 520, 21017 Cascina Costa di Samarate (Va) Italy; phone: (+39) 0331–229111; email: *helicoptersinfo@leonardo.com.*
- 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:** George Weir, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–4045; email: *george.a.weir@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–2026–13796; Project Identifier MCAI–2026–00015–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial

information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to George Weir Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Background**

The FAA issued AD 2024–05–07, Amendment 39–22698 (89 FR 24686, April 9, 2024) (AD 2024–05–07), for all Leonardo S.p.a. Model AW189 helicopters. AD 2024–05–07 was prompted by an MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued EASA AD 2023–0161, dated August 16, 2023 (EASA AD 2023–0161), to correct an unsafe condition identified as fatigue cracking, damage, and corrosion in principal structural elements.

AD 2024–05–07 requires revising the ALS of the existing helicopter maintenance manual or ICA and the existing approved maintenance or inspection program, as applicable. The FAA issued AD 2024–05–07 to address fatigue cracking, damage, and corrosion in principal structural elements.

**Actions Since AD 2024–05–07 Was Issued**

Since the FAA issued AD 2024–05–07, EASA superseded EASA AD 2023–0161 and issued EASA AD 2025–0090, dated April 23, 2025, which was superseded by EASA AD 2026–0004, dated January 13, 2026 (EASA AD 2026–0004) (also referred to as the MCAI). The MCAI states that new or more restrictive airworthiness limitations have been developed.

The FAA is proposing this AD to address fatigue cracking, damage, and corrosion in principal structural elements. The unsafe condition, if not addressed, could result in failure of a part and loss of control of the helicopter.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–13796.

**Material Incorporated by Reference Under 1 CFR Part 51**

The FAA reviewed Air vehicle maintenance planning information AW189 89–B–AMPI–00–P, Chapter 04, Airworthiness Limitations, Issue 009, dated November 26, 2025. This material specifies procedures for revising the Aircraft Maintenance Programme (AMP) by incorporating the limitations, tasks, and associated thresholds and intervals described in the specified ALS, as applicable.

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

**FAA's Determination**

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

**Proposed AD Requirements in This NPRM**

This proposed AD would require revising the ALS of the existing helicopter maintenance manual or ICA and the existing approved maintenance or inspection program, as applicable.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect four helicopters of U.S. registry.

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

Estimated costs

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Revise the ALS | 1 work-hours × $85 per hour = $85 | $0 | $85 | $340 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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 2024–05–07, Amendment 39–22698 (89 FR 24686, April 9, 2024); and
■ b. Adding the following new airworthiness directive:

**Leonardo S.p.a.:** Docket No. FAA–2026–13796; Project Identifier MCAI–2026–00015–R.

**(a) Comments Due Date**

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

**(b) Affected ADs**

This AD replaces AD 2024–05–07, Amendment 39–22698 (89 FR 24686, April 9, 2024).

**(c) Applicability**

This AD applies to all Leonardo S.p.a. Model AW189 helicopters, certificated in any category.

**(d) Subject**

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

**(e) Unsafe Condition**

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking, damage, and corrosion in principal structural elements. The unsafe condition, if not addressed, could result in failure of a part and loss of control of the helicopter.

**(f) Compliance**

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

**(g) Required Actions**

Within 30 days after the effective date of this AD, revise the Airworthiness Limitations Section of the existing helicopter maintenance manual or instructions for continued airworthiness and the existing approved maintenance or inspection program, as applicable, by incorporating the actions and associated thresholds and intervals, including life limits, specified in Air vehicle maintenance planning information AW189 89–B–AMPI–00–P, Chapter 04, Airworthiness Limitations, Issue 009, dated November 26, 2025, as applicable for your helicopter.

**(h) Provisions for Alternative Actions and Intervals**

After the action required by paragraph (g) of this AD has been accomplished, no alternative actions and associated thresholds and intervals, including life limits, are allowed unless they are approved by the Manager, International Validation Branch, FAA; or the European Union Aviation Safety Agency (EASA); or Leonardo S.p.a.'s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

**(i) Alternative Methods of Compliance (AMOCs)**

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

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

**(j) Additional Information**

For more information about this AD, contact George Weir, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (817) 222–4045; email: *george.a.weir@faa.gov*.

**(k) Material Incorporated by Reference**

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

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

(i) Air vehicle maintenance planning information AW189 89–B–AMPI–00–P, Chapter 04, Airworthiness Limitations, Issue 009, dated November 26, 2025.

(ii) [Reserved]

(3) For Air vehicle maintenance planning information material identified in this AD, contact Leonardo Helicopters, Via Giovanni Agusta 520, 21017 Cascina Costa di Samarate (Va) Italy; phone: (+39) 0331–229111; email: *helicoptersinfo@leonardo.com.*

(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 November 6, 2026.

**Steven W. Thompson,**

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

[FR Doc. 2026–22928 Filed 11–9–26; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### 20 CFR Part 604

**[Docket No. ETA–2026–0100]**

**RIN 1205–AC31**

### Unemployment Insurance Program National Minimum Weekly Work Search Requirements

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Proposed rule, request for comment.

**SUMMARY:** The U.S. Department of Labor (Department), through the Employment and Training Administration (ETA), is proposing to amend 20 CFR part 604 both to reflect a 2012 update in Federal law in which Congress, by amending section 303(a) of the Social Security Act (SSA), established a Federal work search requirement; and to establish a national minimum weekly work search requirement standard for the Federal-State unemployment compensation (UC) program. This proposed rule would mandate, among other things, that States require individuals claiming UC to complete at least five qualifying work search activities or, where applicable, meet State-adopted points-based system requirements amounting to five qualifying activities or satisfy equivalent labor force attachment criteria, each week for which UC is claimed; that individuals report their work search activities as part of their certification process prior to payment being issued; and that State law allow for certain qualifying work search activities beyond simply employer contacts. This action is necessary to reduce inconsistencies beyond those created by local labor markets in State-level requirements for individuals to actively seek work. The intended effect is to hold States accountable for administering a UC program that provides temporary wage replacement to eligible individuals while they are actively seeking work through a meaningful engagement with the labor market.

**DATES:** Interested persons are invited to submit written comments on this notice of proposed rulemaking (NPRM *or* proposed rule) on or before January 11, 2027.

**ADDRESSES:** You may submit comments electronically by the following method:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Search for docket number ETA–2026–0100 or RIN 1205–AC31, open the proposed rule,

select the ''Comment'' option, and follow the instructions for submitting comments.

*Instructions:* Include the agency name, docket number ETA–2026–0100, and RIN 1205–AC31 in your comment.

Please be advised that the Department will post comments received that relate to this proposed rule to *https://www.regulations.gov,* including any personal information provided. All comments posted to *https://www.regulations.gov* are available and accessible to the public. Please do not submit comments containing trade secrets, confidential or proprietary commercial or financial information, personal health information, sensitive or personally identifiable information (for example, Social Security numbers, driver's license or State identification numbers, passport numbers, or financial account numbers), or other information that you do not want made available to the public. Should the Department become aware of such information, the Department reserves the right to redact or refrain from posting: sensitive information, libelous content, or otherwise inappropriate comments, including those that contain obscene, indecent, or profane language; comments that contain threats or defamatory statements; or comments that contain hate speech. Please note that depending on how information is submitted, the Department may not be able to redact the information and instead reserves the right to refrain from posting the information or comment in such situations.

*Docket:* For access to the docket to read background documents, comments received, or the plain-language summary (of not more than 100 words in length) of the proposed rule required by the Providing Accountability Through Transparency Act of 2023, go to *https://www.regulations.gov* (search using docket number ETA–2026–0100 or RIN 1205–AC31). If you need assistance to review the comments, contact the Office of Policy Development and Research at 202–693–3637 (this is not a toll-free number).

**FOR FURTHER INFORMATION CONTACT:** Luke Murren, Acting Administrator, Office of Policy Development and Research, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5641, Washington, DC 20210; email: *Murren.Luke@dol.gov,* 202–693–4711.

**SUPPLEMENTARY INFORMATION:**

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## I. Acronyms and Abbreviations

2012 Act Middle Class Tax Relief and Job Creation Act of 2012
A&A able and available (for work)
BAM Benefit Accuracy Measurement
BLS U.S. Bureau of Labor Statistics
CFR Code of Federal Regulations
Department U.S. Department of Labor
E.O. Executive Order
ETA Employment and Training Administration
EUCA Federal-State Extended Unemployment Compensation Act of 1970
FR Federal Register
FY Fiscal Year
IT information technology
NPRM *or* proposed rule notice of proposed rulemaking
OIRA Office of Information and Regulatory Affairs
OMB Office of Management and Budget
PRA Paperwork Reduction Act of 1995
Pub. L. Public Law
RESEA Reemployment Services and Eligibility Assessment
RFA Regulatory Flexibility Act
RIN Regulatory Identification Number
SEA Self-Employment Assistance
Secretary U.S. Secretary of Labor
SOC Standard Occupational Classification
SSA Social Security Act
STC Short-Time Compensation
TEGL Training and Employment Guidance Letter
TEN Training and Employment Notice
UC unemployment compensation
UIPL Unemployment Insurance Program Letter
UMRA Unfunded Mandates Reform Act of 1995
U.S.C. United States Code

## II. Executive Summary

### *Purpose of the Rule and Summary of the Rule's Major Provisions*

In 2012, Congress amended the SSA at section 303(a) to require that an individual must be actively seeking work to be eligible for UC. However, implementation across States of the requirement to actively seek work has demonstrated inconsistencies in expectations for individuals receiving UC. This rule will operationalize the statutory requirement at section 303(a)(12) of the SSA that States require that, to be eligible for UC, individuals are able to work, available to work, and are actively seeking work for each week that benefits are claimed.

To implement the statutory changes, the Department is proposing this rule, which would establish a national minimum weekly work search standard for the UC program. This proposed regulation would establish that:

- State law must require individuals to complete a minimum of five qualifying work search activities or, where applicable as defined later in this preamble, meet State-adopted points-based system requirements amounting to five qualifying activities or satisfy equivalent labor force attachment criteria, each week for which UC is claimed. Circumstances under which individuals may be deemed to have met the minimum work search requirement are when work search activities would not serve to promote labor force attachment, when the timing of an initial claim does not provide time to complete the minimum number of work search activities, or when there are other limited extenuating circumstances that would preclude an individual from meeting the minimum number of work search activities in a week.
- State law must require individuals to report work search activity as part of the continued claim certification process prior to payment being released.
- State law must allow for certain qualifying work search activities beyond simply employer contacts, to include registration and ongoing contact with placement agencies or unions for the purposes of seeking employment. States may designate additional activities as satisfying the requirement as enumerated in the proposed text. These

examples are illustrative, non-exhaustive, and include qualifying activities that are reasonably calculated to lead to reemployment.

These standards codify and provide consistency across the UC system for best practices and standards that the Department has previously placed in subregulatory guidance. The proposed rule also would:

- Require States to provide notice to individuals regarding the applicable work search requirements; and
- Prohibit States from giving formal or informal warnings to individuals who fail to complete the required work search activities for each benefit week claimed, in lieu of determining their ineligibility.

Under the proposed framework, States would have latitude to adapt the work search requirement to labor market conditions by adopting a points-based system for satisfying the minimum weekly work search requirement. Under such a system, States may assign point values to qualifying work search activities and require individuals to accumulate a minimum of five points per benefit week.

The proposed rule would not require a specific reporting method, form, or questions. States could continue to accept work search activity reporting using existing reporting methods within their systems, provided the work search activities are reported for each benefit week claimed and before payment is issued. States will continue to follow their existing UC record retention policies, as required in 20 CFR part 604, with respect to work search activity reported data. Additionally, the proposed rule does not mandate how States verify reported work search activities, the frequency or scope of audits, or the adjudication procedures applied when an individual fails to complete or report the required work search activities or fails to demonstrate equivalent labor force attachment. These operational and enforcement decisions would remain within the discretion of States, consistent with applicable Federal law.

The Department acknowledges that these proposed provisions could temporarily increase the UC program's estimated improper payment rate as States and individuals adapt to the new requirements and asserts that such risk is necessary to ensure the UC system is effectively meeting its mission of providing temporary assistance to eligible individuals while they become reemployed.

## III. Background

To qualify for UC, an individual must have demonstrated recent attachment to the labor market and be unemployed through no fault of their own. As such, they have also demonstrated skills that enabled them to maintain employment, though such skills may be dated or no longer relevant to the labor market within which they are seeking work. The UC system plays a critical role in connecting these recently unemployed individuals with tools and resources and jobs to become reemployed. State work search requirements must recognize the individual within this context and allow for a broad array of activities to connect the individual with the broader workforce system.

Eligibility for UC is determined on a week-to-week basis. Once an individual files their initial claim for UC, they are required to submit continued claim certifications for confirmation of their continued eligibility. Most States require such certification on a weekly basis and some States provide for submission on a biweekly basis, though this still requires that the individual confirm their continued eligibility for each separate week within the biweekly period.

States currently implement the Federal ''actively seeking work'' requirement under section 303(a)(12) of the SSA using a wide range of inconsistent work search standards. A comparative compilation of State UC laws shows that minimum required weekly work search activities vary substantially across States, including numeric requirements, qualitative standards (*e.g.,* ''quality not quantity''), and circumstances in which the number of required activities is unspecified or varies based on labor market, individual circumstances, or policy preferences.[1] Policy preferences also vary by State in whether they are set by the State UC agency, Governor's office, or State legislature.

Across States, acceptable work search activities are typically defined broadly and may include, among other actions: direct employer contacts and employment applications; resume creation or updates; use of online job search tools and job matching systems; participation in American Job Center services and workshops; job fairs and recruitment events attendance; and other activities reasonably calculated to lead to reemployment. In many States, contact with an individual's union is also an acceptable work search activity.

States monitor compliance with work search requirements through multiple channels, including program integrity sampling (*e.g.,* Benefit Accuracy Measurement (BAM)) and reemployment engagement processes (*e.g.,* Reemployment Services and Eligibility Assessment (RESEA)). Many States also conduct eligibility reviews, random or targeted audits, interviews, or other State-defined checks.

The proposed rule would not require a specific reporting method. States could continue to accept work search activity reporting using existing reporting methods within their systems, provided the work search activities are reported for each benefit week claimed and before payment is issued. Additionally, the proposed rule does not mandate how States verify reported work search activities, the frequency or scope of audits, or the adjudication procedures applied when an individual fails to meet a work search requirement. These operational and enforcement decisions would remain within the discretion of States, consistent with applicable Federal law.

### *A. Need for Rulemaking*

Federal law requires individuals receiving UC to be able to work, available to work, and actively seeking work as a condition of eligibility. Section 303(a)(12) of the SSA (42 U.S.C. 503(a)(12)). States have developed differing standards to enforce this requirement that speak to both the number and type of required activities, as well as the frequency and methods of reporting them. States range from simply requiring an affirmative statement of conducting work search activities to requiring upwards of five activities in any given week. States also vary in what they consider to be a qualifying activity.

As of January 1, 2025, a few States already generally require five work search activities per week, a few States generally require four work search activities per week, nearly one-half of States generally require three work search activities per week, some States generally require two work search activities per week, and the remaining States generally require one work search activity per week.

These inconsistencies can create confusion for individuals, lead to uneven enforcement when allowable activities are not clearly defined, and increase the likelihood that otherwise eligible individuals may fail to meet requirements simply because expectations are unclear. Additionally,

[1] U.S. Department of Labor, ''Comparison of State Unemployment Insurance Laws'' (2023), Chapter 5, Nonmonetary Eligibility, Table 5–14, Work Search Requirements, *https://oui.doleta.gov/unemploy/pdf/uilawcompar/2023/complete.pdf.*

variability in how States notify individuals of work search requirements can result in individuals engaging in activities that may not support reemployment or may not satisfy the State's rules.

Despite the issuance of guidance and model legislation, work search errors continue to be one of the primary drivers of improper payment rates across the UC system and the UC improper payment rate remains above the 10-percent performance target established by the Payment Integrity Information Act (31 U.S.C. 3351–3358). Significant improvement was made in addressing work search errors in the year leading up to the March 2020 start of the pandemic. However, Congress enacted legislation to temporarily waive the work search requirement during the pandemic; once reinstated, work search errors again increased significantly. This proposed rule would specifically increase program integrity by requiring individuals claiming UC to report their work search activities prior to the payment of benefits, and by establishing consistency in the way that States apply equivalent labor force attachment.

Given these challenges, this proposed rule would establish a national minimum weekly work search standard that provides a clear and consistent expectation for individuals to be ''actively seeking work'' across the Federal-State UC program. The proposed approach supports meaningful engagement with the labor market and reflects modern job search practices, which can involve multi-day or clustered activities such as interviews, job fairs, or assessments. By requiring individuals to complete at least five weekly work search activities—with limited and specified exceptions—and to report such activities prior to issuing payment, the proposed rule would improve program integrity and strengthen labor market attachment. The proposed rule also supports an assurance that individuals are informed of the requirements and have access to a broader set of qualifying activities.

In drafting this proposed regulation, the Department is also addressing the risk of prolonged unemployment due to an insufficient search for work, a risk that may arise from a potential moral hazard [2] associated with UC. UC provides temporary partial wage replacement and, by replacing a portion of lost wages, reduces some of the immediate financial cost of continued unemployment, which may marginally reduce the financial incentive to search for or accept suitable work.

The proposed rule would help address this risk by establishing a clear national minimum weekly work search requirement and requiring individuals to report qualifying work search activities as part of the continued claim certification process before payment is issued. Requiring activities that are specific, identifiable, and reasonably calculated to lead to reemployment would help unemployed individuals find work more quickly. Conditioning eligibility for a claimed week on satisfaction of the applicable work search requirement would also strengthen the incentive for individuals claiming UC to remain meaningfully engaged with the labor market, thus helping them return to work faster. The reporting requirements in the proposed regulation would provide States with contemporaneous information regarding compliance and a record that States can use for eligibility reviews, audits, and other program integrity activities.

The Department expects that establishing a national minimum weekly work search standard as proposed would also result in a reduction in the duration of unemployment because individuals would obtain reemployment more quickly. A randomized controlled trial by Lachowska, Meral, and Woodbury (2016) examined the long-term effects of more stringent work search requirements on individuals claiming UC in Washington State over a 9-year follow-up period. The study found that individuals subject to more intensive work search requirements exited the UC program sooner and experienced higher employment rates in the year following their claims. Specifically, individuals with standard or modified work tests received approximately $429-$484 (1986 and 1987 nominal dollars) less in UC and experienced roughly 3 fewer weeks of benefit receipt compared with individuals who were not subject to work test requirements.[3]

### *B. Statutory and Regulatory History and Authority*

#### Statutory and Regulatory History

Section 303 of the SSA (42 U.S.C. 503) provides that specific conditions must be included under State UC law for the State to be certified by the U.S. Secretary of Labor (Secretary) to receive Federal administrative grants (42 U.S.C. 502(a)), including requirements related to eligibility conditions and methods of administration. Under 42 U.S.C. 1302(a) the Secretary has authority to promulgate regulations that are ''necessary to the efficient administration of the functions'' the Secretary is responsible for under chapter 7 of the SSA, which includes title III (42 U.S.C. 501 *et seq.*).

The Department and its predecessors have consistently interpreted provisions of Federal UC law to require that individuals be able and available (A&A) for work. This longstanding interpretation was codified on January 16, 2007, when the Department issued a final rule, set forth at 20 CFR part 604 (72 FR 1890) (Part 604 Final Rule). Based on the Federal statutory authority in place at that time, the Part 604 Final Rule provided that an active work search provision was not required, although a State could require an individual to actively seek work as part of the requirement to be available for work or could impose a separate State law requirement that the individual must actively seek work as a condition of weekly eligibility.

The Department's July 22, 2005, proposed rule (70 FR 42474) preceding the Part 604 Final Rule also noted that almost every State had an active work search requirement (70 FR 42479). In the Part 604 Final Rule, when addressing public comments submitted regarding work search, the Department expressed agreement as a policy matter that States should require an active work search but explained that a Federal ''work search requirement would need to be legislated by Congress'' (72 FR 1891).

On February 22, 2012, the Middle Class Tax Relief and Job Creation Act of 2012 (2012 Act), Public Law 112–96, was signed into law. Title II of the 2012 Act amended section 303(a) of the SSA to add a new paragraph (12), which specifies that a State must require, as a condition of eligibility for regular compensation, that ''a claimant must be able to work, available to work, and actively seeking work,'' thereby establishing a Federal work search requirement.

Passage of the 2012 Act both established the Federal mandate that States require individuals to actively search for work as a condition of UC eligibility and directly set out the Federal A&A requirement that previously had been implicit.

[2] Merriam-Webster defines ''moral hazard'' as ''a situation in which a party is incentivized to risk causing harm because another party is obligated to remedy the consequences of the harm caused.'' See *https://www.merriam-webster.com/dictionary/moral%20hazard* (last accessed Aug. 21, 2026).

[3] Marta Lachowska, Merve Meral, and Stephen A. Woodbury, ''Effects of the Unemployment Insurance Work Test on Long-Term Employment Outcomes'' (2016), Labour Economics, vol. 41, pp. 246–265.

Subregulatory Guidance and Agency Policy

Following enactment of the 2012 Act specifying that ''actively seeking work'' was a required condition of eligibility for UC, ETA played an active role in creating best practices and facilitating State implementation of the work search requirement, including publishing subregulatory guidance, conducting webinars with States, and providing model legislative language.

Soon after Congress enacted the 2012 Act, the Department published Unemployment Insurance Program Letter (UIPL) No. 05–13, ''Work Search and Overpayment Offset Provisions Added to Permanent Federal Unemployment Compensation Law by Title II, Subtitle A of the Middle Class Tax Relief and Job Creation Act of 2012'' (issued Jan. 10, 2013). This subregulatory guidance informed States of the codified work search requirement and advised that ''States will exercise their discretion consistent with the strong expectation that UC beneficiaries will be engaged in concerted and effective efforts calculated to find a suitable job in the shortest period of time that is practicable. . . . Any requirements established by [States] on the type or number of work search contacts must be closely tied to an expectation that the claimant will be quickly reemployed.'' However, the regulation promulgated to address the A&A requirement has not been updated to reflect this statutory change to incorporate the work search requirement.

Since this time, ETA has issued several advisories to States regarding work search requirements for individuals claiming UC. The guidance issued included: Training and Employment Notice (TEN) No. 18–16, ''Pathways to Reemployment Tools and Resources'' (issued Nov. 21, 2016); TEN No. 02–17, ''Enhanced My Reemployment Plan Tools and Resources'' (issued July 14, 2017); and TEN No. 17–19, ''Model Unemployment Insurance State Work Search Legislation'' (issued Feb. 10, 2020).

TEN No. 18–16 announced the Pathways to Reemployment framework and introduced the My Reemployment Plan as a resource for job seekers and workforce professionals. The framework ''re-envisions'' work search requirements for individuals claiming UC to support their successful reemployment in the 21st-century labor market. The guidance encouraged States to modernize work search policies and expand the scope of activities that meet the work search requirement but did not mandate any changes. States were ''encouraged to access, review and use'' the tools, and to ''assess current reemployment policies and procedures to identify areas in need of modernization.''

TEN No. 02–17 announced enhanced tools the Department developed to implement the My Reemployment Plan, including a companion video series for job seekers and a reference guide for workforce professionals in American Job Centers. The notice ''encouraged'' State workforce agencies to use these resources but did not require compliance.

TEN No. 17–19 announced the availability of Model Unemployment Insurance State Work Search Legislation and ''strongly encouraged'' States to adopt the model language and framework. The notice requested State administrators to ''consider working with the [State's] legislature and [UC] stakeholders to adopt the model legislative language,'' but specified that States ''may implement'' the model legislation, which was ''developed to assist [States].'' ETA provided this model legislation as technical assistance and ''encourage[d] [States] to review their work search laws, regulations, and policies, and to consider adopting the approach.'' Attachment I to TEN No. 17–19 provided detailed model statutory language for work search requirements, including definitions of acceptable work search activities and documentation requirements. The language was presented as a model for States to consider, not as a Federal mandate.

The advisories provided suggestions for States to improve work search models, including expanding the scope of acceptable work search activities, encouraging the use of individualized reemployment plans, promoting integration of workforce services and technology, providing tools and resources for job seekers and workforce professionals, and offering model legislative language for States to adopt. However, States were not required to comply with the guidance, and adoption of the suggestions remained voluntary.

Additionally, the RESEA program includes a review of each individual's work search activities for purposes of assessing UC eligibility and providing reemployment support as part of the individualized RESEA engagement. The Department has regularly published annual guidance specifically applicable to grants available for States to administer their RESEA programs and not the broader UC program. This operating guidance is generally published as a joint UIPL and Training and Employment Guidance Letter (TEGL) to ensure awareness across the UC and workforce systems, most recently including: UIPL No. 02–23/TEGL No. 08–22 for Fiscal Year (FY) 2023 (issued Feb. 23, 2023); UIPL No. 08–24/TEGL No. 11–23 for FY 2024 (issued Feb. 21, 2024); and UIPL No. 12–25/TEGL No. 14–24 for FY 2025 (June 10, 2025). Within this scope, States are advised to ensure communication feedback loops between their UC and workforce operations to ensure support for swift reemployment and to use evidence-based strategies for helping individuals return to work.

The Department views the publication of this proposed regulation as the next step in effectuating the requirements of the 2012 Act. The Department is proposing to amend 20 CFR part 604 to reflect the Federal work search requirement created by the 2012 Act, which is set out in section 303(a)(12) of the SSA.

## IV. Section-by-Section Discussion of the Proposed Changes

Section IV of this NPRM's preamble describes how the proposed rule would operationalize the statutory requirement at section 303(a)(12) of the SSA that individuals must actively seek work to be eligible for UC. This proposed rule also includes a definition of the term ''employer contact'' and sets forth a national minimum weekly work search standard.

The Department recognizes that certain provisions of the proposed rule would require States to amend their laws. In recognition of varying State legislature schedules, the Department proposes a compliance date of 1 year from the effective date of the final rule for States to comply with the requirements of the final rule. To facilitate a smooth transition, the Department expects States to discontinue both formal and informal warnings to individuals who fail to complete the required work search activities upon publication of this final rule, or as soon as possible if State law must be amended, as such warnings are inconsistent with Federal law.

### *A. Proposed Changes to §§ 604.1, 604.2, and 604.5*

Section 604.1 Purpose and Scope

The Department is proposing a revision to § 604.1 from the current requirement that individuals are ''able to work and available for work'' to add the phrase ''and actively seeking work.'' This would codify the existing requirement in section 303(a)(12) of the SSA that, as a condition of eligibility,

States require that individuals are able to work, available to work, and are actively seeking work each week. The existing regulation applies to all State UC programs. To the extent that Federal UC programs, such as Unemployment Compensation for Federal Employees or Unemployment Compensation for Ex-Servicemembers, defer to State requirements with respect to A&A and work search, this regulation would also be applicable.

Section 604.2 Definitions

Section 604.2 provides definitions for this part. The Department is proposing to add a new definition of the term ''employer contact.'' As proposed, employer contacts are communications between an individual and an individual employer by various means. The Department is proposing to define employer contact broadly to encompass the various ways in which individuals may contact employers and not solely limited to in person contact.

Section 604.5 Application—Availability for Work

The Department is proposing to remove paragraph (h), which addresses work search, from § 604.5. When paragraph (h) was adopted, there was no Federal work search requirement explicitly in statute and so it provides that States may include a work search requirement, which would be included either as an element of satisfying the available for work requirement or as a separate State requirement. As noted earlier in this NPRM's preamble, the 2012 Act amended section 303(a) of the SSA to require that an individual claiming UC be able to work, available to work, and actively seeking work. With this NPRM, the Department is proposing to align the Federal regulatory requirements with the statutory requirement by removing existing paragraph (h).

*B. Section 604.6 Work Search Requirement*

Proposed § 604.6 would establish a national minimum framework for work search standards applicable to all States as a condition of certification of its State UC law under title III of the SSA. Paragraphs (a) through (i) would define the minimum weekly work search activity requirement, identify permissible methods of satisfying that requirement, explain reporting expectations, provide guardrails designed to promote consistency across States, and require clear communication of work search expectations to individuals.

*C. Paragraph 604.6(a) In General*

Paragraph (a) would establish a requirement that States implement and administer a work search requirement for individuals consistent with § 604.6 to qualify for certification under title III of the SSA. This proposed paragraph would introduce the framework for the specific requirements, which are set forth in proposed paragraphs (b) through (i).

Paragraph (a) would also make clear that this new work search requirement would defer to existing work search requirements under 20 CFR part 615 that apply to the Federal-State Extended Benefits program. The Department is not seeking to contravene the work search regime that States implement under section 202(a)(3)(A)(ii) of the Federal-State Extended Unemployment Compensation Act of 1970 (EUCA). To the extent that the proposed provisions would conflict with the regulations at 20 CFR part 615 as they apply to the Extended Benefits program, 20 CFR part 604 would not apply. Conversely, to the extent that 20 CFR part 615 defers to State law, then State law must, at a minimum, align with the proposed revisions to 20 CFR part 604.

Under this paragraph, a State would not be permitted to pay UC for a claimed week of unemployment unless the individual completes the work search requirement under § 604.6 or demonstrates an equivalent labor force attachment as provided in State law, consistent with paragraph (g).

The Department is proposing this paragraph to establish a clear national baseline, consistent with section 303(a)(12) of the SSA. Section 303(a)(12) requires State law to condition the payment of UC on an individual actively seeking work. This proposed paragraph is intended to clarify that the obligation to implement and enforce work search requirements rests with the State. This approach is consistent with the Department's authority to regulate State law for conformity and compliance under the Federal-State UC program.

*D. Paragraph 604.6(b) Work Search Requirement*

Paragraph (b) would establish that States must condition individual eligibility to receive UC only if the individual satisfies the applicable work search requirement for that week under proposed paragraphs (c) and (d) or demonstrates equivalent labor force attachment under proposed paragraph (g), in addition to meeting the other eligibility requirements set forth in State and Federal law.

*E. Paragraph 604.6(c) Minimum Number of Work Search Activities*

Paragraph (c) would establish the minimum number of weekly work search activities required for individuals to demonstrate that they are actively seeking work, as required under section 303(a)(12) of the SSA. Under this proposed paragraph, an individual must complete at least five qualifying work search activities during each week of unemployment for which UC is claimed, unless the individual satisfies the requirement through a State-adopted points-based system under paragraph (f) or meets the requirements under paragraph (g).

In determining the minimum number of work search activities in this proposed rule, the Department reviewed State work search requirements nationwide. While there is variability in the number of work search activities required in States, there are a few States that already require five work search activities per week. Therefore, the Department has concluded that proposing a minimum of five work search activities per week is a reasonable and implementable requirement. The Department believes that establishing a clear minimum of five work search activities per week, with consideration for alternative demonstrations of sufficient labor force attachment described in paragraphs (f) and (g), provides a consistent and understandable baseline for active work search while remaining reasonable, achievable, and administratively feasible. The proposed requirement reflects a reasonable minimum demonstration of active labor market engagement.

*F. Paragraph 604.6(d) Work Search Activity Reporting*

Paragraph (d) would add a requirement that State law must require individuals to report the details of each completed work search activity, or the details of the individual's equivalent labor force attachment under paragraph (g) of this section, as part of the certification process prior to the payment of UC for a claimed week.

Some States already include this reporting requirement at the time of continued claim certification. All States currently require reporting work search activities when a claim is selected for a BAM audit, with the exception of one territory that does not operate a BAM program. Some States may also request work search information, or equivalent labor force attachment information, after payment through randomized audits, targeted reviews, or post-payment

verification processes. Requesting work search activities, or equivalent labor force attachment information, post-payment creates challenges for individuals, States, and employers to accurately recall, document, and verify such activities weeks or months after the activities, or equivalent labor force attachment, occurred. This delayed reporting contributes to improper payments and administrative inefficiencies.

States would retain flexibility in how they implement this proposed requirement, provided that such reporting is required for each week of claimed UC before payment is released. States would also retain discretion to determine what specific information individuals must report to the State, consistent with State law and administrative practices. The proposed provision would allow States to determine the information that individuals would be required to report with respect to their work search activities, or equivalent labor force attachment, as part of the continued claim certification process. States should only collect information that is necessary for the proper administration of the UC program. The Department recommends States collect enough information to facilitate any future audit of work search activity, or equivalent labor force attachment. The proposed provision does not prescribe specific information that must be reported to the State. The Department anticipates that most States would implement this requirement through existing certification systems and processes.

For States that administer the continued claim certification on a biweekly basis, this proposed paragraph clarifies that the work search requirement must be satisfied separately for each week of unemployment for which UC is claimed. However, States with continued claim certifications administered biweekly may satisfy the proposed requirements in § 604.6 by obtaining weekly work search activity, or equivalent labor force attachment, information from individuals on a biweekly basis and before a biweekly payment is made.

*G. Paragraph 604.6(e) Work Search Activity*

Paragraph (e) would establish the general requirements governing what constitutes a qualifying work search activity for purposes of satisfying the work search requirement under § 604.6. Under this proposed paragraph, State law would be required to include only those work search activities that allow individuals to meet the requirement by completing specified work search activities that are specific, identifiable and reasonably calculated to lead to reemployment. States must provide for certain activities, including employer contacts, as well as registration and ongoing contact with placement agencies or unions for the purposes of seeking employment. States would retain discretion to define additional qualifying work search activities consistent with § 604.6.

The Department is proposing the work search activity provisions in paragraph (e) to reflect modern job search behavior, which generally comprises many types of activities, not only employer contacts, and to provide room for such activities to evolve over time. The Department considers these types of activities, when specific, identifiable, and reasonably calculated to lead to reemployment, to be legitimate work search activities.

The Department intends for this provision to provide States with flexibility to tailor work search requirements to local labor market conditions, individual populations, and administrative capacity, while ensuring that individuals are able to understand and comply with the requirement. The Department further intends to reduce procedural denials that may occur when work search requirements are vague, inconsistently applied, or difficult for individuals to understand.

The Department expects that an individual may perform multiple activities of the same type in a given week. Some examples of how this requirement might be applied include:

- An individual makes five discrete employer contacts for the purpose of seeking work in a given week; or
- An individual does two job interviews, attends a job fair, takes a professional assessment, and submits an employment application in a given week.

Paragraph (e)(1)

As proposed, paragraph (e)(1) would provide that State law must not limit qualifying work search activities solely to employer contacts. The Department recognizes that modern work search behavior includes a broader range of activities as described in subsequent paragraphs.

Paragraph (e)(2)

Paragraph (e)(2) is a proposed list of work search activities that States would be required to recognize as work search activities in State law for purposes of the work search requirement set out in paragraph (b): employer contacts (as defined in § 604.2) for the purpose of seeking employment, specifically including employment application submissions, job interviews, and skill, aptitude, or competency assessments with a specific employer; registration and ongoing contact with placement agencies for the purpose of seeking employment; and contact with the individual's union for a job referral. The Department has determined that these work search activities are integral to the reemployment process and thus individuals should always be given credit toward the work search requirement for completing them in a given week.

Employer contacts are an important and effective component of active work search and are reasonably calculated to lead to reemployment. The Department believes requiring States to recognize employer contacts as qualifying work search activities would promote more rapid reemployment and ensure that direct employer engagement remains a core component of the work search requirement.

The Department's intent in requiring that skill, aptitude, or competency assessments with a specific employer be recognized as qualifying work search activities in State law is that such activities are important evaluation tools used to assess individuals for employment. Skills assessments measure an individual's technical or functional ability to perform tasks related to a specific job. Aptitude assessments are intended to measure an individual's potential to succeed in a given job. Competency assessments are intended to evaluate an individual's skills and knowledge, generally, for a particular role within an organization. The Department proposes to include registration and ongoing contact with placement agencies because such contacts are important routes to obtaining employment. Much like contacting an individual employer for work, contacting a placement agency is a useful way to obtain a job.

Additionally, contact with the individual's union for a job referral would be a qualifying work search activity for the purpose of the work search requirement in paragraph (b). Contact with a union would be recognized in State law as a qualifying work search activity regardless of whether the union offers a hiring hall. Therefore, the Department proposes that a union member contacting their union for a job referral must also be considered a valid work search activity.

The Department recognizes that for an individual who is a member of a union that prohibits members from taking non-union work, accepting non-union work

may result in the individual violating the terms of their union membership agreement. Under such circumstances, an individual who otherwise does not meet the requirement in accordance with paragraph (g)(2) may meet the minimum work search requirement by making contact with their union for job referrals and completing any other work search activities described in paragraph (e)(2), such as skill and competency assessments, as well as work search activities that may be recognized by the State consistent with paragraph (e)(3), such as training, that do not require contacting non-union employers for the purpose of obtaining work.

The Department is considering including a requirement that at least one of the individual's work search activities each week be an activity from the list in paragraph (e)(2) and welcomes comment on this approach.

Paragraph (e)(3)

The Department strongly encourages States to allow a wide variety of work search activities to satisfy the work search requirement. Paragraph (e)(3) proposes a non-exhaustive list of additional activities that States may include as qualifying work search activities. These include:

- Attending job fairs or hiring events (proposed paragraph (e)(3)(i));
- Utilizing career center or employment services (proposed paragraph (e)(3)(ii));
- Attending workshops, training, or skill-building educational events (proposed paragraph (e)(3)(iii));
- Taking professional assessments or certification examinations (proposed paragraph (e)(3)(iv)); and
- Other activities reasonably calculated to lead to reemployment, as determined by the State (proposed paragraph (e)(3)(v)).

All of these activities may be considered to be reasonably calculated to lead to reemployment. An individual taking a professional assessment may more easily obtain employment in a specific industry and the assessment may contain aspects of skill, aptitude, or competency assessments. The Department believes professional assessments and certifications are valuable work search activities and can lead an individual to reemployment. However, because professional assessments and certificate exams can vary widely from industry to industry and State to State, the Department does not propose to make these activities mandatory for inclusion in State law. This optional category is distinct from the skill, aptitude, or competency assessments related to employment that States must recognize under proposed paragraph (e)(2)(i)(C).

The Department proposes including the illustrative list in paragraph (e)(3) to preserve State flexibility to account for differences in labor markets, industries, geography, and administrative systems. This approach allows States to define additional qualifying activities as appropriate and also provides room for such activities to evolve over time, based on economic conditions within the State, changes in technology, or other factors that would require the State to add or delete acceptable work search activities.

The Department recognizes that there may be other government programs that involve work search requirements. For example, the Department notes that the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services issued an interim final rule on June 3, 2026, regarding the requirement for certain Medicaid applicants and beneficiaries to demonstrate community engagement through specific qualifying activities as a condition of their Medicaid eligibility (91 FR 33348). Accordingly, the Department encourages States to work with their State Medicaid agency to align, to the extent appropriate, their work search requirements so that the work search activities that individuals applying for UC may complete align with the mandatory community engagement activities required by their State Medicaid agency.

*H. Paragraph 604.6(f) Points-Based System*

The Department included proposed regulatory text under paragraph (f) to solicit comments on a proposed points-based system. The Department is considering whether such a system aligns with the goals of this proposed rule and, if included in the final rule, how it might be implemented. Paragraph (f) would permit a State to adopt a points-based system as a method for satisfying the weekly work search requirement proposed in paragraph (b). Proposed paragraph (f) offers States flexibility to establish a points-based system to accomplish the requirement in proposed paragraph (c). Under a points-based system, qualifying work search activities would be assigned point values, as determined by the State, and an individual would satisfy the weekly work search requirement when the total point value of completed and reported activities equals or exceeds the minimum threshold of five points established by this paragraph. Nothing would preclude an individual from completing five one-point work search activities in a claimed week—the adoption of a points-based system simply encourages an individual to do certain activities over others by providing those activities a greater weight in completing the work search requirement.

The option for States to adopt a points-based system is intended to provide a tool for prioritizing activities that connect individuals to sectors and localities with greater job openings—the specific application of which can change over time. A carefully developed points-based system may act as an incentive for individuals to engage in activities that are more likely to result in rapid reemployment, especially employment in occupations that are experiencing worker shortages. It also may incentivize individuals to broaden their work search to geographical areas that may have more or better reemployment opportunities and mitigate work search difficulties when work where the individual resides may be limited.

The Department intends this provision to preserve flexibility for States while ensuring that any points-based system remains substantially equivalent to the minimum weekly work search requirement established in paragraph (c).

Paragraph (f)(1)

Paragraph (f)(1) would establish the minimum requirements for a State points-based system. Under this proposed paragraph:

- Qualifying work search activities would be assigned point values by the State (proposed paragraph (f)(1)(i)) and must be consistent with the qualifying work search activities described in paragraph (e);
- The weekly work search requirement would be satisfied only when the total number of points assigned to qualifying work search activities an individual has completed for the benefit week claimed equals at least five points (proposed paragraph (f)(1)(ii)); and
- Each work search activity is assigned a value of one, two, or three points (proposed paragraph (f)(1)(iii)).

The Department believes these minimum requirements for a State points-based system are necessary to ensure consistency, transparency, and equivalency across States. Establishing a points-based system provides States flexibility in structuring and incentivizing work search activities while maintaining a consistent baseline nationwide.

The limitation that each work search activity must be assigned a value of one,

two, or three points is intended to establish guardrails that prevent States from assigning disproportionately high or low values to individual activities in ways that could undermine the consistency or integrity of the work search requirement.

The Department believes a one-to-three-point range appropriately balances flexibility and consistency by allowing States to differentiate among activities based on their relative value while ensuring that no single activity alone satisfies the weekly requirement.

Paragraph (f)(2)

Paragraph (f)(2) would provide that, when assigning more than one point to a qualifying work search activity, States must determine that the activity either:

- Connects individuals to specific industries and geographic locations that need workers; or
- Has strong evidence for directly leading to reemployment.

These mandatory criteria ensure that activities receiving more than one point meaningfully promote reemployment and reflect current labor market needs. For instance, the State may incentivize job search activities in growth sectors with more plentiful employment options by assigning additional points to such activities. This approach encourages individuals to broaden their search and focus job search efforts on occupations where their skills are most needed.

The Department is particularly interested in comments from States, industry leaders, and other relevant stakeholders on the points-based system option proposed in paragraph (f). The Department recognizes that some States currently include flexibility in how they implement their work search requirement (*i.e.,* requiring a different number of work search activities based upon geographic factors such as whether the individual claiming UC is in an urban or rural area). The Department welcomes comments on the factors that should be used to allow greater weighting of activities.

The Department is considering the points-based approach as a potential flexibility for States and welcomes comments about additional considerations for ensuring that such a points-based system does not circumvent the underlying intent of the proposed rule (*i.e.,* a permanent workaround to avoid requiring five work search activities in any given week) and whether such a system should be included in the final rule.

*I. Paragraph 604.6(g) Equivalent Labor Force Attachment*

Paragraph (g) proposes to establish circumstances under which an individual may be considered to have an equivalent attachment to the labor force and therefore is deemed by the State to have satisfied the State's minimum work search requirement for a week.

The Department recognizes that certain individuals remain sufficiently attached to the labor force through participation in approved programs or because of specific employment-related circumstances such that requiring completion of the minimum weekly work search requirement may be unnecessary or duplicative. The Department also recognizes that there may be extenuating circumstances that would prevent an individual from conducting the required minimum weekly work search activities while the individual should otherwise be eligible for UC. This paragraph is intended to preserve consistency with other Federal UC requirements and maintain existing State practices where they align with the goal of this proposed rule in facilitating reemployment. The Department also seeks comments on other circumstances that are not represented in the draft text but might be in place under current State law and align with the goals of this proposed regulation.

Paragraph (g)(1)

Paragraph (g)(1) identifies circumstances in which an individual would be deemed to have met the minimum number of work search activities required under paragraph (c). The following equivalent labor force attachment circumstances would meet the minimum work search requirement under proposed paragraph (c) when the individual is:

- Enrolled in, and making satisfactory progress in, State-approved training under 26 U.S.C. 3304(a)(8) (proposed paragraph (g)(1)(i));
- Participating in the Self-Employment Assistance (SEA) program under 26 U.S.C. 3306(t) (proposed paragraph (g)(1)(ii));
- Participating in the Short-Time Compensation (STC) (also known as ''Workshare'' or ''Shared Work'') program under 26 U.S.C. 3306(v) by being available for their workweek (proposed paragraph (g)(1)(iii)); or
- Participating in a Registered Apprenticeship program (proposed paragraph (g)(1)(iv)).[4]

The circumstances referenced in proposed paragraphs (g)(1)(i) through (iii) are determined by other provisions of Federal law that provide that the individual cannot be denied for failure to complete work search when they are participating in State-approved training or the SEA program or when they are deemed to have met the minimum work search requirement by being available for their workweek under the STC program.

The Department further proposes that individuals participating in a Registered Apprenticeship program, under 29 U.S.C. 50, also be deemed to have satisfied the minimum work search requirement. Individuals engaged in a Registered Apprenticeship program are engaged in activities specifically designed to prepare them for employment in a particular field. These programs combine on-the-job learning with related instruction, equipping participants with new skills that will lead to employment in occupations offering higher wages.

Additionally, at the conclusion of the Registered Apprenticeship program, individuals may be hired by the company where they completed their apprenticeship. An individual earning wages during the Registered Apprenticeship program must, in accordance with State law, report such wages, which could impact the amount of UC available in the week. Separate from this monetary impact, requiring apprentices to seek additional work while participating in the program would interfere with the intended purpose and goals of the Registered Apprenticeship program and with the workforce attachment the program fosters. The reasoning for this exception aligns with similar provisions for individuals enrolled in State-approved training programs.

Paragraph (g)(2)

Paragraph (g)(2) identifies a specific category of individuals who would be deemed to have met the minimum work search requirement under paragraph (c). This provision would apply when an individual is a member in good standing with their union, that union utilizes a hiring hall for job referrals, and the individual follows the requirements of their union regarding contact with the union's hiring hall, provided the individual must contact their hiring hall at least once a week. The Department recognizes that for an individual who is

[4] A Registered Apprenticeship is an industry-driven, high-quality career pathway where employers train and prepare their future workforce while giving individuals the opportunity to gain paid work experience, progressive wages, mentorship, and a portable, nationally recognized credential.

a member of a union that utilizes a hiring hall for job referrals, looking for work outside of the hiring hall may result in the individual violating the terms of their union membership agreement.

For individuals who otherwise contact their union for work but do not meet the parameters described in paragraph (g)(2), such contact would qualify as an acceptable work search activity under paragraph (e)(2), though it would only be sufficient for satisfying one of the minimum five activities in any given week.

Paragraph (g)(3)

The Department proposes in paragraph (g)(3) to specify limited circumstances in which a State may deem an individual to have met the weekly work search requirement because the individual either maintains clear attachment to the labor force or faces specific conditions that make conducting work search activities unreasonable or impractical. By outlining these circumstances directly in the regulation, the Department aims to ensure national consistency, provide clarity for States administering UC programs, and appropriately recognize situations in which individuals should be deemed to have satisfied the weekly work search requirement for the applicable week.

Paragraph (g)(3) would permit a State to deem an individual to have met the work search requirement for a week if one of these limited circumstances applies.

- *The individual has a definite return-to-work date with their separating employer within 8 weeks of the separation date (proposed paragraph (g)(3)(i)).* If an individual is on a short-term layoff with a definite return-to-work date from their separating employer, requiring that individual to nonetheless conduct a work search may harm the employer by risking the loss of a skilled member of their workforce if the individual receives and accepts a different offer of employment. This may result in the individual being required to accept a less desirable job or risk being found ineligible to receive UC.
- *The individual is a Federal employee, is unemployed due to a lapse in Federal appropriations, and is expected to return to work when the lapse ends (proposed paragraph (g)(3)(ii)).* A similar argument for short-term layoffs applies to Federal employees who are unemployed due to a lapse in appropriations. In this situation, the employee does not have a definite return-to-work date—pending congressional action—but is still considered job-attached and is expected to be recalled to work after the lapse in appropriations ends.
- *The individual files an initial claim less than 72 hours prior to the end of the week (proposed paragraph (g)(3)(iii)) and therefore has insufficient time to both receive notification of the work search requirement and conduct the associated activities before filing their first continued claim certification.* Generally, an individual may file an initial claim at any point during a week. If there is insufficient time for the State to advise the individual of the work search requirement and for the individual to complete the work search activities for the week claimed, it creates an unreasonable burden for the individual. For example, if the individual files their initial claim with less than three full days remaining in the benefit week, it may not be reasonable to expect the individual to complete the minimum work search activities before the end of the week. Likewise, if the State backdates the individual's initial claim, the individual may be precluded from meeting the State's minimum work search requirement for that week.
- *The individual is serving on jury duty (proposed paragraph (g)(3)(iv)), and the individual's jury duty service precludes the individual from completing the minimum number of work search activities.* The Department recognizes that under section 202(a)(3)(A)(ii)(I) of EUCA, individuals who are lawfully issued summons to appear for jury duty may be exempted from seeking work if State law provides this exception under the Federal-State UC program. Therefore, a State may deem an individual to have met the State's minimum work search requirement for a claimed week, if the individual's jury duty service precludes the individual from meeting the minimum number of work search activities under proposed paragraph (c). For example, if the individual is only called for one day of jury duty, the jury duty might not preclude them from completing the minimum number of work search activities. States must determine if the jury duty service precluded the individual from completing the minimum number of work search activities. The individual must continue to meet all other eligibility requirements for the week, including being able to work and available for work under State law.
- *The individual is hospitalized for treatment of an emergency or life-threatening condition (proposed paragraph (g)(3)(v)), and the hospitalization precludes the individual from completing the minimum number of work search activities.* Similarly, the Department recognizes that under section 202(a)(3)(A)(ii)(II) of EUCA, individuals who are hospitalized for treatment of an emergency or life-threatening condition may be excepted from work search if the Federal-State UC program provides for an exception. This rule would implement this exception where the hospitalization precludes the individual from completing the minimum number of required work search activities under proposed paragraph (c) for a claimed week. In these circumstances, the minimum work search requirement may only be deemed to have been met if the State determines the hospitalization precludes them from meeting the requirement. For example, if the individual is hospitalized for one day and then is discharged and was fully able to look for work either before or after the hospitalization, the hospitalization might not preclude them from meeting the minimum number of work search activities and thus the individual would need to meet the work search requirement in paragraph (c). The individual must continue to meet all other eligibility requirements for the week, including being able to work and available for work under State law.

These proposed provisions are intended to provide employers, individuals, and States some flexibility while preserving the overall integrity of the weekly work search requirement. Individuals who are determined to meet one of the circumstances in paragraph (g)(3) must continue to meet other applicable State and Federal eligibility requirements to receive UC for a claimed week. The Department welcomes public comment on these and other possible circumstances from stakeholders.

Paragraph (g)(4)(i)

This proposed provision would allow States the flexibility to deem individuals to have met the work search requirement in this section for a claimed week when there is a federally declared major disaster as defined under the Stafford Act, 42 U.S.C. 5122(2). This provision is only applicable where States have laws that allow them to modify an individual's work search requirements during major disasters. This provision is meant to grant States the flexibility to make modifications to work search requirements based on the circumstances surrounding disasters. The Department understands that during disasters work search activities may be difficult or impossible for

individuals to complete and that businesses in affected areas may be temporarily closed or unable to accept new employment applications or new hires. Further, resources that individuals could use to complete work search activities, such as training providers, placement agencies, and workforce development organizations, may be impacted as well.

Paragraph (g)(4)(ii)

This proposed provision would cap the amount of time that paragraph (g)(4)(i) may apply. The proposed rule would cap the period during which individuals may suspend their work search to no more than 26 weeks following the week in which the disaster period commences to align the regulation with existing Disaster Unemployment Assistance program requirements and practices. The Department intentionally uses the term ''incident period'' in the proposed regulatory text because that term is defined in the Federal Emergency Management Agency's regulations at 44 CFR 206.32(f). The Department intends this term to have the meaning assigned to it in 44 CFR 206.32(f) because federally declared disasters involve both the State and several Federal agencies. The Department proposes this duration limitation to provide individuals affected by federally declared major disasters with appropriate flexibilities while balancing the goal of the work search requirement, which is to require active labor market participation for individuals seeking benefits.

Paragraph (g)(5)

The purpose of requiring an active search for work is to facilitate reemployment. Proposed paragraph (g)(5) recognizes that an individual who has accepted a bona fide offer of employment with a definite start date in the near future is demonstrating that purpose. Once an individual has accepted such an offer, requiring that individual to continue searching for other work during the short period before the new job begins may be unnecessary and create avoidable complications. For example, if the individual receives and is required to accept another offer or lose UC eligibility, that may result in the individual being forced to accept a less desirable job with lower wages and forces the employer offering the position to search for other candidates. Furthermore, if the individual receives and refuses an additional offer of employment, the State may need to adjudicate whether the refusal affects eligibility, despite the fact that the individual has already secured employment.

The proposed provision is limited and would apply on a week-by-week basis. A State may deem an individual to have met the minimum work search requirement under paragraph (c) for a claimed week only if the individual has accepted a bona fide offer of employment and the start date of such employment is within 4 weeks of the week being claimed. For any claimed week that falls outside of that 4-week period, the individual would be required to continue to satisfy the applicable minimum work search requirement under paragraph (c). When the conditions of paragraph (g)(5) are met for a claimed week, the State may deem the individual to have met the minimum work search requirement for the entire week. The State need not impose a separate, partial-week work search requirement under this paragraph.

For those weeks before the individual qualifies under paragraph (g)(5), the individual must satisfy the work search requirement through any qualifying work search activities permitted by the State under paragraph (e). The Department is setting a timeframe because an extended period during which an individual is not seeking work is inconsistent with the principles of the Federal work search requirement. This provision is intended to provide employers, individuals, and States a limited level of flexibility while preserving the overall integrity of the weekly work search requirement.

*J. Paragraph 604.6(h) Notification Requirements*

Proposed paragraphs (a) and (b) would establish that a State may not pay UC for a week claimed unless the individual satisfies the applicable work search requirement under § 604.6 or has an equivalent labor force attachment as provided in State law, consistent with paragraph (g). Proposed paragraph (h) sets out the proposed requirement that States notify individuals of the work search requirement at certain points during the continued claim certification process.

Paragraph (h)(1)

Paragraph (h)(1) would require States to provide clear notice to individuals regarding the pertinent aspects of the work search requirement for their continued eligibility for UC. Clear communication about work search requirements is essential to ensuring compliance, reducing inadvertent eligibility violations, and supporting program integrity.

Under section 303(a)(1) of the SSA, a State's UC law must provide for methods of administration that are reasonably calculated to ensure full payment of UC when due. The Department has determined that section 303(a)(1) of the SSA requires that individuals claiming UC are able to obtain, complete, and submit information related to their initial and continued claims, appeals, reemployment services, and any other available program functions or services. All individuals must have the opportunity to be informed of and take appropriate action(s) to apply for UC, maintain their entitlement to UC, and access services without undue burdens or barriers.

Appendix A to 20 CFR part 602 (Standard for Claim Determination—Separation Information) requires State laws to include provisions that will ensure that ''[i]ndividuals who may be entitled to [UC] are furnished such information as will reasonably afford them an opportunity to know, establish, and protect their rights under the [UC] law of such State.'' The Department is proposing to add this work search notification provision to the existing notifications the State sends individuals as part of the requirement that States provide individuals with sufficient information ''to know, establish, and protect their rights'' to UC. The goal of this provision is to support individual reemployment, program integrity, transparency, and accountability.

Under this proposed paragraph, States would be required to provide enough information to individuals to ensure they are aware of the work search requirements that apply to the individual's claim. Such notice would be required to be provided in writing at the time the initial claim is filed and at any time during the benefit year that such requirements applicable to the individual substantially change.

The Department recognizes that many States already provide benefit rights and responsibilities information to individuals through handbooks, online portals, continued claim certification systems, and other communications. This provision is intended to ensure that work search requirements are clearly and consistently communicated through existing channels or other communication methods reasonably calculated to ensure awareness.

At a minimum, the notice provided under this paragraph (h) would be required to include the following information:

- The acceptable types of work search activities (proposed paragraph (h)(1)(i));

• That a minimum of five qualifying work search activities are required during each week of unemployment for which UC is claimed (proposed paragraph (h)(1)(ii));

• If the State has adopted a points-based system under paragraph (f), an explanation of that system in plain language (proposed paragraph (h)(1)(iii));

• That the individual must report work search activities each time the individual files a continued claim certification and be prepared to provide additional documentation of their work search activities upon request (proposed paragraph (h)(1)(iv)); and

• That UC will not be paid for any week if the individual does not complete and report the required work search activities or demonstrate an equivalent labor force attachment under paragraph (g) (proposed paragraph (h)(1)(v)).

Paragraph (h)(2)

Paragraph (h)(2) would require the State to notify individuals: (1) when the State determines that the circumstances under paragraph (g) apply (*i.e.,* the individual meets an equivalent labor force attachment provision); and (2) when the individual's circumstances have substantially changed and different work search requirements now apply. This individualized notification requirement would only be applicable when the State has enough information to determine that paragraph (g) applies to an individual. As such, the Department expects States would put in place methods of obtaining enough information from individuals to ascertain whether proposed paragraph (g) applies to the individuals.

The Department proposes this provision to ensure that States make individuals aware of their situation-specific requirements so that they may provide the information necessary for the State to accurately apply paragraph (g), to ensure that individuals understand what is required of them, and to ensure that individuals are notified when their work search requirements change.

The Department believes this provision would improve the individuals' understanding of the State's work search requirements and reduce procedural denials caused when individuals fail to complete the required work search activities or fail to keep a record of their weekly work search activities.

*K. Paragraph 604.6(i) Prohibition on Formal and Informal Warnings*

Some States have used formal or informal warnings in lieu of holding an individual accountable for weeks in which the individual failed to actively seek work, with States oftentimes advising the Department that this rationale is based on the premise that the individual was not properly aware of the work search requirement. Paragraph (i) would state that individuals who do not complete the minimum number of required work search activities are ineligible for UC for that week. Under this proposed paragraph, States may not issue formal or informal warnings in lieu of determining ineligibility when an individual fails to complete and report the minimum required work search activities or does not meet the requirements in paragraph (g).

The Department proposes this paragraph to codify its longstanding legal interpretation that the SSA does not permit States to give individuals claiming UC a warning—whether formal or informal—when they fail to meet the statutory requirement to actively seek work for a claimed week. Section 303(a)(12) of the SSA provides that State law must require an individual to actively seek work as a condition of eligibility for each week claimed.

The Department is aware that some States have historically issued warnings to individuals upon identifying a potential work search eligibility issue. A State law or policy that permits such warnings, whether formal or informal, would be inconsistent with this proposed regulation and would, under this paragraph, be out of conformity with the SSA and the Federal Unemployment Tax Act. These laws and policies would need to be changed to conform with this proposed regulation. When a State determines that an individual did not complete and report the required work search activities and did not qualify under paragraph (g) for a claimed week, the State would be required to find the individual ineligible for that week and establish an overpayment when appropriate.

Recognizing the policy rationale often cited by States to the Department that individuals are not aware of the work search requirement, the proposed rule seeks to mitigate such occurrences by facilitating regular reporting of work search activities before UC is paid. Additionally, the Department is proposing that States may include certain circumstances under paragraph (g) allowing for equivalent labor force attachment such as when an individual files their initial claim less than 72 hours prior to the benefit week ending date. The proposed rule also requires that the State provide notification to individuals when the expectation for their work search activity changes, as described in paragraph (h).

*L. Section 604.7 Conformity and Substantial Compliance*

The Department is proposing to redesignate § 604.6 to § 604.7. The Department is proposing to place the work search requirement in § 604.6 because it would be in addition to the requirements in § 604.4 (Application—ability to work) and § 604.5 (Application—availability for work). The Department is not proposing any change to this section; it is simply proposing to redesignate it.

**V. Regulatory Analysis and Review**

*A. Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14192 (Unleashing Prosperity Through Deregulation)*

Under Executive Order (E.O.) 12866, the Office of Management and Budget (OMB)'s Office of Information and Regulatory Affairs (OIRA) determines whether a regulatory action is significant and, therefore, subject to the requirements of the E.O. and review by OMB. See 58 FR 51735 (Oct. 4, 1993). Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule that: (1) has an annual effect on the economy of $100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O. See id. OIRA has determined that this proposed rule is a ''significant regulatory action'' under section 3(f)(1) of E.O. 12866. Accordingly, this proposal was submitted to OIRA for review.

E.O. 13563 directs agencies to propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs; the regulation is tailored

to impose the least burden on society, consistent with achieving the regulatory objectives; and in choosing among alternative regulatory approaches, the agency has selected those approaches that maximize net benefits. E.O. 13563 recognizes that some benefits are difficult to quantify and provides that, where appropriate and permitted by law, agencies may consider and discuss qualitatively those values that are difficult or impossible to quantify, including equity, human dignity, fairness, and distributive impacts.

E.O. 14192, titled ''Unleashing Prosperity Through Deregulation,'' was issued on January 31, 2025. Section 3(a) of E.O. 14192 requires an agency, unless prohibited by law, to identify at least 10 existing regulations to be repealed when the agency issues a new regulation. In furtherance of this requirement, section 3(c) of E.O. 14192 requires that the ''new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs'' associated with prior regulations. A significant regulatory action (as defined in section 3(f) of E.O. 12866) that would impose total costs greater than zero is considered an E.O. 14192 regulatory action. This proposed rule, if finalized as proposed, is, therefore, expected to be an E.O. 14192 regulatory action.

Overview of the Analysis

The Department estimates that this NPRM would result in modest rule familiarization costs and describes the unquantified costs, transfer payments, and benefits of the rule. The monetized cost estimates presented in Exhibit 1 reflect one-time rule familiarization costs for State UC agencies to review and understand the regulatory changes.

EXHIBIT 1—SUMMARY OF ESTIMATED MONETIZED COSTS OF THE NPRM

[2025 dollars]

| Category | Costs |
|---|---|
| Undiscounted 10-Year Total | $23,799 |
| 10-Year Total with 3% Discounting | 23,106 |
| 10-Year Total with 7% Discounting | 22,242 |
| Annualized with 3% Discounting | 2,709 |
| Annualized with 7% Discounting | 3,167 |
| Perpetuated Annualized Costs with 7% Discounting (2024 dollars) | 1,325 |

The Department did not quantify several additional cost categories (*e.g.,* impacts on existing job search support structures and organizations, legislative changes, increased administrative activity, and information technology (IT) system changes and annual maintenance) and discusses these qualitatively in section V.A.2. The Department also provides illustrative estimates of the hours individuals may spend conducting additional work search activities. In addition, the Department discusses nonquantified transfer payments and benefits in section V.A.2, including illustrative estimates of their potential magnitude, and summarizes the analysis in section V.A.3.

The mechanisms associated with benefits of the proposed rule include increased employment and improved efficiency of labor market matching, improved accountability, increased employment, improved policy clarity and consistency, and improved health and well-being associated with securing employment sooner.

1. Need for Regulation

Federal law requires individuals receiving UC to be able to work, available for work, and actively seeking work as a condition of eligibility. 42 U.S.C. 503(a)(12). States have developed differing standards to enforce this requirement that speak to both the number and type of required activities, frequency and methods of reporting them. States range from simply requiring an affirmative statement of conducting work search activities to requiring only one work search activity; as well as requiring upwards of five activities in any given week. States also vary in what they consider to be a qualifying activity. These inconsistencies can create confusion for individuals, lead to uneven enforcement when allowable activities are not clearly defined, and increase the likelihood that otherwise eligible individuals may fail to meet requirements simply because expectations are unclear. Additionally, variability in how States notify individuals of work search requirements can result in individuals engaging in activities that may not support reemployment or may not satisfy the State's rules.

Given these challenges, this proposed rule would establish a national minimum weekly work search standard that provides a clear and consistent expectation for individuals to be ''actively seeking work'' across the Federal—State UC program. The proposed approach supports meaningful engagement with the labor market and reflects modern job search practices, which can involve multi-day or clustered activities such as interviews, job fairs, or assessments. By requiring individuals to complete at least five weekly work search activities—with limited and specified exceptions—and to report such activities prior to issuing payment, the proposed rule would improve program integrity and strengthen labor market attachment. The proposed rule also supports an assurance that individuals are informed of the requirements and have access to a broader set of qualifying activities.

2. Subject-by-Subject Analysis

In this section, the Department describes all anticipated costs, transfers, and benefits of the proposed rule, including both quantified and unquantified impacts. The proposed rule would directly regulate States by requiring them to revise their UC work search requirements as a condition of conformity with Federal UC law, and the Department expects every State operating UC programs to implement the required changes. Accordingly, this analysis treats resulting downstream effects on individuals claiming UC, State UC agencies, employers, and other affected parties as impacts of the proposed rule. Each impact is described, and quantifiable impacts are estimated while nonquantifiable impacts are discussed qualitatively.

Unemployed individuals eligible for UC in their State face the same choices under this proposed rule as they currently do, though some parameters would change. Such individuals select among: performing more extensive work search and reporting activities (with the associated opportunity cost of time and effort) to be eligible for UC; not engaging in work search and reporting activities and being found ineligible for UC; or foregoing filing for UC and accepting the best immediately available job.

i. Costs

In the following sections, the Department presents the costs estimated to be incurred by relevant stakeholders, including individuals claiming UC, State UC agencies, employers, and other affected parties. The quantified costs include costs to State UC agencies for familiarizing themselves with the regulatory change. The nonquantifiable costs include the cost to individuals for complying with the proposed rule; cost to job support structures and organizations; costs for revising State UC law and the associated implementation activities; increased administrative activities for some States; and costs for State IT system changes and annual maintenance.

a. Quantifiable Costs

1. Rule Familiarization for State UC Agencies

The Department assumed that for State UC agencies, a general and operations manager and an attorney would review the regulatory change in the first year. The Department estimated the cost of rule familiarization by State UC agencies by multiplying the number of States and territories operating UC (53) [5] by the amount of time required to read the new rule (2 hours) and by the sum of the average hourly compensation of a public-sector general and operations manager (Standard Occupational Classification (SOC) code: 11–1021) with fringe benefits included ($116.77) and the sum of the average hourly compensation of an attorney (SOC code: 23–1011) with fringe benefits included ($107.74).[6] The total cost to State UC agencies for time spent on rule familiarization is approximately $23,799 in labor costs, undiscounted. Annualized over 10 years, rule familiarization costs are valued at $2,709 per year at a 3-percent discount rate and $3,167 at a 7-percent discount rate. As rule familiarization is a one-time activity, this cost is incurred in the first year with no future costs.

b. Nonquantifiable Costs

In this section, the Department describes various nonquantifiable costs of the proposed rule, including cost to individuals for complying with the proposed rule; cost to job support structures and organizations; costs for revising State UC law and the associated implementation activities; increased administrative activities for some States; and costs for State IT system changes and annual maintenance.

1. Cost of Conducting Additional Work Search Activities

The proposed rule is expected to increase the amount of time that some individuals claiming UC spend on work search activities per benefit week claimed. The magnitude of the increase would depend on the work search requirements in place by the State in which an individual is filing and the types of activities individuals are completing already. Because of variation across States, the Department cannot directly observe the number of work search activities individuals claiming UC actually complete at baseline (current practice). While States set minimum work search requirements, States differ in how requirements are defined (for example, numeric thresholds versus qualitative standards), whether requirements vary by category of the individuals claiming UC (for example, those subject to union hiring hall provisions), and how activities are reported and tracked.

Moreover, actual search behavior may exceed the minimum required and may vary from week to week. When subject to a weekly minimum requirement, some individuals who would otherwise have concentrated more work search activities in one week and fewer in another may redistribute activities across weeks to satisfy the requirement each week. To the extent this occurs, the rule could affect the timing of some work search activities. However, the Department expects this effect to be limited because many application opportunities are time-sensitive, and individuals claiming UC generally have incentives to pursue suitable opportunities when they arise. Deferring such activities could result in lost job opportunities or delayed reemployment. For these reasons, creation of a national minimum weekly work search requirement may not result in a quantifiable increase in actual activities performed per individual. The Department also lacks data sufficient to quantify the extent of any shifting across weeks or any resulting effect on reemployment timing.

In general, the Department assumes that most individuals would experience an increase in the number of work search activities performed each week. Such activities take time, and there is an opportunity cost associated with that time. Opportunity cost refers to the value of the next best alternative use of a person's time. In this context, it represents the value of the time that individuals claiming UC would spend completing additional work search activities instead of using that time for other purposes. The Department is not able to estimate the net opportunity cost. A reliable estimate would require assumptions about baseline work search behavior, the number and type of additional activities performed, the time required for each activity, the value of individuals' time, and the extent to which additional work search activities accelerate reemployment. Because these factors are not directly observed and may vary substantially across individuals, States, and labor market conditions, the Department cannot quantify the net opportunity cost accurately. The Department is seeking public comments and input on ways to monetize the cost to the individual of conducting additional work search activities.

The Department developed an illustrative example based on an assumed average of 30 minutes per additional work search activity, reflecting variation in the time associated with different types of activities. Some work search activities like updating a resume may be completed quickly, while other activities like filling in an employment application or participating in an interview (including travel and preparation time) may take significantly longer.

For purposes of these illustrative estimates, the Department assumes approximately 100 million continued weeks claimed annually, based on 2025 continued weeks claimed data.[7] Because individuals may complete more work search activities than the minimum required by their State and data on the number of activities actually completed are not available, the Department uses State work search requirements as a proxy for baseline work search activity. The Department grouped States into five categories based on requirements of one to five work search activities per week. For States that require work search activities but do not specify a minimum number, the Department assigned a baseline of one activity per week. For States in which the requirement varies based on geography or other factors, the Department used the lower applicable number of activities. The Department allocates continued weeks claimed across the five scenarios based on baseline work search activity derived from State requirements and rounds the resulting estimates to the nearest million.

For this purpose, Exhibit 2 estimates the annual additional time spent on work search activities to be approximately 133.5 million hours.

[5] Includes the 50 States plus Puerto Rico, Washington DC, and the U.S. Virgin Islands.

[6] The overhead rate of 17 percent was sourced from the Environmental Protection Agency's 2002 ''Wage Rates for Economic Analyses of the Toxics Release Inventory Program'' memo (*https://www.regulations.gov/document/EPA-HQ-OPPT-2014-0650-0005*), and the fringe benefits rate of 68 percent was calculated using the U.S. Bureau of Labor Statistics (BLS)'s 2025 employment cost index series CMU3010000000000D, CMU3010000000000P, CMU3020000000000D, and CMU3020000000000P (*https://data.bls.gov/series-report*).

[7] U.S. Department of Labor, Employment and Training Administration, ETA 539, ''Weekly Claims and Extended Benefits Trigger Data'' (2025), *https://oui.doleta.gov/unemploy/DataDownloads.asp.*

EXHIBIT 2—ILLUSTRATIVE HOURLY ESTIMATES FOR ADDITIONAL WORK SEARCH ACTIVITIES

| Scenario | Baseline work search activities | Additional work search activities | Estimated time per activity (hours) | Illustrative continued weeks claimed | Total hours for additional work search activities |
|---|---|---|---|---|---|
| A | 1 | 4 | 0.5 | 34,000,000 | 68,000,000 |
| B | 2 | 3 | 0.5 | 10,000,000 | 15,000,000 |
| C | 3 | 2 | 0.5 | 48,000,000 | 48,000,000 |
| D | 4 | 1 | 0.5 | 5,000,000 | 2,500,000 |
| E | 5 | 0 | 0.5 | 3,000,000 | 0 |
| Total | | | | 100,000,000 | 133,500,000 |

These scenarios illustrate the potential increase in work search activities required of individuals claiming UC. These additional hours of work search are expected to lead to higher levels of employment and result in the benefits described in section V.A.2.iii below.

Finally, compliance with the requirements of this proposed rule to report the details of each work search activity prior to payment may require additional or different reporting activity by individuals claiming UC. As these requirements augment existing reporting individuals must do, the Department does not quantify them and expects them to be minimal. The Department requests comments on these assumptions and on data or methods that could be used to refine the inputs.

2. Impacts on Existing Job Search Support Structures and Organizations

The proposed rule is expected to increase work search activities of individuals claiming UC, which in turn would affect organizations that provide reemployment assistance, job search support, career counseling, training, workshops, or job placement services to unemployed workers, including individuals claiming UC. Many such organizations focus primarily on helping individuals obtain employment rather than advising individuals on UC eligibility requirements, and so the primary impact of this proposed rule for job search support organizations would be the increase in work search activities causing increased service utilization. However, some organizations may also serve individuals claiming UC by providing support in navigating State requirements. These organizations may therefore need to review, revise, or supplement materials, workshop content, staff guidance, websites, referral resources, or other support materials to reflect the updated State laws that would result from the proposed rule.

There are distinct challenges in monetizing this impact because of the variability in organizations, support services offered by these organizations, and work search activities. The Department, therefore, does not quantify the impact on existing job search support structures and organization and is seeking public comments on this cost impact from stakeholders.

3. Revision of State UC Law and Associated Implementation Activities

The Department anticipates that the proposed rule would require all States to amend State law (inclusive of statutes, regulations, policies, or administrative procedures). According to unpublished internal data, as of January 1, 2025, a vast majority of States (85%) used some type of numerical work search standard, but those standards varied widely, ranging from one to five activities per week, hybrid formulations, urban-rural distinctions, and requirements tied to applications rather than activities. And as of January 1, 2025, nearly all States defined the work search requirement in statute, as opposed to only in regulation and/or UC agency policy or procedure. Following any rule changes, State UC agencies may need to undertake a range of implementation activities to administer the revised requirements. These activities could include updating forms, notices, handbooks, websites, FAQs, slide decks, call center scripts, and other guidance materials; revising internal procedures and staff instructions; and training personnel involved in individual assistance and eligibility adjudication. State UC agencies also may need to revise outreach and educational materials related to work search obligations and reporting requirements to help individuals understand and comply with the revised standards.

The scope, timing, and resource needs associated with this one-time cost are expected to vary across States depending on existing State law, administrative structure, communication systems, and the extent to which current policies already align with the proposed requirements. Because these implementation activities may occur through a variety of State legislative, regulatory, and administrative processes and may be conducted alongside broader system or policy updates, the Department does not quantify these costs.

4. Increased Administrative Activities for Some States

The Department expects increased administrative activities arising from States' implementation of the proposed rule applicable to individuals claiming UC, specifically with respect to assessing whether a circumstance described under paragraph (g) might apply to the individual, adjudicating eligibility when an individual fails to report work search activity (with a downstream potential of also impacting appeals workload), and monitoring reports of weekly work search activities to address anomalies or trends in the data that might be indicative of improper payments. The Department acknowledges that administrative activities also may increase under the proposed rule for States that are not currently requiring individuals to report work search activities as part of the continued claim certification before releasing payment or for States that are not currently using such information to combat improper payments. This impact is not readily quantifiable based on the information available to the Department.

5. State IT System Changes and Annual Maintenance

To implement the proposed rule, some State UC agencies may need to modify their IT systems to capture, store, and use additional data elements related to individuals' work search activities. This includes modifications to continued claim certification channels for individuals claiming UC (online portals, interactive voice

response systems, and paper workflows), as well as changes to back-end eligibility determination and case management systems that support data validation, adjudication, and audit functions. Depending on the State's current practices and the flexibility of its existing platform, these changes could include adding new data fields, updating user interfaces and scripts, adjusting data retention and retrieval processes, and enhancing reporting outputs used for program management and oversight. States that currently collect details only ''upon request'' or rely on manual processes likely would incur greater development and implementation effort than States that already collect structured work search activity information as part of the continued claim certification.

States making IT changes would also incur costs associated with testing, deployment, and change management. These activities may include quality assurance testing across multiple claim types (*e.g.,* intrastate, interstate, Unemployment Compensation for Federal Employees, Unemployment Compensation for Ex-Servicemembers); regression testing to ensure timely payment and payment accuracy are not adversely affected; updates to interfaces with other State systems or vendor products; and training for staff who support individuals claiming UC and conduct eligibility reviews—both within the State UC agency and as part of its RESEA program.

In addition, States may face incremental storage needs and cybersecurity and privacy compliance activities (*e.g.,* updating access controls, audit logs, and security monitoring) commensurate with the sensitivity of individual data handled by UC systems. The magnitude and timing of these costs would vary substantially across States based on the age and architecture of their UC platforms (including whether the State operates a modernized integrated benefits system or a legacy mainframe), the degree of customization required, and whether changes can be incorporated into planned modernization releases.

Because of the complexity and diversity across State IT systems and lack of existing cost estimates for these modifications, this cost category is not quantified. The Department is seeking public comments about the approximate scale of these costs.

ii. Transfers

Transfer payments are monetary payments from one group to another that do not affect the total resources available to society (or, if they do affect total resources, the mechanism is incentives that would require more extensive inputs to analyze). Transfers are reported separately from benefits and costs. This proposed rule is expected to reduce UC outlays. Because decreased payments to individuals are offset by increases in State UC trust fund balances, these monetary changes are considered transfers. Due to data limitations, the Department is not able to develop a definitive estimate of the transfers that would be attributable to the proposed rule. Instead, the Department provides an illustrative range based on estimates from existing research. The Department invites public comments and data that could inform a more precise estimate of these transfers at the final rule stage.

Research consistently finds that UC recipients who are subject to work search requirements, or to more stringent requirements, return to work more quickly than similar unemployed individuals.[8] Evidence from State program evaluations shows that both work search requirements and reemployment services shorten the duration of insured unemployment spells by accelerating individuals' return to work. These interventions have proven cost effective due to their low administrative costs combined with measurable reductions in unemployment duration.[9] Because shorter durations of insured unemployment generally result in lower UC payments, this research provides a basis for developing illustrative estimates of the transfers associated with the proposed rule.

For this purpose, the Department relies on estimates from Lachowska et al. (2016), who analyzed long-term outcomes from a randomized controlled trial of work search requirements for individuals claiming UC in Washington State over a 9-year follow-up period.[10] The study found that, relative to a no-work-test group, individuals subject to a standard work test received $429 less in UI benefits, while individuals subject to a modified work test received $484 less. Because the Washington Alternative Work Search (WAWS) experiment was conducted in 1986–1987, the Department converted these estimates to 2025 dollars using the consumer price index.[11] The resulting estimates are $1,216 and $1,372 per individual in 2025 dollars.

To provide illustrative estimates of the transfers associated with the proposed rule, the Department applied these estimates to the 5.3 million Regular UI beneficiaries in 2025,[12] resulting in an illustrative annual reduction in UC payments of $6.445 billion to $7.272 billion. This reduction in UC payments would represent a transfer: individuals who return to work sooner would receive less in UC benefits, resulting in a corresponding increase in State UC trust fund balances rather than a reduction in total resources available to society.

These illustrative estimates should be interpreted with caution. The WAWS experiment compared individuals subject to a work test with individuals assigned to an ''honor system,'' under which they were encouraged to search for work but were not required to report their search efforts. In contrast, individuals claiming UC are currently required to conduct at least one work search activity per week, and the proposed rule would increase the required number of work search activities rather than establish a minimum number of required work search activities where none previously existed. Therefore, it may not be reasonable to assume that increasing the number of required work search activities would produce the full reduction in UI benefits estimated by Lachowska et al. (2016). Accordingly, the estimates above are intended to illustrate the potential magnitude of transfers and should not be interpreted as estimates of the actual transfers that would result from the proposed rule.

iii. Benefits

In the following sections, the Department describes the expected benefits of the proposed rule, including both direct and indirect impacts on individuals claiming UC, State UC agencies, employers, and the broader economy. These benefits are primarily

[8] Christopher J. O'Leary, ''State UI Job Search Rules and Reemployment Services'' (2006), Monthly Labor Review, vol. 129, no. 6, pp. 27–37, *https://research.upjohn.org/jrnlarticles/3;* Marta Lachowska, Merve Meral, and Stephen A. Woodbury, ''Effects of the Unemployment Insurance Work Test on Long-Term Employment Outcomes'' (2016), Labour Economics, vol. 41, pp. 246–265.

[9] Christopher J. O'Leary, ''State UI Job Search Rules and Reemployment Services'' (2006), Monthly Labor Review, vol. 129, no. 6, pp. 27–37, *https://research.upjohn.org/jrnlarticles/3.*

[10] Marta Lachowska, Merve Meral, and Stephen A. Woodbury, ''Effects of the Unemployment Insurance Work Test on Long-Term Employment Outcomes'' (2016), Labour Economics, vol. 41, pp. 246–265.

[11] Bureau of Labor Statistics, Consumer Price Index for All Urban Consumers (CPI–U), U.S. City Average, All Items. The inflation adjustment factor of 2.834 was calculated by dividing the 2025 annual average CPI–U (321.943) by the 1987 annual average CPI–U (113.600).

[12] U.S. Department of Labor, Employment and Training Administration, Unemployment Insurance Data *https://oui.doleta.gov/unemploy/DataDashboard.asp.*

driven by increased employment and faster reemployment resulting from enhanced work search activity, as well as improvements in program accountability, administrative consistency, and labor market functioning. All of these benefits are not readily monetized due to data limitations and uncertainty regarding behavioral responses. Consistent with OMB Circular A–4, the Department describes these benefits qualitatively where robust quantification or monetization is not feasible.

a. Benefits to Individuals From Increased Employment and Accelerated Reemployment

As discussed in section V.A.2.ii, the proposed rule is expected to increase employment and accelerate reemployment among individuals claiming UC by encouraging more consistent and structured work search activity. As evidenced in the Lachowska, Meral, and Woodbury (2016) study discussed earlier, additional work search requirements result in individuals finding and returning to work sooner.[13] By shortening the duration of unemployment spells, the rule may improve labor force attachment and lead to improved employment outcomes for affected individuals. Earlier reemployment may provide meaningful benefits to individuals claiming UC beyond the immediate resumption of earnings. Individuals who return to work sooner spend less time out of the labor force and begin receiving wages and any associated employment benefits earlier than they otherwise would. Reduced time out of work also may help individuals maintain a more continuous employment history, preserve workforce skills and professional connections, and accumulate additional experience that could contribute to future advancement opportunities and long-term earnings growth.

Research suggests that permanent job gains can generate broad benefits. Bartik (2015) notes that reducing involuntary unemployment can improve workers' health, well-being, and future earnings, and that job gains can generate broader economic effects through suppliers and retailers. Based on estimates of how permanent job gains affect unemployment and labor force participation, Bartik finds that such gains can generate additional value equivalent to approximately 10 to 25 percent of the earnings associated with jobs added in the manner examined in Bartik's study.

Earlier reemployment can generate direct benefits for employers as well, including filling vacancies faster, and reduced vacancy duration where increased job search activity expands the pool of available and engaged applicants. To the extent that employers can fill positions more quickly or identify better matched candidates, firms may experience modest productivity gains and reduced disruption associated with prolonged vacancies. The magnitude of these benefits would depend in part on labor market conditions. In tighter labor markets, or where employers would otherwise face difficulty filling positions, the benefits of faster reemployment and improved labor market matching may be more pronounced. In weaker labor markets or where vacancies are already filled quickly, the incremental employer-side benefits of the rule may be smaller.

While the literature generally finds that more intensive work search requirements increase reemployment and reduce unemployment duration, the available evidence is less conclusive regarding the quality of subsequent employment outcomes. To the extent that more intensive work search requirements accelerate reemployment, some individuals may accept employment sooner than they otherwise would have, which could affect subsequent wages, benefits, job match quality, or employment stability. In addition, Kuminoff et al. (2015) found that effects on household well-being vary with the duration of unemployment and do not have a simple fixed multiplier relationship with changes in earnings; rather, these effects depend on factors such as the desirability of available housing, commuting, and job options.[14] The Department lacks sufficient evidence to quantify these potential effects and therefore does not monetize them. Accordingly, the benefits discussed in this section should not be interpreted as capturing all potential dimensions of claimant economic security.

The proposed rule includes an allowance for certain qualifying work search activities beyond simply employer contacts, to include registration and ongoing contact with placement agencies or unions for the purposes of seeking reemployment. States may also designate additional activities as satisfying the requirement, such as ''[a]ttending workshops, training, or skill-building educational events'' (see proposed § 604.6(e)(3)(iii)). Workers engaged in skill development during periods of unemployment may enter the workforce with improved qualifications that better align with employers' needs. Improved alignment between worker skills and job requirements may contribute to improved hiring outcomes and reduced employee turnover. Lower turnover may reduce recruitment and training costs for employers and support greater workforce stability.

b. Improved Accountability

Clear work search requirements, including required reporting prior to release of payment, also enable States to monitor individual eligibility for UC and reduce improper payments. Failure to meet work search requirements is one of the leading causes of UC overpayments.[15] Work search errors often occur because individuals do not provide enough information about their work search efforts for past weeks as part of audits conducted by States to verify such activities. This issue underscores the need for reliable reporting systems. Strengthening work search requirements, including contemporaneous information submission, helps ensure that individuals claiming UC are actively seeking employment, thereby improving resource stewardship, reducing improper payments, and maintaining program integrity.

c. Benefits to Broader Economy From Increased Employment and Accelerated Reemployment

Securing employment sooner (or avoiding unemployment outcomes before they occur [16]) generates substantial social benefits that extend well beyond the direct earnings gained

[13] Marta Lachowska, Merve Meral, and Stephen A. Woodbury, ''Effects of the Unemployment Insurance Work Test on Long-Term Employment Outcomes'' (2016), Labour Economics, vol. 41, pp. 246–265.

[14] Nicolai V. Kuminoff, Todd Schoellman, and Christopher Timmins, ''Environmental Regulations and the Welfare Effects of Job Layoffs in the United States: A Spatial Approach'' (2015), Review of Environmental Economics and Policy, vol. 9, no. 2, pp. 198–218.

[15] The Department publishes payment accuracy data for the UC program on its website. See U.S. Department of Labor, Employment and Training Administration, ''Unemployment Insurance Payment Accuracy Datasets,'' 2025 Calendar Year Data xls, Overpayments by Cause tab, *https://www.dol.gov/agencies/eta/unemployment-insurance-payment-accuracy/data* (last accessed Aug. 21, 2026). These data include improper payment percentages, total dollar amounts, and the top 10 root causes by State.

[16] Dongil Daniel Keum and Stephan Meier, ''License to Layoff? Unemployment Insurance and the Moral Cost of Layoffs'' (2024), Organization Science, vol. 35, no. 3, *https://doi.org/10.1287/orsc.2022.16734;* Daniel D. Keum and Xin Lucy Liu, ''Managerial Prosocial Preferences and Guilt as an Emotional Barrier to Exit Decisions'' (2026), Management Science, vol. 72, no. 7, *https://doi.org/10.1287/mnsc.2023.02533.*

by workers. When individuals find jobs more quickly, they may reduce their reliance on UC and public assistance programs, such as food assistance and housing subsidies, potentially lowering public expenditures. Earlier returns to work may also generate positive spillover effects for local economies as increased earnings support additional consumer spending and economic activity.

In addition to these broader benefits from accelerated reemployment, employed individuals contribute to tax revenues through income taxes, payroll taxes, and consumer spending that generates sales tax revenue. Together, these effects can produce positive feedback loops that extend beyond individual employment outcomes and contribute to broader economic activity. Accordingly, the Department considers below a potential effect of earlier reemployment: additional tax revenues associated with increased earnings.

The Department developed illustrative estimates of these potential tax revenue benefits using a rate of 17 percent of those earnings.[17] The Department applied this rate to the illustrative range of annual reductions in UC payments calculated in section V.A.2.ii ($6.445 billion to $7.272 billion), which the Department uses as a proxy for increased earnings, resulting in illustrative estimates of annual tax revenue benefits ranging from $1.096 billion to $1.236 billion. These figures are intended to illustrate the potential magnitude of the benefits rather than estimate the amount of additional tax revenue that would actually be realized.

d. Improved Clarity and Consistency

The proposed rule would establish a more consistent framework for work search requirements. Harmonizing these expectations would simplify understanding among individuals claiming UC, reduce confusion regarding allowable activities, and streamline administrative oversight and performance monitoring across State systems. Clearer definitions of qualifying activities would also support more uniform enforcement and reduce the likelihood that otherwise eligible individuals fail to meet requirements simply because expectations are unclear. Additionally, adopting a standardized framework would facilitate better data collection and analysis, enabling State UC agencies, the Department, and other policymakers to identify trends and address systemic issues more effectively.

e. Health Benefits of Securing Employment Sooner

Upon receiving the financial benefits of working, individuals who return to work could experience positive health benefits. Employment is recognized as an important factor in individuals' long-term health and well-being. Existing research indicates obtaining and maintaining stable employment provides individuals with reliable income and financial stability, which in turn supports access to safe housing, nutritious food, and other resources.[18] [19] A literature review conducted by Rueda et al. (2012) looked at 18 studies of working-aged adults who were returning to work after a period of unemployment. Overall, these studies found that returning to work had a positive effect on the workers' health and well-being. The literature review found beneficial effects of returning to work in a variety of populations, times, and settings.[20]

3. Summary of the Analysis

i. Costs

The Department's monetized cost estimates include one-time rule familiarization costs for State UC agencies to review and understand the regulatory changes. The estimated cost to State UC agencies for time spent on rule familiarization is approximately $23,799 in labor costs, undiscounted. Annualized over 10 years, rule familiarization costs are estimated at $2,709 with 3-percent discounting and $3,167 with 7-percent discounting.

The Department also discusses additional cost categories that are not quantified (*e.g.,* cost to individuals for complying with the proposed rule; cost to job support structures and organizations; costs for revising State UC law and the associated implementation activities; increased administrative activities for some States; and costs for State IT system changes and annual maintenance) elsewhere in section V.A.2.i.b. For the cost to individuals, the Department provides illustrative estimates of the additional hours spent on work search activities.

ii. Transfers

The proposed rule is expected to result in unquantified transfer payments through reduced UC outlays, for which the Department provides illustrative estimates of potential magnitude. Strengthened work search requirements will shorten the duration of UC receipts through increased work search participation by UC recipients resulting in recipients returning to employment more quickly, or through UC recipients being found ineligible for receipt of benefits due to not completing the required number of work search activities in a week claimed. Payments to individuals claiming UC would decrease, with corresponding increases in State UC trust fund balances. Overall, the time-reallocation effects of this rule may reduce annual government deficits. Because these monetary changes represent a redistribution between affected individuals and State UC trust funds rather than a change in total societal resources, the Department treats them as transfers and is seeking public comment to support quantification at the final rule stage.

iii. Benefits

As discussed in section V.A.2.iii, the proposed rule is expected to generate several categories of nonquantified benefits primarily through increased employment and faster reemployment among individuals claiming UC. By encouraging more consistent and structured work search activity, the rule is anticipated to shorten the duration of unemployment spells, resulting in improved labor force attachment and enhanced employment outcomes. Earlier reemployment may produce broader economic benefits, including reduced reliance on public assistance programs, increased tax revenues, and positive spillover effects for local economies. The rule is also expected to improve program accountability and integrity by strengthening work search reporting and enabling State agencies to better monitor eligibility, thereby reducing improper payments. In addition, establishing a more consistent framework for work search requirements would improve clarity for individuals. Increased job search engagement and expanded recognition of skill-building activities may also improve the efficiency of labor market matching, benefiting both workers and employers.

[17] The source for the 17 percent input is Aaron Kearsley, ''HHS Standard Values for Regulatory Analysis, 2026'' (March 2026), Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, *https://aspe.hhs.gov/sites/default/files/documents/2d83af5823915d81871334ee08ad03d9/Standard-RIA-Values-2026.pdf.*

[18] Quratulain Zafar, Muhammad Ali Khan, Asif Zaheer Warsi, and Lyba Iqbal, ''Economic Strain and Recovery Trajectories in Mental Health: The Role of Financial Stability in Mental Health Outcomes'' (2024), Review of Applied Management and Social Sciences,7(4), pp. 345–358, *https://doi.org/10.47067/ramss.v7i4.385.*

[19] Ryan Gerdes et al., ''Associations Between Employment and Health Outcomes: A Systematic Review of Reviews'' (2026), Journal of Occupational Rehabilitation, *https://doi.org/10.1007/s10926-025-10357-5.*

[20] Sergio Rueda et al., ''Association of Returning to Work with Better Health in Working-Aged Adults: A Systematic Review'' (2012), American Journal of Public Health, vol. 102, no. 3, pp. 541–556, *https://pubmed.ncbi.nlm.nih.gov/22390520/.*

Finally, earlier returns to work are associated with improved individual health and well-being, including positive mental health outcomes and increased financial stability.

4. Regulatory Alternatives

The Department considered three alternatives as part of determining whether to issue this NPRM. These alternatives included: (1) issuing additional subregulatory guidance to improve work search quality and providing suggested methods to reduce improper payments due to work search errors; (2) issuing regulations that mandate universal pre-payment verification of work search activities that would require individuals to report work search activities for each benefit week claimed, and also require the State to independently verify that each reported activity actually occurred before issuing payment for the week; and (3) maintaining the status quo.

Alternative One: Issuing Additional Subregulatory Guidance

Despite the issuance of guidance and model legislation, as explained in detail in Section III.B of this preamble, work search errors continue to be one of the primary drivers of improper payment rates across the UC system and the UC improper payment rate remains above the 10-percent performance target established by the Payment Integrity Information Act. Significant improvement was made in addressing work search errors in the year leading up to the March 2020 start of the pandemic. However, Congress enacted legislation to temporarily waive the work search requirement during the pandemic; once reinstated, work search errors again increased significantly.

Based on this evidence and the need to update the regulation setting forth an A&A requirement to reflect subsequent statutory changes that incorporate a work search requirement, the Department determined that voluntary guidance and technical assistance were insufficient to reduce inconsistencies beyond those created by local labor markets in State-level standards for individuals to actively seek work.

Therefore, the Department determined that it was necessary to promulgate a regulation that requires States to take specific actions to increase participation in the labor market by individuals collecting UC, including requiring States to include a broader array of acceptable work search activities in their laws and require the reporting of such activities prior to releasing payment. This regulatory approach is necessary to ensure greater consistency, accountability, and effectiveness in promoting rapid reemployment and maintaining UC program integrity.

Alternative Two: Issuing Regulations That Require Verification of Work Search Prior to Payment of UC

The Department considered an alternative approach that would have required States to verify all individual work search activities prior to the payment of UC. Under this alternative, States would have been required to collect, review, and validate documentation associated with each qualifying work search activity before issuing UC for the week claimed.

The Department recognizes that verification of work search activities is an important program integrity tool. However, the Department determined that a universal, pre-payment verification framework would be administratively difficult for many States and could compromise the statutory requirement in section 303(a)(1) of the SSA that UC be paid ''when due.'' States vary considerably in staffing levels, system modernization, governance structures, and adjudication capacity. Many State UC systems are not designed to validate documentation at scale or distinguish eligibility verification from quality-control sampling. Universal, pre-payment verification of work search would require significant IT reprogramming; substantially increase adjudication workloads and call-center inquiries; and heighten the risk of delayed UC payments. These issues raise compliance concerns under section 303(a)(1) of the SSA, which requires that States use methods of administration reasonably calculated to ensure the full payment of UC when due.

In evaluating this alternative, the Department also considered the operational experience of the BAM program. The existing BAM program requires detailed validation of work search activities through statistically valid sampling. These investigations often require States to perform exhaustive fact-finding, contact individuals and employers, review documents, and verify reemployment activity. BAM investigations can take several weeks to complete, depending on case complexity. BAM is intentionally designed as a post-payment quality-control function, not as an eligibility determination mechanism. Requiring a similar level of documentation and verification prior to each weekly payment would effectively duplicate and interfere with the BAM program's established role, undermine its audit integrity, and impose an additional administrative layer that States are not equipped to manage at scale.

The Department further analyzed the tradeoffs between accuracy and timeliness. Universal, pre-payment verification could increase accuracy marginally but would significantly impair timeliness. Individuals would face increased procedural hurdles, and States would experience higher rates of pending issues, greater numbers of nonmonetary determinations, increased appeals queues, and delays in benefit delivery. Delayed UC benefit payments frustrate the program's core statutory purpose of providing income support to individuals who are unemployed through no fault of their own. Additionally, employers are not mandated to keep proof of employment applications, resumes, or outreach from individuals seeking work with their company, and these verification attempts may not have the intended effect.

For these reasons, the Department determined that the second alternative would not provide net benefits. States are required to have a robust internal quality control program for assessing risk, evaluating outcomes, and adapting mitigation activities to improve improper payment risk management strategies—including work search verifications. Doing this for all work search activities across all weeks claimed would impose substantial administrative burdens on States and employers, undermine the timeliness of UC benefit payments, and create procedural obstacles that are not sufficiently justified by the integrity gains. Instead, the Department concluded that a weekly minimum work search requirement, paired with mandating that States require individuals to report their work search activities each week, best balances timeliness, integrity, and administrative feasibility.

Alternative Three: Maintaining the Status Quo

Under this no-action alternative, the Department would not issue the proposed rule, and existing State practices regarding work search requirements and qualifying activities would remain in place. This alternative would avoid any implementation or administrative costs associated with the proposed rule. However, it would also forgo the anticipated benefits of the proposed rule, including greater clarity for individuals claiming UC, more consistency across State systems, improved accountability, and expected

gains from facilitating reemployment. Because this alternative would not address the concerns identified in this proposed rule, the Department has decided against maintaining the status quo.

The Department invites comments on these or other possible alternatives with the goal of ensuring thorough consideration and discussion at the final rule stage.

*B. Review Under the Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA), 5 U.S.C. ch. 6, requires the Department to evaluate the economic impact of this proposed rule on small entities. The RFA defines small entities to include small businesses; small organizations, including not-for-profit organizations; and small governmental jurisdictions. The Department must determine whether the rule would impose a significant economic impact on a substantial number of such small entities. The Department concludes that this proposed rule would not regulate any small entities directly, so any regulatory effect on small entities would be indirect. Accordingly, the head of the Department certifies this proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the RFA.

*C. Paperwork Reduction Act of 1995*

The Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* requires the Federal Government to minimize the paperwork burden on affected entities. The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing for public comment a summary of the collection of information and a brief description of the need for and proposed use of the information.

The Department has determined this proposed rule contains no new information collection under the provisions of the PRA.

*D. Executive Order 13132 (Federalism)*

E.O. 13132 aims to guarantee the division of governmental responsibilities between the Federal Government and the States and to further the policies of the Unfunded Mandates Reform Act of 1995 (UMRA). Accordingly, E.O. 13132 requires executive departments and agencies to ensure that the principles of federalism guide them in the formulation and implementation of policies. Further, agencies must adhere to constitutional principles, examine the constitutional and statutory authority supporting a regulation that would limit the policymaking discretion of the States, and assess the need for such a regulation. To the extent practicable, agencies must consult State and local officials before implementing any such regulation.

E.O. 13132 further provides that agencies must implement a regulation that limits the policymaking discretion of the States only where there is constitutional and statutory authority for the regulation and it addresses a problem of national significance. For a regulation administered by the States, the Federal Government must grant the States the maximum administrative discretion possible to avoid intrusive Federal oversight of State administration, and agencies must adhere to special requirements for a regulation that preempts State law. E.O. 13132 also sets forth the procedures that agencies must follow for certain regulations with federalism implications, such as preparation of a summary impact statement.

The Department reviewed this proposed rule in accordance with E.O. 13132 and determined that the rule may have federalism implications. However, the Department's unique relationship with the States requires regular consultation and collaboration with State partners, including on matters pertaining to the work search requirement in section 303(a)(12) of the SSA. Such engagement with State partners often relates to their conformity with the existing statute at 42 U.S.C. 503(a)(12) and regulations at 20 CFR part 604, including technical assistance, in-person convenings, and webinars. These engagements are critical for ensuring that States understand Department policy and regulation. The Department will continue consulting and collaborating with State partners, which the Department views as essential to its oversight of the UC program.

*E. Unfunded Mandates Reform Act of 1995*

UMRA (Pub. L. 104–4, codified at 2 U.S.C. 1501 *et seq.*) requires Federal agencies to assess a regulation's effects on State, local, and tribal governments and on the private sector, except to the extent the regulation incorporates requirements specifically set forth in law. Title II of UMRA directs agencies to prepare a written statement assessing the effects of a regulation that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation) in a year. A Federal mandate is any provision in a regulation that imposes an enforceable duty upon State, local, or tribal governments or upon the private sector, except as a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.

This proposed rule, if finalized, does not include any unfunded Federal mandate that could result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more. As a result, the analytical requirements of UMRA do not apply and the Department has not prepared a statement under UMRA.

*F. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)*

E.O. 13175 addresses the unique relationship between the Federal Government and Indian tribal governments. It requires executive departments and agencies to take certain actions when a regulation has tribal implications. Required actions include consulting with tribal governments prior to issuing a regulation with tribal implications and preparing a tribal impact statement. E.O. 13175 defines a regulation as having ''tribal implications'' when it has substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

The Department has reviewed this proposed rule under the terms of E.O. 13175 and the Department's Tribal Consultation Policy and has concluded that the proposed changes to the regulatory text would not have Tribal implications. These proposed changes do not have substantial direct effects on one or more Indian tribes, the relationship between the Federal government and Indian tribes, nor the distribution of power and responsibilities between the Federal government and Tribal Governments. Therefore, the Department concludes that the NPRM does not have tribal implications.

**List of Subjects in 20 CFR Part 604**

Labor, Unemployment compensation.

For the reasons discussed in the preamble, the Department of Labor proposes to amend chapter V of title 20 of the Code of Federal Regulations by amending part 604 as follows:

## PART 604—REGULATIONS FOR ELIGIBILITY FOR UNEMPLOYMENT COMPENSATION

■ 1. The authority citation for part 604 is revised to read as follows:

**Authority:** 42 U.S.C. 1302(a); 42 U.S.C. 503(a)(1) and (12); 26 U.S.C. 3306(h); 42 U.S.C. 1320b–7(d); Secretary's Order No. 06–2010 (October 20, 2010).

■ 2. Revise § 604.1 to read as follows:

### § 604.1 Purpose and scope.

The purpose of this part is to implement the requirement in Federal UC law that limits a State's payment of UC to individuals who are able to work, available for work, and actively seeking work. This regulation applies to all State UC laws and programs.

■ 3. Amend § 604.2 by redesignating paragraphs (b) through (h) as paragraphs (c) through (i) and adding a new paragraph (b) as follows:

### § 604.2 Definitions.

* * * * *

(b) *Employer contact* means a communication by the individual with an individual employer, including through written, virtual, telephonic, or in-person means.

* * * * *

### § 604.5 [Amended]

■ 4. Amend § 604.5 by removing paragraph (h).

### § 604.6 [Redesignated as § 604.7]

■ 5. Redesignate § 604.6 as § 604.7.

■ 6. Add new § 604.6 to read as follows:

### § 604.6 Work search requirement.

(a) *In general.* States must implement a work search requirement in accordance with this section, except where implementation would conflict with the work search requirements in part 615 of this chapter. States may not pay UC for a week during which the individual does not complete the work search requirement.

(b) *Work search requirement.* A State may not determine that an individual is eligible to receive UC for a claimed week unless the individual completes the required work search activities in accordance with this section or demonstrates an equivalent labor force attachment under paragraph (g) of this section for the week for which UC is claimed.

(c) *Minimum number of work search activities.* An individual meets the work search requirement and may receive UC for a claimed week, provided they are otherwise eligible for UC, only if, for the week in question:

(1) The individual completes a minimum of five qualifying work search activities;

(2) In States with a points-based system that meets the criteria in paragraph (f) of this section, the individual completes qualifying work search activities with a combined total point value that equals or exceeds five; or

(3) The individual meets the criteria in paragraph (g) of this section.

(d) *Work search activity reporting.* State law must require individuals to report the details of each work search activity, or the details of the individual's equivalent labor force attachment under paragraph (g) of this section, as part of the UC certification process prior to the payment of UC for the week claimed. States may obtain this information on a weekly or biweekly basis through their certification process.

(e) *Work search activity.* State law must include only those work search activities that are specific, identifiable, and reasonably calculated to lead to reemployment, and that are defined by the State consistent with this paragraph.

(1) State law must not limit what constitutes a qualifying work search activity to only employer contacts for the purpose of seeking employment.

(2) State law must include the following work search activities for the purposes of satisfying the work search requirement in paragraph (b) of this section:

(i) Employer contacts for the purpose of seeking employment, including:

(A) Employment application submission;

(B) Job interviews; and

(C) Skill, aptitude, or competency assessments related to employment with a specific employer, an American Job Center or One Stop;

(ii) Registration with placement agencies for the purpose of seeking employment;

(iii) Ongoing contact with placement agencies for the purpose of seeking employment; and

(iv) Contact with the individual's union for a job referral regardless of whether the individual satisfies the criteria in paragraph (g)(2) of this section.

(3) Additional work search activities that a State may designate as satisfying the work search requirement include:

(i) Attending job fairs or hiring events;

(ii) Utilizing career center or employment services;

(iii) Attending workshops, training, or skill-building educational events;

(iv) Taking professional assessments or certification exams; and

(v) Other activities that are reasonably calculated to lead to reemployment, as determined by the State.

(f) *Points-based system.* (1) A State may adopt a points-based system to implement the State's work search requirement provided by paragraph (b) of this section, under which:

(i) Qualifying work search activities, in accordance with paragraph (e) of this section, are assigned point values by the State;

(ii) The weekly work search requirement is satisfied when the total number of points assigned to the qualifying work search activities an individual has completed for the benefit week claimed equals or exceeds five points; and

(iii) Each work search activity is assigned a value of one, two, or three points.

(2) When providing that a work search activity will be assigned more than one point, States must determine that such work search activity either:

(i) Connects individuals to specific industries and locations that need workers; or

(ii) Has strong evidence for directly leading to reemployment.

(g) *Equivalent labor force attachment.* (1) An individual is deemed to have met the minimum number of work search activities as described in paragraph (c) of this section when one of the following circumstances applies:

(i) The individual is enrolled in and making satisfactory progress in State-approved training under 26 U.S.C. 3304(a)(8);

(ii) The individual is participating in the Self-Employment Assistance Program under 26 U.S.C. 3306(t);

(iii) The individual is participating in the Short-Time Compensation Program under 26 U.S.C. 3306(v) by being available for their workweek; or

(iv) The individual is enrolled in a Registered Apprenticeship program under 29 U.S.C. 50.

(2) An individual is deemed to have met the minimum number of work search activities as described in paragraph (c) of this section if they are a union member who satisfies the following conditions:

(i) The individual is a member in good standing of a union;

(ii) The union the individual is a member of utilizes a hiring hall for job referrals; and

(iii) The individual follows the requirements of their union regarding contact with the union's hiring hall, provided the individual contacts their hiring hall at least once a week.

(3) A State may deem an individual to have met the minimum number of work

search activities as described in paragraph (c) of this section for a benefit week if any of the following circumstances are met:

(i) The individual has a definite return-to-work date with their separating employer within 8 weeks of the separation date.

(ii) The individual is a Federal employee, is unemployed due to a lapse in Federal appropriations, and is expected to return to work when the lapse ends.

(iii) The individual files an initial claim for UC less than 72 hours prior to the benefit week ending date.

(iv) The individual is serving on jury duty, and the individual's jury duty service precludes the individual from completing the minimum number of work search activities.

(v) The individual is hospitalized for treatment of an emergency or life-threatening condition, and the hospitalization precludes the individual from completing the minimum number of work search activities.

(4)(i) A State may deem an individual to have met the minimum work search requirement in paragraph (c) of this section for a claimed week when the area in which the individual resides or is searching for work is covered by a federally declared major disaster as defined under 42 U.S.C. 5122(2) and State law provides the authority to modify an individual's work search requirements during a federally declared major disaster.

(ii) An individual may only be deemed to have met the work search requirement under paragraph (g)(4)(i) of this section where the week is within 26 weeks of the commencement of the incident period.

(5)(i) A State may deem an individual to have met the minimum work search requirement in paragraph (c) of this section for a week if the individual accepted a bona fide offer of employment and the start date for the new employment is within 4 weeks of the week being claimed.

(ii) The individual must meet the work search requirement in paragraph (b) of this section for each week prior to satisfying the circumstance in paragraph (g)(5)(i) of this section.

(h) *Notification requirements.* (1) At the time the initial claim is filed, and at any other time during the benefit year if the State's work search requirements substantially change for an individual, States must provide written notice in a manner reasonably calculated to ensure awareness of the following:

(i) The acceptable types of work search activities;

(ii) That the individual must complete a minimum of five work search activities, in accordance with State law, for each claimed week of UC;

(iii) If the State has a points-based system in place, an explanation of the system in plain language;

(iv) That the individual must report work search activities each time they file a continued claim and be prepared to provide documentation of their work search activities upon request; and

(v) That payment of UC will not be made if the individual does not complete the work search requirements for the week claimed.

(2) When the State determines that paragraph (g) of this section applies to an individual or that an individual's circumstances with respect to paragraph (g) of this section have substantially changed, the State must notify the individual in writing of the following:

(i) The specific work search requirements that apply to the individual if paragraph (g) of this section applies; and

(ii) The duration of the applicable circumstance in paragraph (g) of this section.

(i) *Prohibition on formal and informal warnings.* Individuals who do not complete the work search requirement under this section in a claimed week are ineligible for UC for that week. States may not give formal or informal warnings to individuals in lieu of determining that the individual is ineligible for UC for a week for which the individual has not met the requirements of this section.

**Marek Laco,**

*Acting Assistant Secretary for Employment and Training, Labor.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 1 and 301

**[REG–116506–25]**

**RIN 1545–BR82**

## Information Reporting Regarding Qualified Opportunity Zones and Updated Qualified Opportunity Fund Certification and Decertification Procedures; Correction

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking and notice of public hearing; correction.

**SUMMARY:** This document contains corrections to the proposed regulations (REG–116506–25), published in the **Federal Register** on September 11, 2026. These proposed regulations would implement new statutory requirements for qualified opportunity funds to file information returns with the IRS and furnish statements to investors who dispose of investments in those entities and for qualified opportunity zone businesses to furnish statements to qualified opportunity funds that hold interests in them.

**DATES:** The deadline for submitting written or electronic comments on the proposed rule was October 26, 2026.

**ADDRESSES:** Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate IRS and REG–116506–25) by following the online instructions for submitting comments. The public hearing will be conducted by telephone only. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish any comments submitted electronically or on paper to the public docket. Send paper submissions to: CC:PA:01:PR (REG–116506–25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations under section 1400Z–2, Dominic DiMattia of the Office of the Associate Chief Counsel (Income Tax and Accounting) at (202) 317–7009 (not a toll-free number); concerning the remainder of the proposed regulations under sections 6011, 6037, 6039K, 6039L, 6045, 6722, 6724, and 6726, Roseann Cutrone of the Office of the Associate Chief Counsel (Procedure and Administration) at (202) 317–6844 (not a toll-free number); and concerning submissions of comments or the public hearing, the Publications and Regulations Section at (202) 317–6901 (not a toll-free number) or by sending an email to *publichearings@irs.gov* (preferred).

**SUPPLEMENTARY INFORMATION:**

### Background

The proposed regulations (REG–116506–25) subject to this correction contain proposed amendments to the Income Tax Regulations (26 CFR part 1) that would revise existing regulations under sections 1400Z–2 and 6045 of the

Internal Revenue Code (Code) and add new regulations under sections 6039K and 6039L of the Code. These proposed regulations also contain proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) that would revise existing regulations under sections 6011, 6037, 6722, and 6724 of the Code and add new regulations under section 6726 of the Code.

**Correction of Publication**

Accordingly, FR Doc. 2026–18574 (REG–116506–25), appearing on page 57968 in the **Federal Register** on September 11, 2026, is corrected as follows:

1. On page 57970, in the second column, in the first partial paragraph, in the third line from the bottom of the paragraph, the word ''nonqualified'' is corrected to read ''non-qualified''.

2. On page 57971, in the second column, in the third full paragraph, in the second line from the bottom of the paragraph, the word ''enactments'' is corrected to read ''enactment''.

3. On page 57971, in the third column, in the first full paragraph, in the fifth line from the bottom of the paragraph, the language ''QOFs taxable year'' is corrected to read ''QOF's taxable year''.

4. On page 57971, in the third column, in the second full paragraph, in the second line from the top of the paragraph, the language ''investments standards'' is corrected to read ''investment standards''.

5. On page 57971, in the third column, in the third full paragraph, in the third line from the top of the paragraph, the language ''businesses property'' is corrected to read ''business property''.

6. On page 57972, in the first column, in the first full paragraph, in the fourth line from the bottom of the paragraph, the language ''disposed of'' is corrected to read ''disposed-of''.

7. On page 57975, in the first column, in the last partial paragraph, in the eighth line from the bottom of the page, the language ''III.B.3. and B.4.'' is corrected to read ''II.B.3. and B.4.''.

8. On page 57976, in the second column, in the first partial paragraph, in the twenty third line from the top of the page, the language ''III.B.1. through 3.'' is corrected to read II.B.1. through 3.''.

9. On page 57976, in the second column, in the first partial paragraph, in the seventh line from the bottom of the paragraph, the language ''§ 1.6039K–1(j)(1)'' is corrected to read ''§ 1.6039K–1(i)(1)''.

10. On page 57976, in the second column, in the last partial paragraph, in the fifth line from the bottom of the page, the word ''though'' is corrected to read ''through''.

11. On page 57976, in the third column, in the first partial paragraph, in the seventh line from the bottom of the paragraph, the language ''§ 1.6039K–1(j)(2)'' is corrected to read ''§ 1.6039K–1(i)(2)''.

12. On page 57976, in the third column, in the first full paragraph, in the first line of the paragraph, the language ''§ 1.6039K–1(k)'' is corrected to read ''§ 1.6039K–1(j)''.

13. On page 57976, in the third column, in the second full paragraph, in the fifth line from the bottom of the paragraph, the language ''parts III.B.2. and III.B.3.a.'' is corrected to read ''parts II.B.2. and II.B.3.a.''.

14. On page 57977, in the second column, in the first full paragraph, the fourth line from the top of the page is corrected to read ''in section 6039K. Section 6039K(d)(2)''.

15. On page 57977, in the second column, in the first full paragraph, the seventh line from the top of the page is corrected to read ''of: (A) the number of full-time employees''.

16. On page 57978, in the second column, in the last partial paragraph, in the fourth line from the top of the paragraph, the language ''QOFs compliance'' is corrected to read ''QOF's compliance''.

17. On page 57978, in the third column, in the last partial paragraph, in the fifth line from the bottom of the page, the language ''part IV.A.'' is corrected to read ''part III.A.''.

18. On page 57979, in the first column, in the second full paragraph, the fourth line from the top of the paragraph is corrected to read ''are currently required to report on''.

19. On page 57979, in the first column, in the last partial paragraph, in the tenth line from the bottom of the page, the language ''part IV.B.1'' is corrected to read ''part III.B.1''.

20. On page 57979, in the second column, in the second full paragraph, in the nineth line from the bottom of the paragraph, the word ''dates'' is removed.

21. On page 57981, in the third column, in the first full paragraph, in the fifth line from the bottom of the paragraph, the language ''part VIII'' is corrected to read ''part VII''.

22. On page 57982, in the third column, in the last partial paragraph, in the seventeenth line from the top of the paragraph, the word ''in'' is removed.

23. On page 57983, in the first column, in the first full paragraph, in the fifth line from the top of the paragraph, the language ''investment statements'' is corrected to read ''investor statements''.

24. On page 57983, in the third column, in the first full paragraph, in the third line from the top of the paragraph, the word ''every'' is removed.

25. On page 57983, in the third column, in the last partial paragraph, in the eighth line from the top of the paragraph, the word ''though'' is corrected to read ''through''.

26. On page 57983, in the third column, in the last partial paragraph, in the nineth line from the top of the paragraph, the language ''parts IV.B.1. through 3.'' is corrected to read ''parts III.B.1. through 3.''.

27. On page 57983, in the third column, in the last partial paragraph, in the last line of the page, the language ''part IV.C.'' is corrected to read ''part III.C.''.

28. On page 57984, in the first column, in the first partial paragraph, in the second line from the top of the page, the language ''§ 1.6039L–1(d)'' is corrected to read ''§ 1.6039L–1(e)''.

29. On page 57984, in the first column, in the first partial paragraph, in the eighth line from the top of the page, the language ''§ 1.6039L–1(d)'' is corrected to read ''§ 1.6039L–1(f)''.

30. On page 57984, in the first column, in the first full paragraph, in the first line of the paragraph, the language ''part IV.A.'' is corrected to read ''part III.A.''.

31. On page 57984, in the first column, in the first full paragraph, the eighth line from the top of the paragraph, the word ''though'' is corrected to read ''through''.

32. On page 57984, in the second column, in the last partial paragraph, in the nineth line from the bottom of the page, the language ''in its taxable year'' is corrected to read ''during their taxable years''.

33. On page 57985, in the third column, in the first full paragraph, the third line from the bottom of the paragraph is corrected to read ''investments are compliant with section''.

34. On page 57986, in the first column, in the last partial paragraph, in the fourth line from the top of the paragraph, the language ''section 1400Z2–2(d)(3)'' is corrected to read ''section 1400Z–2(d)(3)''.

35. On page 57986, in the second column, in the first full paragraph, in the sixth line from the top of the paragraph, the word ''used'' is removed.

36. On page 57986, in the second column, in the second full paragraph, in the fourth line from the top of the

paragraph, the language ''part IV.B.1.'' is corrected to read ''part III.B.1.''.

37. On page 57986, in the second column, in the last partial paragraph, in the third line from the bottom of the page, the language ''relevant QOFs'' is corrected to read ''relevant QOF's''.

38. On page 57987, in the first column, in the last partial paragraph, in the first line of the paragraph, the language ''parts III.B.3.a.'' is corrected to read '' parts II.B.3.a.''.

39. On page 57987, in the third column, in the second full paragraph, in the seventh line from the bottom of the paragraph, the word ''on'' is corrected to read ''in''.

40. On page 57989, in the second column, in the second full paragraph, the sixth line from the top of the paragraph is corrected to read ''obligations to the IRS regarding whether 90''.

41. On page 57989, in the third column, in the first full paragraph, in the last line of the paragraph, the word ''the'' is removed.

42. On page 57991, in the second column, correct amendatory instruction 2 for § 1.1400Z2–0 and the accompanying regulatory text to read as follows:

■ **Par. 2.** Section 1.1400Z2–0 is amended by:

■ 1. Adding an entry for § 1.1400Z2(b)–1(j)(3);

■ 2. Revising the entries for § 1.1400Z2(d)–1(a)(2) and (3);

■ 3. Adding an entry for § 1.1400Z2(d)–1(e)(3); and

■ 4. Revising the entry for § 1.1400Z2(d)–2(d)(3).

The additions and revisions read as follows:

**§ 1.400Z2–0 Table of Contents.**

* * * * *

§ *1.1400Z2(b)–1 Inclusion of gains that have been deferred under section 1400Z–2(a).*

* * * * *

(j) * * *

(3) Paragraph (c)(15) of this section.

* * * * *

*§ 1.1400Z2(d)–1 Qualified opportunity funds and qualified opportunity zone businesses.*

(a) * * *

(2) Required self-certification of an eligible entity as a QOF.

(3) Voluntary decertification of a QOF.

* * * * *

(e) * * *

(3) Applicability date.

*§ 1.1400Z2(d)–2 Qualified opportunity zone business property.*

* * * * *

(d) * * *

(3) Substantially all of a QOF's or qualified opportunity zone business's holding period for owned or leased tangible property.

* * * * *

**§ 1.1400Z2(d)–1 [Corrected]**

■ 43. On page 57992, in the third column, paragraph (a)(3)(v)(B) is corrected to read ''The QOF will continue to be subject to the requirements of section 1400Z–2 and the section 1400Z–2 regulations, as defined in § 1.1400Z2(a)–1(b)(41).''

■ 44. On page 57993, in the first column, in paragraph (a)(3)(vii)(A)(*1*), the third sentence is corrected to read ''Q properly self-certified as a QOF as of February 1, 2027, and has thereafter complied with section 1400Z–2 and the section 1400Z–2 regulations, as defined in § 1.1400Z2(a–1(b)(41).''

■ 45. On page 57993, in the second column, in paragraph (a)(3)(vii)(A)(*2*), in the fourteenth line from the bottom of the paragraph the word ''date'' is removed.

**§ 1.6039K–1 [Corrected]**

■ 46. On page 57994, in the third column, in paragraph (a)(13), in the first sentence, the second occurrence of the language ''for use'' is corrected to read ''or''.

■ 47. On page 57995, in the first column, in paragraph (c)(5), the language ''90-percent'' is corrected to read '' the 90-percent''.

■ 48. On page 57995, in the first column, in paragraph (c)(7), in the third line from the top of the paragraph, the word ''is'' is removed.

■ 49. On page 57995, in the second column, in paragraph (d)(2), the first line of the paragraph is corrected to read ''The percent of equity''.

■ 50. On page 57996, in the second column, in paragraph (h)(2)(ii), in the fifth line from the top of the paragraph, the language ''paragraph (a)(14)(i)'' is corrected to read ''paragraph (a)(12)(i)''.

■ 51. On page 57996, in the second column, the heading of paragraph (h)(3) is corrected to read ''*Manner of furnishing investor statements to reportable investors*—''.

■ 52. On page 57996, in the third column, in paragraph (h)(3)(ii)(B), in the seventh line from the bottom of the paragraph, the word ''positing'' is corrected to read ''posting''.

■ 53. On page 57996, in the third column, in paragraph (i)(2), in the third line from the top of the paragraph, the language ''§ 301.6722'' is corrected to read ''§ 301.6722–1''.

**§ 1.6039L–1 [Corrected]**

■ 54. On page 57998, in the first column, in paragraph (e), in the third line from the top of the paragraph, the language ''*See* § 301.6722'' is corrected to read ''*See* § 301.6722–1''.

**§ 301.6724–1 [Corrected]**

■ 55. On page 57999, in the second column, in paragraph (g)(1)(i)(D), the language § ''1.6039K(a)–1'' is corrected to read ''§ 1.6039K–1(a)''.

■ 56. On page 57999, in the second column, in paragraph (j)(4), the last line of the paragraph is corrected to read ''6039K(a).''

**§ 301.6726–1 [Corrected]**

■ 57. On page 57999, in the third column, in paragraph (a)(4), the fourth line from the bottom of the paragraph is corrected to read ''which the person required to file a section''.

**Oluwafunmilayo A. Taylor,**

*Chief, Publications and Regulations Section, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 2026–22859 Filed 11–9–26; 8:45 am]

**BILLING CODE 4831–GV–P**

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## 43 CFR Part 1600

**[A2407–014–004–065516, #O2509–014–004–125222.1]**

**RIN 1004–AF53**

## Revision of Regulations for Planning, Programming, Budgeting

**AGENCY:** Bureau of Land Management (BLM), Interior.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The BLM proposes to amend existing regulations that establish the procedures to prepare, revise, or amend land use plans pursuant to the Federal Land Policy and Management Act, as amended (FLPMA). We solicit comment on all aspects of this proposed rule.

**DATES:** Send your comments on this proposed rule to the BLM on or before January 11, 2027. The BLM is not obligated to consider any comments received after this date in making its decision on the final rule.

If you wish to comment on the information-collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the information-collections contained in this proposed rule between 30 and 60 days after publication of this

proposed rule in the **Federal Register**. Therefore, comments should be submitted to OMB by December 10, 2026.

**ADDRESSES:** You may submit comments by one of the following methods:

*Mail, personal, or messenger delivery:* U.S. Department of the Interior, Director (630), Bureau of Land Management, 1849 C St. NW, Room 5646, Washington, DC 20240, Attention: 1004–AF53.

*Federal eRulemaking Portal: https://www.regulations.gov.* In the Search box, enter ''BLM–2026–0298'' and click the ''Search'' button. Follow the instructions at this website. Pursuant to the Administrative Procedure Act at 5 U.S.C. 553(b)(4), a plain language summary of the proposed rule is also available on the Federal eRulemaking Portal.

*Comments on Information-Collection Requirements:* Written comments and recommendations for the information-collection requirements should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information-collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Stacie McIntosh, Deputy Assistant Director of Resources and Planning, The BLM Directorate of Resources and Planning, Division of Decision Support, Planning, and NEPA, by phone at (208) 373–3818, or by email at *blm_hq_planningrule@blm.gov* for information relating to the BLM planning program and information about the proposed rule. 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:**

## I. Background

The BLM manages more than 245 million acres of land, the most of any Federal agency. This land, known as the National System of Public Lands, is primarily located in 12 Western states, including Alaska. The BLM also administers 700 million acres of sub-surface mineral estate throughout the nation.

FLPMA is the BLM's ''organic act'' that directs management of the public lands on the basis of multiple-use and sustained yield, unless otherwise specified by law (43 U.S.C. 1732(a)). Multiple use as defined in FLPMA ''means the management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output'' (43 U.S.C. 1702(c)). FLPMA defines ''public lands'' as ''any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership'' (43 U.S.C. 1702(e)). FLPMA defines ''sustained yield'' to mean ''the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use'' (43 U.S.C. 1702(h)).

Section 202 of FLPMA (43 U.S.C. 1712) directs the Secretary of the Interior to ''develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands'' (43 U.S.C. 1712(a)) and outlines requirements for developing and revising land use plans. Section 202(f) (43 U.S.C. 1712(f)) directs the Secretary of the Interior, by regulation, to ''establish procedures . . . to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands.''

The BLM administers its planning program under the regulations at Title 43 Code of Federal Regulations (CFR) part 1600, *Planning, Programming, Budgeting.* The BLM first developed land use planning regulations in 1979 (44 FR 46386, August 7, 1979). These regulations established the term ''resource management plan'' for the land use plans directed by FLPMA, to replace the then-existing ''management framework plans.'' The BLM made significant revisions to the regulations in 1983 to clarify the planning process and ''eliminate burdensome, outdated, and unneeded provisions'' (48 FR 20364, May 5, 1983) and revised them again in 2005 to make clear the role of cooperating agencies in the land use planning process and to emphasize the importance of working with Federal and State agencies and local and tribal governments through cooperating agency relationships in developing, amending, and revising the BLM's resource management plans (70 FR 14561, March 23, 2005). The BLM conducted a substantial revision to the land use planning regulations in 2016 (70 FR 89580, December 12, 2016) which was subsequently disapproved under the Congressional Review Act (82 FR 60554, December 21, 2017). In 2024, the BLM revised the portion of the planning regulations governing the designation and management of areas of critical environmental concern, 43 CFR 1610.7–2 (89 FR 40308, May 9, 2024). In 2026, the BLM completed a deregulatory rulemaking process regarding the designation and management of areas of critical environmental concern, issuing a final rule that returned the BLM to the previous text of this regulation (91 FR 25787, May 12, 2026).

This proposed rule is intended to streamline, modernize, and better align the BLM's land use planning process with section 202 of FLPMA (43 U.S.C. 1712). The proposed rule would eliminate procedures not required by statute that impose delays and roadblocks and remove unnecessary program-specific procedures that could be better addressed in other parts of the regulations while improving the BLM's coordination with Federal, State, and local governments, and tribes. The proposed rule would also improve the readability of the planning regulations.

## II. Section-by-Section Discussion

The proposed rule would revise part 1600, including subparts 1601 (Planning) and 1610 (Resource Management Planning), and establish a new subpart at 1611 (Amending Land Use Plans to Address Emergencies). The BLM is proposing a number of minor changes to modernize language, clarify ambiguities, and eliminate redundancies.

The proposed rule includes revisions to section designations and organization of the provisions to bring the proposed regulations into compliance with the Office of the Federal Register's Document Drafting Handbook requirements. This includes the removal of hyphens in the existing section designations and adding structural symmetry in which we insert some [Reserved] sections to fill in gaps in the CFR numbering.

The BLM also proposes the following substantive changes to individual sections of Part 1600.

*Part 1600—Planning, Programming, Budgeting*

The BLM is proposing to remove ''programming'' and ''budgeting'' from the title of this part to accurately reflect that the existing and proposed regulations do not address agency programming or budgeting.

Subpart 1601—Planning

Section 1601.0–1 Purpose

The BLM is proposing to redesignate this section as 1601.10 and revise it to clarify land use planning terminology consistent with BLM practice and to include specific direction from FLPMA for the establishment of land use plans.

In § 1601.10 and throughout these proposed regulatory changes, the BLM is proposing revisions to use consistent terminology concerning the ''development, revision, amendment, and maintenance'' of land use plans. The ''development'' of a land use plan occurs when BLM first establishes a land use plan for an area of public lands or first establishes a land use plan under new authority, such as for lands within the boundaries of a new area designated for special management by Congress. The ''revision'' of a land use plan occurs when the BLM makes substantial changes to the scope of the decisions for public lands currently managed under a land use plan. The ''amendment'' of a land use plan occurs when the BLM makes limited changes to a land use plan. The BLM is proposing to clarify that ''maintenance'' of a land use plan occurs when the BLM corrects errors and is limited to further refining the documentation of a decision of the approved plan. These corrections and refinement of documentation must not result in an expansion in the scope of resource uses or restrictions or change the decisions. Maintenance of land use plans is also being proposed to document land use or restrictions of uses on the public lands established by law or Presidential Proclamation.

The BLM is also proposing to remove the phrase ''use of existing plans'' to clarify that the purpose of these regulations is to provide the process for approving or changing land use plans, not the procedures for implementing land use plans.

Section 1601.0–2 Objective

Section 1601.0–2 establishes the objective of land use planning. The BLM is proposing to redesignate this section as 1601.20 and edit it to clarify that land use plans ''provide by tracts or areas for the use of the public lands'' (43 U.S.C. 1712) and to remove clauses not necessary in regulation. The BLM is also proposing to relocate the last sentence in existing § 1601.0–2 that explains that ''resource management plans are designed to guide and control future management actions and the development of subsequent, more detailed and limited scope plans for resources and uses'' to a new proposed § 1610.10, ''Land use plans.'' The intent of this section is to state the objective of these regulations not the resource management plans themselves.

Section 1601.0–3 Authority

The BLM is proposing to redesignate this section as 1601.30 and make minor changes to include all sections of FLPMA that authorize establishing these land use planning regulations and to remove the reference to the Public Rangelands Improvement Act of 1978 because it does not provide authority for land use planning procedures. With this proposed regulatory revision, the BLM is removing all references to non-planning requirements from the part 1600 regulations and has removed all regulations specific to coal and mining from this part. With these proposed changes, the Federal Coal Leasing Amendments Act of 1976 and the Surface Mining Control and Reclamation Act of 1977 are not specific authority for this Part of the regulations. While these other statutes provide authority relevant to the BLM's management of the public lands, they are not necessary in this section. Moreover, as described in more detail in the associated sections below, the BLM is proposing to relocate portions of existing §§ 1610.5–7(c) and 1610.2(j) and (k) to 43 CFR 3420. These changes also reduce barriers to efficiently completing land use plans by eliminating unnecessary references.

Section 1601.0–4 Responsibilities

The BLM is proposing to remove § 1601.0–4 because it provides internal BLM procedures and delegations that are more appropriate in the BLM's delegation manual and policy and are not required by statute. Removal of this section reduces the regulatory burden on the BLM and allows State Directors to manage internal work for land use planning as appropriate for their State.

Section 1601.0–5 Definitions

The BLM is proposing to remove § 1601.0–5 to remove definitions in this section that are already provided in statute (*e.g.,* repetition of FLPMA's definition of 'multiple use'); to remove terminology no longer used in these proposed regulations due to other changes the BLM is proposing (*e.g.,* 'resource area or field office'); and, where relevant, to relocate regulatory requirements in the existing 'definitions' section (*e.g.,* 'conformity or conformance') that the BLM wants to retain to other sections of the regulations. Removal of this section substantially streamlines the planning regulations and reduces redundancies that add length and not clarity to the existing regulatory procedures.

Section 1601.0–6 Environmental Impact Statement

The BLM is proposing to redesignate this section as 1601.40, retitle it to ''Environmental compliance,'' and to remove the existing language in this section that requires the BLM to prepare an environmental impact statement every time the BLM develops or revises a plan. Instead, the BLM would be guided by the Department of the Interior's NEPA procedures, 91 FR 8738 (February 24, 2026) to ensure that it complies with NEPA when completing land use planning. This proposed change is deregulatory and it would not prevent the BLM from preparing an environmental impact statement for a plan revision; rather, it would allow the BLM to determine how best to comply with NEPA during land use planning, consistent with applicable law and agency NEPA procedures and the specific facts of the individual planning process the BLM is undertaking consistent with the procedures in these regulations.

Section 1601.0–7 Scope

The BLM is proposing to redesignate this section as 1601.50 and edit it for clarity, including changes to reflect the terminology the BLM has historically used for land use planning work. The BLM is specifically proposing to add language to paragraph (a) to clarify that these regulations apply only to BLM-administered lands that are subject to section 202 of FLPMA. Thus, for example, these regulations do not apply to public lands on the north slope of Alaska within the National Petroleum Reserve-Alaska because those lands are

exempt from section 202 of FLPMA per the Naval Petroleum Reserves Production Act of 1976.

Section 1601.0–8 Principles

The BLM is proposing to redesignate this section as 1601.60 and edit it for clarity, including changes to incorporate terminology for planning work to align more consistently with language in sections 103 and 202 of FLPMA. The BLM proposes removing the statement regarding the scope of impacts because the scope of impacts is driven by the BLM's determination of what is necessary to understand significance and make an informed decision for compliance with NEPA.

Section 1601.70 Administrative Remedy

The BLM is proposing a new § 1601.70 to relocate and clarify existing regulatory direction in existing § 1610.5–2(b) that a land use plan decision is the final decision of the Department of the Interior and not subject to appeal or review to the Office of Hearings and Appeals (OHA), including the Interior Board of Land Appeals. The proposed language adding ''and is not reviewable by the Office of Hearings and Appeals'' is not a substantive change but merely clarifies the existing scope of OHA's jurisdiction.

Subpart 1610—Resource Management Planning

The BLM is proposing an editorial change to the title of this subpart to restore use of the term ''land use planning'' as it appears in FLPMA rather than continuing to refer to new terminology in the regulations of ''resource management planning.''

Section 1610.1 Resource Management Planning Guidance

The BLM is proposing to remove existing § 1610.1 because it provides internal BLM procedures and delegations that are more appropriate in the BLM's delegation manual and policy and are not required by statute. For example, the current regulations instruct *how* the State Director would communicate instructions to a Field Manager regarding the planning effort and describe the permissive scope of an interdisciplinary team. This internal process is not required by law or necessary or appropriate for inclusion in the regulations. The early identification of key information during the planning process, such as information needed for analysis, is also duplicative of proposed § 1610.41, which would require the BLM to assemble resource, environmental, social, economic, and institutional data when preparing for planning. The BLM would still require early identification of key information, but this change eliminates internal workload procedures that are more appropriate for policy.

Removing this section also removes the existing regulatory direction that a resource management plan be prepared and maintained on a resource or field office areas basis, unless the State Director authorizes a more appropriate area. While under the current regulations the State Director may determine the appropriate planning area, this change removes internal delegations that are more appropriate for policy and provides more flexibility for the BLM to determine a planning area boundary that is appropriate for the particular planning effort.

Additionally, the BLM is proposing a new section to be located at 1610.10 called ''Land use plans'' which would incorporate language from FLPMA's definition of land use plans and clarify the role and content of those plans. To clarify and ensure consistency across the BLM, paragraph (a) of this proposed section provides that land use plans consist of: (1) desired resource use and condition objectives, (2) designations identified by statute, regulation, or national policy of land areas for exclusive purposes or uses (*e.g.,* establishment of areas of critical environmental concern under FLPMA; establishment of herd management areas under BLM regulations for Protection, Management, and Control of Wild Free-Roaming Horses and Burros at 43 CFR 4710.1; or establishment of corridor designations for BLM scenic and backcountry byways, consistent with BLM's Byways Handbook 8357–1), (3) lands allocated for allowable uses, and (4) management direction for the general management practices or program constraints needed to achieve the resource use and condition objectives. Language in existing § 1601.0–5(n)(8) providing that the BLM will establish intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision is proposed for relocation to paragraph (b) of this proposed section. Most of the concepts in this section are currently scattered across the existing planning regulations, including the definition section. This proposed section would also clarify that BLM does not generally make implementation-level decisions through the land use planning process, which is consistent with the BLM's practice. Direction in the existing regulations that approval of land use plans is the responsibility of State Directors would be clarified and added to paragraph (c) of this proposed section. Finally, paragraph (d) would clarify that land use plans are titled as resource management plans to reduce any confusion about these two terms and to ensure consistent use of these terms across the BLM.

Section 1610.2 Public Participation

The BLM is proposing to redesignate this section as 1610.20 and edit it to outline procedures for meaningful participation opportunities consistent with FLPMA section 202(a), which requires the BLM to develop and revise land use plans ''with public involvement'' and section 309(e) which requires the BLM by regulation, to establish ''procedures, including public hearings where appropriate, to give the Federal, State and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands'' while greatly reducing internal administrative workflows and overburdensome procedures that were not providing meaningful benefits to the process.

The BLM is proposing to remove references to NEPA in this section and throughout the proposed rule to allow the BLM to comply with NEPA as appropriate for the individual planning effort. The BLM is also proposing to remove the requirement to publish notice in the **Federal Register** at the initiation of the planning process and the existing requirement for public review of the proposed planning criteria and a 30-day public comment period on any significant changes made to a proposed plan or amendment prior to issuing a decision. The 90-day public comment period requirement for all draft land use plans, revisions and amendments supported by environmental impact statements in existing § 1610.2(e) is also proposed for removal. A 90-day comment period is not required by statute and will make it more difficult for the BLM to meet the statutory deadlines set by NEPA, as amended (42 U.S.C. 4336a(g)), including the direction to complete an environmental assessment in one year and an environmental impact statement in two years, unless the deadlines are extended in accordance with that Act.

Consistent with direction in section 202 of FLPMA and 309(e), the BLM would continue to provide opportunities for public involvement, but the proposed rule would allow greater flexibility to determine public

participation that is appropriate to the areas and people involved in the specific planning process. The BLM is proposing that opportunity for public participation, at a minimum, must be provided at the outset of the planning process (consistent with proposed § 1610.42) and the BLM would provide a public involvement opportunity through the protest process upon publication of a proposed plan, revision, or amendment (consistent with proposed § 1610.51). The BLM proposes to retain a minimum 30-calendar-day comment period when a public comment period is required (consistent with proposed § 1610.20(a)(1)) or the BLM elects to provide one, and an ability to extend the comment period. Under proposed paragraph (b)(1), an extension may not exceed an additional 30-calendar-days to help ensure BLM can meet the deadlines established in NEPA. The current regulations require a greater number of minimum required public comment periods and can result in delays to the planning process that also do not benefit informed decision-making. For example, the current regulations require planning efforts, including amendments, that are supported by environmental impact statements to hold a minimum of a 90-day public comment period on the draft plan. A 90-day minimum public comment period is more than double the public comment period formerly required under Council on Environmental Quality's regulations for implementing the procedural requirements of NEPA, which the Council on Environmental Quality rescinded (91 FR 618, January 8, 2026), and there is no corresponding requirement in either NEPA (42 U.S.C. 4321–4347) or the Department of the Interior's 2026 NEPA procedures (91 FR 8,738, February. 24, 2026). With the requirement to complete environmental impact statements in two years absent an extension (42 U.S.C. 4336a(g)(1)), a 90-day public comment period is burdensome to BLM's ability to comply with NEPA. Furthermore, use of a long comment period as reliance for quality public engagement is not always the right approach for each planning effort. The proposed procedures introduce flexibility to the process so that the BLM can formulate public involvement in a manner that appropriately supports the planning effort. The proposed text would allow the BLM the flexibility to determine for each planning effort if the minimum required public engagement would be adequate or what public engagement beyond the minimum required would best support the planning effort while also ensuring the BLM can meet our statutory requirements under NEPA for timely completion of analysis.

The BLM recognizes that its approach to providing opportunities for public involvement in the proposed rule represents a change from the approach in the existing rule. While both approaches are consistent with the requirements of FLPMA, based on its experience the BLM believes that its proposed approach is likely to provide greater flexibility to tailor the public participation process to each planning effort, reduce regulatory burdens, and allow the BLM to more efficiently meet other statutory requirements. The BLM specifically seeks public comment on these proposed changes and how the BLM can structure opportunities for public involvement, including public comment in a manner that meets BLM's statutory obligations, reduces regulatory burden and allows for completion of the planning process in an efficient manner consistent with all applicable laws.

The BLM is also proposing an option in paragraph (b)(2) of this section for a public meeting in lieu of a public comment period when permissible under other authorities—such as NEPA—and when adequate notice to the public is provided. This proposed paragraph does not prevent the BLM from offering both a public meeting and public comment period when deemed appropriate. This proposed paragraph provides flexibility for the BLM to streamline planning efforts when appropriate. For example, the BLM may need to conduct amendments to consider changes to land tenure decisions to allow small parcels of public lands to be made available for disposal, sometimes as small as a half-acre, to address unintentional trespass or sales to communities. A plan amendment of this nature is generally only of interest to the highly localized community, and a public meeting may provide for more engaging public involvement than a 30-day written comment period and allow the process to progress more quickly. The proposed paragraph opens flexibility to the BLM to avoid delays to planning efforts, particularly where there is only localized interest in the decision BLM is considering.

In order to focus these regulations on planning procedures, the BLM is proposing to remove paragraphs (j) and (k) of this section, which relate specifically to coal resources. The BLM planning regulations are not an appropriate location for this program-specific regulation, and it would decrease confusion by moving these coal related provisions to the program specific regulations. Specifically, the BLM proposes relocating the last three sentences of paragraph (j) to appear verbatim at the end of the current paragraph at 43 CFR 3420.1–4(e)(4)(i). The BLM also proposes relocating the second and third sentences in paragraph (k) and the three subsequent parts to 43 CFR 3420.1–5 verbatim, excepting the removal of the internal reference ''§ 3420.1–5 of'' from the relocated sentence as the cross-reference is no longer necessary. The BLM is proposing to remove the first sentences of paragraphs (j) and (k) because they are duplicative of existing regulations in part 3420. These proposed changes are not substantive and would not change existing practice.

Section 1610.3 Coordination With Other Federal Agencies, State and Local Governments, and Indian Tribes

The BLM is proposing to redesignate this section as 1610.30 and edit it to introduce the following subsections that clarify differences between coordination and consistency as required by FLPMA, and to make clear that these FLPMA responsibilities are separate from responsibilities of other authorities, such as involving government entities through NEPA's cooperating agency status.

Section 1610.3–1 Coordination of Planning Efforts

The BLM is proposing to redesignate this section as 1610.31 and make changes to better align this provision's description of the BLM's responsibilities for coordination during the land use planning process with the BLM's obligations under FLPMA section 202(c)(9). The proposed regulations provide a clear definition of coordination with other Federal agencies, State and local governments, and Tribes that is distinct to the BLM's land use planning process and is based on Congress's recognition that state, local, and tribal government entities play a unique and necessary role in land use planning. As stated by the Public Land Law Review Commission [1] in the 1970 Report to Congress: [2] ''First, these

[1] The Public Land Law Review Commission was established as an independent federal agency by an act of September 19, 1964 (78 Stat. 982). Its function was to review the federal public land laws and regulations and recommend a public land policy. For more background, see National Archives, Records of the Public Land Law Review, available at *http://www.archives.gov/research/guide-fed-records/groups/409.html.*

[2] Public Land Law Review Commission. *One third of the Nation's land; a report to the President and*

Continued

governments represent the people and institutions that will be most directly affected by Federal programs growing out of land use planning'' (page 61). This intent is reflected in the proposed paragraph (a)(1), which explains that coordination in the planning process means inviting the participation of governmental entities regarding the general approach of the planning effort as representatives of people and institutions that are impacted by the BLM's management of public lands.

The BLM is also proposing to clarify the direction to consider plans of State and local governments and Indian tribes in this section. The BLM believes that the consideration of these plans is part of the coordination process that occurs during land use planning. The BLM would also clarify that the definition of ''approved resource-related plans'' in paragraph (b)(1) of this section includes approved resource-related ''policies.'' These proposed regulations also use the term ''approved resource-related plans'' or ''plans'' when referring to plans or policies adopted by State, local, and tribal governments in discussions at § 1610.41 ''Preparing for planning'', § 1610.52 ''Governor's consistency review'', and § 1610.53 ''Local governments' consistency review.''

The BLM also proposes a terminology change from ''officially approved and adopted resource related plans'' to just ''approved resource-related plans'' based on changes in paragraph (b)(1) of this section that a plan must be ''prepared and approved pursuant to and in accordance with authorization provided by State, local, or Tribal constitutions, legislation, or charters for the relevant governmental entity'' and, as such, believes the qualifiers of ''officially'' and ''adopted'' as unnecessary. This change occurs throughout the regulatory text.

FLPMA's coordination requirements ensure the BLM coordinates its planning with the planning and management programs of other federal agencies, state and local governments, and tribes. While this coordination may inform consistency, FLPMA has a separate requirement that BLM land use plans be consistent with State and local plans to the maximum extent the Secretary finds consistent with Federal law and the purposes of FLPMA, as discussed in further detail below.

Section 1610.3–2 Consistency Requirements

The BLM is proposing to redesignate this section as 1610.32 and make general revisions to focus this section on consistency and complement changes proposed to other sections. The BLM is proposing specific changes to clarify that FLPMA's consistency requirements are distinct from the BLM's coordination responsibilities contained in proposed § 1610.31. To clarify that this section outlines procedures for how the BLM should seek consistency with State and local plans, the BLM is proposing to change the section title to ''Seeking consistency with State and local plans.'' The BLM has also made editorial revisions to the existing regulatory text to include the terms ''to the maximum extent consistent with Federal law and the purposes of [the Federal Land Policy and Management Act]'' when describing consistency with approved state and local resource related plans. This language more closely tracks section 202(c)(9) of FLPMA, which states, ''[l]and use plans of the Secretary under this section shall be consistent with the State and local plans to the maximum extent [the Secretary] finds consistent with Federal law and the purposes of this Act.'' The BLM is also clarifying in paragraph (a)(1) that BLM should seek consistency with plans of state and local governments ''that are germane in the development of land use plans for public lands'' (43 U.S.C. 1712(c)(9)).

The current regulations at § 1610.3–1(d)(1) direct the BLM to determine consistency with ''other Federal agencies, State agencies, Indian tribes and local governments that may be affected.'' The BLM proposes to remove consistency requirements from both other Federal agency plans and tribal plans because § 202(c)(9) of FLPMA provides that, to the maximum extent the Secretary finds consistent with Federal law and the purposes of FLPMA, land use plans ''shall be consistent with State and local plans.'' 43 U.S.C. 1712(c)(9). The BLM specifically requests comment on these proposed changes and the appropriate scope of consistency in these regulations, including those entities that should be included in the consistency review.

In clarifying that consistency obligations are distinct from coordination, the BLM is proposing to incorporate the definition of ''consistency,'' a principle identified in the 1970 Public Land Law Review Commission Report to Congress, which informed the development and passage of FLPMA. The Report stated, ''As a general rule, no use of public land should be permitted which is prohibited by state or local zoning. There may be exceptions, however, and the federal agency should be authorized to allow such a use, but only when the agency makes a finding that overriding national interest requires the use.'' (Public Land Law Review Commission, *One Third of the Nation's Land,* 63 (1970)). The proposed changes to the definition of ''consistency'' clarify that the BLM would not allow uses on the public lands that would be prohibited under State or local laws or that would otherwise conflict with an approved resource-related plan of a State or local government, except when required by Federal law or it is in the national interest to do so. This clarification would not change the BLM's practice of continuing to work with State and local governments to manage the impacts of management on public lands, but the proposed rule clarifies how this consistency process would occur. The BLM also seeks to clarify that the definition of approved resource-related plans are plans and policies approved in accordance with State and local constitutions, legislation or charters.

The BLM is also proposing to relocate and revise the Governor's consistency review procedures in existing § 1610.3–2 to new proposed § 1610.52, which is described in more detail below. The BLM is also proposing a new § 1610.53 described below, which would establish a local government consistency review process.

Section 1610.4 Resource Management Planning Process

The BLM is proposing to redesignate this section as 1610.40, retitle it ''Land use planning process,'' and edit it to simplify the required steps of the land use planning process by removing unnecessary procedures for compliance with NEPA, emphasizing the importance of preparing for planning and outlining steps required to meet FLPMA's requirements. The BLM is also proposing to remove overly prescriptive procedures that present barriers to efficient completion of land use planning and regulatory requirements not directed by FLPMA. The BLM proposes as the new subsections of § 1610.40 a more streamlined planning process responsive to FLPMA's requirements that allows the BLM greater flexibility to conduct a land use planning process that is tailored to the scope of and specific issues presented in an individual planning effort.

Section 1610.4–1 Identification of Issues.

The BLM is proposing to redesignate this section as 1610.41, retitle it ''Preparing for planning,'' and to revise it to address three steps the BLM must

*to the Congress.* 1970. *https://archive.org/details/onethirdofnation3431unit.*

take to prepare for planning to provide a more informed and efficient planning process.

First, as described in proposed paragraph (a)(1), the BLM must gather and review its existing resource, environmental, social, and other relevant data and information. These edits remove the reference to collecting data at this point in the process, consistent with direction in section 202(c)(4) of FLPMA to ''rely, to the extent it is available, on the inventory of the public lands, their resources, and other values on the existing inventories of public lands.''

Second, as described in proposed paragraph (a)(2), the BLM must request all relevant approved State and local government and Tribal plans. If any such government would like its plans to be considered during the BLM planning process, it must, within 45 days of the BLM's request, provide all relevant approved plans and a summary of the uses that the State, local, or Tribal government generally prohibits or restricts within its jurisdiction. The BLM should seek this information before the State Director identifies guidelines for the plan or revision and prior to the development of alternatives. This early outreach and information collection would engage these government entities earlier in the process and facilitate a stronger working relationship throughout the planning process, which would lead to a more efficient process. It would also provide more information early in the process where it is most useful to inform the planning process and associated environmental review.

Third, as described in proposed paragraph (a)(3) of this section, the BLM must document a planning area profile and analysis framework when developing or revising a land use plan. This profile and analysis framework would include information about current conditions, trends, forecasts for resources, resource uses, existing uses, social and economic uses, and other information about the area to inform the approach for the planning effort. The BLM would make this document publicly available for transparency.

Section 1610.4–2 Development of Planning Criteria

The BLM is proposing to remove this section from the regulations, eliminating the development of planning criteria as a distinct step in the planning process. The development of planning criteria adds additional time to the planning process and is overly prescriptive. The new direction in proposed § 1610.41(a)(3) to document and make publicly available a framework for analysis as part of preparing for planning would provide information that is more relevant and useful to the planning process earlier in the process.

Section 1610.42 Public Notice of Planning

The BLM is proposing a new § 1610.42, titled ''Public notice of planning.'' This new section requires the BLM to provide public notice when it initiates the development, revision or amendment of a land use plan and request public participation. This proposed new section and the proposed changes in public participation in § 1610.20 would remove extraneous requirements for multiple **Federal Register** notifications, allow for a more efficient planning process, ensure public participation early in the planning process where it is most helpful to the BLM, and allow the BLM to manage public notification and additional public involvement in a manner consistent with the scope of a planning effort.

Section 1610.4–3 Inventory Data and Information Collection

The BLM is proposing to relocate the direction in this section to proposed § 1610.41(a)(1) to clarify that the BLM assembles data to support a planning effort when preparing for planning.

Section 1610.4–4 Analysis of the Management Situation

The BLM is proposing to remove this subsection from the regulations because it is unnecessarily prescriptive and imposes procedure not required by FLPMA, and its removal will provide the BLM with more flexibility to compile this information for a particular planning effort. For example, subparts (a) through (i) identify a list of ''factors to be considered'' in identifying the issues and opportunities for a planning area that are more appropriate for policy to provide guidance on rather than a regulatorily established list. Additionally, the current regulations state that ''the analysis of the management situation shall provide . . . the basis for formulating reasonable alternatives.'' FLPMA provides no instruction for the formulation of alternatives and this procedure complicates the authorities under NEPA for the development of alternatives (42 U.S.C. 4332(2)(C)(iii)). Proposed § 1610.41(a)(3) includes a requirement to document and make publicly available a planning area profile as part of preparing for planning, which the BLM believes would better inform the BLM's decision-making.

Section 1610.4–5 Formulation of Alternatives

The BLM is proposing to remove this section from the regulations, consistent with the overall intent of this deregulatory effort to remove procedures of other programs from the planning regulations and to reduce duplication, redundancy, confusion, and unnecessary regulation. The formulation of alternatives is governed by NEPA procedures and this section is duplicative of those procedures and unnecessary to repeat in the planning regulations since it does not establish any additional or planning-specific procedures. This direction for NEPA compliance in the planning regulations was developed based on the BLM's interpretation of its obligations under the Council on Environmental Quality's regulations in effect at the time. Since then, the Council on Environmental Quality has amended and, most recently, rescinded its regulations. Similarly, the Department of the Interior has updated its NEPA procedures, including by amending its own NEPA regulations. To avoid duplication and inconsistency, and to reduce confusion and ensure compliance with statutory requirements and Department of the Interior NEPA procedures, the BLM proposes to remove sections addressing NEPA compliance from these regulations. The BLM is required to comply with NEPA when developing, revising, or amending land use plans.

Section 1610.4–6 Estimation of Effects of Alternatives

The BLM is proposing to remove this section consistent with the overall intent of this deregulatory effort to remove procedures of other programs from the planning regulations and to reduce duplication, confusion, and unnecessary regulation. The estimation of effects of alternatives is governed by NEPA procedures. The existing regulations do not establish any additional or planning-specific procedures but instead repeat how the BLM will generally consider alternatives in an environmental impact statement or environmental assessment. Removing this section would eliminate duplication, create consistency with NEPA requirements, and reduce confusion.

Section 1610.4–7 Selection of Preferred Alternatives

The BLM is proposing to remove this section, consistent with the overall intent of this deregulatory effort to remove procedures for other BLM programs from the planning regulations

and to reduce duplication, confusion, and unnecessary regulation. The BLM's current planning regulations at this section direct the identification of a preferred alternative in a draft environmental impact statement. This is not required by NEPA or the Department's NEPA procedures and removing this provision would eliminate confusion caused by these discrepancies.

Section 1610.4–8 Selection of Resource Management Plan

The BLM is proposing to retain this section, redesignate in the revised sequence as 1610.43, and retitle this section as ''Proposed land use plan, revision, or amendment.'' The BLM is proposing to remove internal administrative workflows in the existing regulation and focus this section on the requirement to prepare and release a proposed land use plan, revision, or amendment that is subject to protest. The existing regulations require a protest process for proposed land use plans and amendments, and the BLM is also proposing to clarify that proposed land use plans and amendments must establish intervals and standards as appropriate for future monitoring and evaluation of the plan. These changes would clarify and better organize the existing regulations and are not substantive.

Section 1610.4–9 Monitoring and Evaluation

The BLM is proposing to remove this subsection and has incorporated the relevant text for development of a monitoring plan for the proposed land use plan, revision, or amendment into proposed § 1610.43.

Section 1610.5 Resource Management Plan Approval, Use and Modification

The BLM is proposing to redesignate this section as 1610.50, insert ''pre-decisional review'' into the section heading, and organize pre-decisional review procedures that are currently scattered throughout the existing regulations in this section. This reorganization would clarify the procedures at this end-stage of the planning process prior to the BLM issuing a decision.

Section 1610.5–1 Resource Management Plan Approval and Administrative Review

The BLM is proposing to relocate the provisions for land use plan approval to proposed § 1610.54, ''Land use plan approval,'' to have the procedures occur sequentially in the regulation.

In the relocated text in proposed § 1610.54, the BLM proposes removing the internal administrative workflows contained in these regulations and NEPA procedures which were developed under the Council on Environmental Quality's NEPA now-rescinded regulations. The BLM is proposing to retain the language that clarifies approval must be withheld on any portion of a plan, revision, or amendment being protested until the protest is resolved through issuance of a response.

Section 1610.5–2 Protest Procedures

The BLM is proposing to redesignate this section as 1610.51 to appear sequentially to the land use planning process and to update its existing protest procedures to make them less burdensome to the public and the BLM. The changes proposed acknowledge technological and other changes since 1985 when these regulations were first promulgated and remove requirements that the Office of the BLM Director respond to protests via certified letter. Instead, the BLM's response to a protest would be made available to the public, generally through the *BLM.gov* website. The BLM is proposing to modify the current regulations, which permit protests to be submitted in hard copy or electronically, to require that all protests be submitted electronically through the BLM's NEPA register and be received by the BLM by the end of the 30-calendar-day protest period. These changes would create a clear and efficient method for the public to submit protests and would allow the BLM to manage the land use planning process more efficiently by eliminating the time the BLM currently has to wait to receive protests that are postmarked by the close of the protest period, but not received until after the period has closed. Under the current regulations, the BLM has experienced delays of 10 business days or more closing out protest periods where few or no protests were received by the close of the period, while it awaited the possible receipt of a timely postmarked protest letter. The BLM welcomes comments on moving protest filings to an electronic-only format.

The BLM is also proposing to reduce the paperwork the public must provide in a protest. Rather than requiring protesting parties to provide redundant copies of ''all documents addressing the issue or issues submitted during the planning process by the protesting party'' as currently required under § 1610.5–2(a)(2)(iv), the BLM would require that protestors submit only that information necessary to address the protest. Specifically, the proposed regulations would require a protest to contain the name and interest of the person filing a protest, a statement of the issue or issues being protested, and a concise statement explaining why the proposed decision is believed to be inconsistent with relevant law, regulation, or policy. These proposed changes would retain the meaningful opportunity for involvement in the land use planning process, make it less burdensome to the BLM and the public, and build efficiencies by allowing the planning process to keep moving with better understanding of timeframes.

Section 1610.52 Governor's Consistency Review Procedures

The BLM is proposing for § 1610.52 to sequentially insert the procedures for the Governor's consistency review from existing § 1610.3–2(e) and to make changes addressing Governor's consistency review as part of general proposed changes to address FLPMA's direction in section 202(c)(9). The new proposed process to obtain information from States outlined in § 1610.41 would provide an opportunity for States to provide information early where it is most helpful to consider and address in the BLM's planning process. Because the BLM would be able to consider and resolve issues earlier in the planning process, the BLM is proposing to shorten the Governor's consistency review period at the end of the planning process from 60 days to 30 days and is proposing to eliminate the appeal opportunity to the BLM Director and associated procedures, including publication of the response by the Office of the BLM Director in the **Federal Register**. Under the proposed regulations, the BLM would coordinate earlier in the planning process with Governors to identify concerns and gain information than it does under the present regulations. This advanced coordination would better inform the BLM's development of management alternatives that address the issues and concerns raised by the Governor. The establishment of this early engagement process is expected to result in the BLM identifying and addressing concerns early in the planning process, leading to more informed decision-making and reduce the need for a separate Governor's appeal process at the end of the planning process.

The BLM is also proposing to remove the existing requirement in § 1610.3–2(e) for the State Director to provide the public with an opportunity to comment on any recommendations of the Governor that were not raised during the public participation process. The

BLM is proposing to remove this requirement to improve predictability in the duration of the land use planning process. Notably, since the establishment of this procedure in 1983, the BLM has only two recorded instances of initiating a public comment period due to receiving recommendations from the Governor's review that were not previously raised during the land use planning process. Further, the proposed changes that provide for enhanced early coordination create another opportunity for the Governor to raise recommendations that the BLM can address earlier in the process.

The BLM is also proposing to remove the direction for the Governor to provide recommendations related to inconsistencies of local plans. Instead, a new procedure for local government officials to provide inconsistencies with local plans is proposed as described below.

Section 1610.53 Local Governments' Consistency Review Procedures

The BLM is proposing a new section of § 1610.53, titled ''Local governments' consistency review procedures.'' This new section establishes a new opportunity for local government officials to submit recommendations to resolve inconsistencies directly to the BLM prior to the BLM's approval of the plan, revision, or amendment. This process is separate from the Governor's consistency review process but would run concurrently with that process. Under the current regulations at § 1610.3–2(e), the BLM submits inconsistencies with local plans to the State Governor for resolution. The proposed change would provide local government officials the opportunity to directly present recommendations to the BLM to resolve inconsistencies without going through the Governor's office. The BLM welcomes comments on this new process for consistency review, including whether and how to define a local government official.

Section 1610.5–3 Conformity and Implementation

The BLM is proposing to redesignate this section as § 1610.55 and revise it to remove redundancy and non-planning program procedure in the existing regulation and to clarify the meaning of plan conformance. The BLM would retain the requirement in paragraph (a) that all future authorizations and actions must conform to the approved plan, which is consistent with direction in FLPMA. This requirement applies to all BLM implementation decisions, regardless of the BLM program making the decision. The BLM proposes to move language in existing § 1601.0–5(b) that defines conformity and conformance to this section to integrate the definition and requirements for plan conformance in one section. If a proposed action is not in conformance with the approved plan, and warrants further consideration, the BLM should consider the action through a plan revision or amendment. This provision is retained in paragraph (b). The BLM is proposing in paragraph (c) to relocate direction in existing § 1610.4–9 to monitor and evaluate land use plans in accordance with established intervals and standards and at other appropriate times and to add language to clarify the BLM may initiate an amendment or revision based on new data, new or revised policy, or a change in circumstances.

The BLM is proposing to remove existing paragraphs (b) and (d) of this section because they are duplicative of the requirement in proposed paragraph (a) that all future BLM decisions and authorizations for all programs must conform to the approved plan. Existing direction relating to an appeal of future implementation decisions in paragraph (b) of this section is not a planning procedure and the appeal procedures for implementation decisions are duplicative of existing regulations in 43 CFR 4.400 that set forth the rules applicable to appeals before the Office of Hearings and Appeals, Interior Board of Land Appeals. Finally, the references to detailed plans for coal, oil shale, and tar sands resources in paragraph (b) are duplicative of the specific regulations for those resources and outside of the scope for these regulations; they would be removed in this proposed rule.

Section 1610.5–4 Maintenance

The BLM is proposing to redesignate this as § 1610.56 and revise it to clarify the scope of plan maintenance. Under the existing regulations, maintenance must not result in an expansion in the scope of resource uses or restrictions, or change the terms, conditions and decisions of the approved plan. The BLM is proposing to remove the terminology of ''terms'' and ''conditions'' because land use plans typically do not include terms and conditions and the use of this term has caused confusion. The BLM is also proposing changes to this section to clarify that the BLM may maintain a plan to document management changes made for an area by a law or Presidential Proclamation. The BLM would maintain other features of this regulation, including that maintenance does not require public involvement, interagency coordination, or preparation of an environmental assessment, environmental impact statement, or any other environmental review.

Section 1610.5–5 Amendment

The BLM is proposing to redesignate this as § 1610.57 and revise the section to clarify land use plan amendments. NEPA terms and NEPA compliance procedures in the existing regulations are also proposed for removal consistent with the need to remove duplicative regulations and to allow the BLM to comply with NEPA as appropriate for a plan amendment. The terminology of ''terms'' and ''conditions'' would also be removed because they are not typically included in land use plans and the use of this term has caused confusion.

Section 1610.5–6 Revision

The BLM is proposing to redesignate this as § 1610.58 and revise the section to clarify when the BLM would undertake a land use plan revision and remove unnecessary statements from the text. The language would clarify that a revision is appropriate when the BLM contemplates substantial changes to the scope of planning decisions providing for the management of public lands. These changes address confusion about when a land use plan revision (as opposed to an amendment) is appropriate.

Section 1610.5–7 Situations Where Action Can Be Taken Based on Another Agency's Plan, or a Land Use Analysis

The BLM is proposing to remove this section because the current procedures are either duplicative of NEPA or its implementing procedures or not required by law. These changes would allow the BLM to take appropriate steps to comply with NEPA and NEPA procedures.

The BLM is proposing to remove subpart (c) of this section from the planning regulations to focus these regulations on planning procedures. The BLM planning regulations are not an appropriate location for this program-specific regulation. The BLM proposes relocating the last two sentences of (c) to appear verbatim at the end of the current paragraph at 43 CFR 3420.1–4(a). The BLM proposes to remove from regulation the first two sentences of paragraph (c) as duplicative of existing 43 CFR subpart 3420, which addresses coal resources. This change is not substantive and would not result in changes in the BLM's current program or practice; instead, it would reduce confusion by locating requirements specific to the coal program in the regulations governing that program.

Section 1610.6 Management Decision Review by Congress

The BLM is proposing to redesignate this section as 1610.60 and make a minor change in terminology to revise the existing term ''resource management plan'' to ''land use plan'' consistent with the changes to these terms throughout the regulations. The BLM is also proposing to add the term ''contiguous'' to clarify that contiguous tracts of 100,000 acres or more are subject to the reporting requirements if a planning decision totally eliminates one or more principal or major uses in the area. This is consistent with BLM's current practice.

Section 1610.7 Designation of Areas

The BLM is proposing to remove this section as an organizational matter because this proposed rulemaking only addresses areas of critical environmental concern, which is the designation specifically defined in FLPMA.

Section 1610.7–1 Designation of Areas Unsuitable for Surface Mining

The BLM is proposing to remove this subpart of these planning regulations as part of the intent of this revision is to focus these regulations on planning procedures. The BLM planning regulations are not an appropriate location for this program-specific instruction and are duplicative of procedures already established within the surface mining programs.

Section 1610.7–2 Designation of Areas of Critical Environmental Concern

The BLM is proposing to redesignate this section as 1610.70 and remove burdensome requirements in the existing regulations for areas of critical environmental concern. Specifically, the BLM is proposing to eliminate the requirement in the existing regulations at § 1610.7–2(b) for the identification of areas of critical environmental concern in a draft land use plan, the associated 60-day comment period, and the existing requirement for a **Federal Register** notice publication. This 60-day public comment period is redundant because there are other opportunities for public involvement in the planning process. The public would continue to be able to comment on areas of critical environmental concern during any public comment opportunity. To align with the statutory direction in FLPMA, the BLM is proposing language to clarify that special management attention is required to prevent or protect against irreparable damage in those areas designated as an area of critical environmental concern.

The BLM is also proposing changes that would clarify when the BLM would consider areas of critical environmental concern in an amendment process, considerations for boundaries, and the agency's discretion to modify or un-designate an area previously designated as an area of critical environmental concern. Other edits to this section clarify terms for consistency with FLPMA. The BLM is also considering addressing public nominations received during the planning process and specifically seeks public comment on what a valid public nomination should include and when the public should submit nominations in the planning process to inform the consideration and designation of areas of critical environmental concern.

*Section 1610.8 Transition Period*

The BLM is proposing to redesignate this section as 1610.80 and edit it to remove NEPA procedures and Environmental Protection Agency requirements that no longer apply. Some areas of the public lands are still managed under management framework plans (the predecessor to resource management plans) and some areas have no governing land use plan. The BLM is proposing changes to consolidate and clarify the sections of the regulations that provide procedures for areas managed under a management framework plan and where there is no governing land use plan.

Subpart 1611 Amending Land Use Plans To Address Emergencies

The BLM is proposing to add a new subpart to address emergency procedures for land use planning.

Section 1611.10 Emergency Procedures

The BLM is proposing a new section that would address emergency procedures to expedite the planning process for certain amendments necessary to review applications for projects that are submitted to address emergency circumstances. In emergency circumstances an officer in the Office of the Secretary that has been confirmed by the Senate could authorize modifications to otherwise-applicable procedural requirements in this Part to facilitate preparation of a land use plan amendment for the review of a proposed implementation action to address emergency circumstances. Modified procedures described in paragraphs (a)(1)–(3) could include: (1) reducing timeframes for public participation, or waiving the requirement for public participation at notice or protest, but not waiving both; (2) waiving some coordination procedures, as long as some remain; (3) reducing timeframes to respond to the BLM's request for approved plans at the outset of planning and consistency review timeframes for governor and local government consistency reviews, or (4) waiving the requirement to request plans or hold a governor or local government consistency review, but not both. Pursuant to paragraph (b), these procedures only apply for the duration of the emergency circumstances. If modified procedures under this section would be used, the BLM would be required to publish these procedures to inform the public and other agencies, State and local governments, and tribes how the requirements for public involvement, coordination, and consistency during planning would be met for the amendment. These new proposed procedures outline opportunities for officials to approve modified procedures to address emergency circumstances while still meeting the obligations for planning under FLPMA.

## III. Procedural Matters

*Regulatory Flexibility Act*

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment an initial regulatory flexibility analysis that describes the reasons why the action is being considered, a statement of the objectives and legal basis for the proposed rule, and estimate of the number of small entities the proposed rule would apply to, a description of reporting and recordkeeping requirements, and an identification of overlapping rules and laws. 5 U.S.C. 603(b). The reasons, objectives, and legal basis for the proposed rescission are described above. The BLM prepared an Initial Regulatory Flexibility Analysis (IRFA) that estimates the number of small entities that could be impacted by this deregulatory action and the impacts to those small entities. Based on the IRFA, the BLM does not expect the proposed rule to have a significant impact on a substantial number of small entities. However, the BLM solicits comments from affected small entities to improve BLM's estimation for the final rule. The BLM will undertake that estimation process in consultation with the Office of Advocacy of the Small Business Administration. This proposed rule

would not modify any reporting or recordkeeping requirements. There are no rules or laws that conflict with this proposed rescission that the BLM has identified.

*Regulatory Planning and Review Under Executive Order 12866*

Section 6(a) of E.O. 12866 requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this rulemaking is significant under E.O. 12866.

BLM is required to conduct an economic analysis in accordance with section 6(a)(3)(B) of E.O. 12866. More can be found in the document titled, ''Economic Analysis for Proposed Rule: Revision of Regulations for Planning, Programming, Budgeting,'' which is part of the eRulemaking docket.

*Review Under Executive Order 13175*

In accordance with E.O. 13175 (''Consultation and Coordination with Indian Tribal Governments''), and the Department of the Interior's manual at 512 DM 2, 512 DM 4 and 512 DM 6, we acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations on a government-to-government basis. Through this notice we invite Tribes and Alaska Native Corporations to participate in government-to-government consultation on this proposed rule. Consultation may be arranged by contacting the individual listed in the ''For Further Information Contact'' section above and may take the form of an in-person meeting or via teleconference or virtual web meeting. In addition, we will send communication via electronic mail to all 575 federally recognized Indian Tribes in and to approximately 200 Alaska Native Corporations soliciting their input as to whether or not they would like the BLM to consult with them on the proposed changes to the regulations at 43 CFR part 1600, *Planning, Programming, Budgeting* and to notify them of the opportunity to participate in an informational webinar. The opportunity for government-to-government consultation will remain open for the duration of the rulemaking, and BLM welcomes Tribal input at any time before the final rule is issued. Tribes may be particularly interested in reviewing §§ 1610.30 ''Coordination of planning efforts;'' 1610.32 ''Seeking consistency with State and local plans;'' 1610.41 ''Preparing for planning;'' and 1611.10 ''Emergency procedures.''

*Paperwork Reduction Act*

The Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3521) generally provides that an agency may not conduct or sponsor and, not withstanding any other provision of law, a person is not required to respond to a collection of information, unless it displays a currently valid OMB control number. Collections of information include any request or requirement to obtain, maintain, retain, or report information to an agency, or disclose information to a third party or to the public (44 U.S.C. 3502(3) and 5 CFR 1320.3(c)).

OMB has approved the existing information-collection requirements contained in 43 CFR part 1600 under OMB control number 1004–0212. The proposed rule would add one new information collection and revise two existing information collections. These changes, along with the associated information-collection burden impacts, are discussed below.

Proposed New Information Collection

*Section 1610.41(a)(2)—Preparing for Planning—State, Local, or Tribal Resource Plans:* This proposed section would provide that State and local governments and Indian tribes and that the State and local governments or Indian tribes identify uses germane to the development of land use plans for public lands which are prohibited in the approved resource-related plans. State and local governments and Indian tribes would have 45 calendar days to provide the requested information for it to be considered by the BLM. This proposed information collection is expected to result in 16 new annual responses and 975 new annual burden hours.

Proposed Revised Information Collections

*Section 1610.51—Protest procedures: The proposed rule would reduce the amount of information collected when filing a protest.* The proposed rule would reduce redundancy and streamline the information requirements for protests. This proposed change would result in a reduction of 520 annual burden hours (from 1,560 to 1,040).

*Section 1610.52—Governor's consistency review procedures:* The proposed rule would reduce a governor's timeframe to respond to a proposed land use plan, revision, or amendment in which to identify additional inconsistencies and provide recommendations from 60 to 30 calendar days. This change is not expected to change the burden hours associated with this IC.

*Section 1610.53—Local governments' consistency review procedures:* The proposed rule would establish a 30-day timeframe for local governments to respond to a proposed land use plan, revision, or amendment in which to identify any inconsistencies and provide recommendations. This proposed change is not expected to change the burden hours associated with this IC.

Summary of Burden Changes

*Currently, 131 annual response and 1,965 annual burden hours are approved under this OMB Control Number.* The proposed change would result in 16 new annual responses (from 131 to 147) and 455 new annual burden hours (from 1,965 to 2,420). Therefore, the new burden under this OMB Control Number would be 147 total annual responses and 2,420 total annual burden hours.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comments addressing the following:

(1) Whether the 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 our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

The new total annual estimated burdens for OMB Control Number 1004–0041 are provided below.

*Title of Collection:* Resource Management Planning.

*OMB Control Number:* 1004–0212.

*Form Number:* None.

*Type of Review:* Revision of a currently approved collection of information.

*Respondents/Affected Public:* State, Local, and Tribal governments; individuals/households; businesses; and associations.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

*Estimated Completion Time per Response:* 10 to 15 hours depending on activity.

*Number of Respondents:* 147.

*Annual Responses:* 147.

*Annual Burden Hours:* 2,420.

*Annual Burden Cost:* None.

Comments on Proposed Information-Collections in Proposed Rule

If you want to comment on the information-collection requirements of this proposed rule, please send your comments and suggestions on this information-collection by the date indicated in the **DATES** and **ADDRESSES** sections as previously described.

*National Environmental Policy Act*

The BLM intends to apply the Departmental categorical exclusion at 43 CFR 46.210(i) to comply with NEPA. This categorical exclusion covers policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature or whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case. Further, the proposed rule does not implicate any of the extraordinary circumstances listed in 43 CFR 46.215. The BLM plans to document the applicability of the categorical exclusion concurrently with development of the final rule.

*Review Under Executive Orders 14154 and 14192*

DOI has examined this proposed rulemaking and has tentatively determined that it is consistent with the policies and directives outlined in E.O. 14154 ''Unleashing American Energy,'' and E.O. 14192, ''Unleashing Prosperity Through Deregulation.'' This proposed rule, if finalized as proposed, is expected to be an E.O. 14192 deregulatory action.

*Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (E.O. 13211)*

Under E.O. 13211, agencies are required to prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for those matters identified as significant energy actions. This statement is to include a detailed statement of ''any adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increased use of foreign supplies) should the proposal be implemented'' and ''reasonable alternatives to the action with adverse energy effects and the expected effects of such alternatives on energy supply, distribution, and use.''

Section 4(b) of E.O. 13211 defines a ''significant energy action'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under E.O. 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by OIRA as a significant energy action.''

This proposed rule, if finalized as proposed, is not expected to have a significant adverse effect on the Nation's energy supply, energy distribution, or use of energy.

Severability

Each of the BLM's proposed changes to its regulations has independent utility. If any section or portion therein is stayed or determined to be invalid, or the applicability of any section to any person or entity is held invalid, it is the BLM's intention that the validity of the remainder of those parts will not be affected. The remaining sections and portions therein, should continue in effect.

**List of Subjects in 43 CFR Part 1600**

Administrative practice and procedure, Coal, Environmental impact statements, Environmental protection, Intergovernmental relations, Public lands.

**Lanny E. Erdos,**

*Director, Office of Surface Mining, Reclamation, and Enforcement, Exercising Authority of the Assistant Secretary—Land and Minerals Management.*

**43 CFR Chapter II**

Accordingly, for the reasons set out in the preamble, the Bureau of Land Management proposes to revise 43 CFR part 1600 to read as follows:

## PART 1600—PLANNING

**Subpart 1601—Planning**

Sec.
1601.10 Purpose.
1601.20 Objective.
1601.30 Authority.
1601.40 Environmental compliance.
1601.50 Scope.
1601.60 Principles.
1601.70 Administrative remedy.

**Subpart 1610—Land Use Planning**

1610.10 Land use plans.
1610.20 Public participation.
1610.30 Coordination with other Federal agencies, State and local governments, and Indian tribes.
1610.31 Coordination of planning efforts.
1610.32 Seeking consistency with State and local plans.
1610.40 Land use planning process.
1610.41 Preparing for planning.
1610.42 Public notice of planning.
1610.43 Proposed land use plan, revision, or amendment.
1610.50 Land use plan pre-decisional review, approval, use, and modification.
1610.51 Protest procedures.
1610.52 Governor's consistency review procedures.
1610.53 Local governments' consistency review procedures.
1610.54 Land use plan approval.
1610.55 Conformity and implementation.
1610.56 Maintenance.
1610.57 Amendment.
1610.58 Revision.
1610.60 Management decision review by Congress.
1610.70 Designation of areas of critical environmental concern.
1610.80 Transition period.

**Subpart 1611—Amending Land Use Plans To Address Emergencies**

1611.10 Emergency procedures.

**Authority:** 43 U.S.C. 1702, 1711–1712, 1740.

## PART 1600—PLANNING

## Subpart 1601—Planning

### § 1601.10 Purpose.

The purpose of this subpart is to establish in regulations a process for the approval of the development, revision, amendment, and maintenance of land use plans, as provided for by the Federal Land Policy and Management Act of 1976, for public lands administered by the Bureau of Land Management.

### § 1601.20 Objective.

The objective of land use planning by the Bureau of Land Management is to provide by tracts or areas for the use of public lands through procedures that promote multiple use and sustained yield management and ensure participation by the public, state and local governments, Indian tribes, and appropriate Federal agencies.

**§ 1601.30 Authority.**

This part is issued under the authority of sections 103, 201, 202, and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702, 1711–1712, 1740).

**§ 1601.40 Environmental compliance.**

The Bureau of Land Management will comply with the National Environmental Policy Act for the proposed plan, revision, or amendment as part of the land use planning process and, wherever possible, the proposed plan, revision, or amendment and related environmental compliance shall be published in a single document.

**§ 1601.50 Scope.**

(a) This part applies to all public lands subject to section 202 of the Federal Land Policy and Management Act.

(b) This part also governs the development, revision, amendment, or maintenance of land use plans when the only public land interest is the mineral estate.

**§ 1601.60 Principles.**

The development, revision, and amendment of land use plans will provide for public involvement and, unless otherwise provided by law, shall be consistent with the principles of multiple use and sustained yield described in sections 103 and 202 of the Federal Land Policy and Management Act of 1976.

**§ 1601.70 Administrative remedy.**

A decision issued pursuant to the procedures in this Part is the final decision for the Department of the Interior and is not reviewable by the Office of Hearings and Appeals.

## Subpart 1610—Land Use Planning

**§ 1610.10 Land use plans.**

(a) Land use plans are described by the Federal Land Policy and Management Act of 1976 and document the Bureau of Land Management's decisions for the use of public lands. A decision to approve the development, revision, or amendment of a land use plan guides and controls future management actions and does not generally authorize any uses of the public lands, which are usually approved through project-specific implementation decisions. A land use plan, in contrast, establishes a framework for the Bureau of Land Management to consider proposed uses of public lands, and consists of:

(1) Desired resource use and condition objectives;

(2) Designations identified by statute, regulation, or national policy of land areas for exclusive purposes or uses;

(3) Lands allocated for allowable resource uses; and

(4) Management direction for the general management practices or program constraints needed to achieve the resource use and condition objectives.

(b) The Bureau of Land Management will establish intervals and standards for monitoring and evaluating the plan to determine the effectiveness of the plan and the need for amendment or revision.

(c) State Directors will provide quality control and supervisory review, including plan approval, for the development, revision, and amendment of plans and related environmental review.

(d) The Bureau of Land Management refers to land use plans as resource management plans.

**§ 1610.20 Public participation.**

(a) The public shall be provided opportunities to meaningfully participate in and comment on the development, revision, and amendment of plans. Opportunity for public participation in land use planning shall be appropriate for the areas and people involved. Opportunities for public participation shall at a minimum be provided at the following specific points in the planning process:

(1) General notice at the outset of the process consistent with § 1610.42; and

(2) Publication of the proposed land use plan, revision, or amendment, which triggers the opportunity for protest consistent with § 1610.51.

(b)(1) Any public comment period provided will be 30 calendar days beginning the day after the notice. The Bureau of Land Management may extend a public comment period for a period not to exceed an additional 30 calendar days.

(2) The Bureau of Land Management may offer a public meeting or hearing in lieu of providing a public comment period identified at paragraph (b)(1) of this section when adequate notice is provided, except when a comment period is required by the National Environmental Policy Act.

(c) Public opportunity to protest on the proposed land use plan, revision, or amendment pursuant to § 1610.51 will be 30 calendar days beginning the day after the publication of the proposed land use plan, revision, or amendment and cannot be extended.

**§ 1610.30 Coordination with other Federal agencies, State and local governments, and Indian tribes.**

The following sections outline the coordination and consistency procedures for land use planning.

**§ 1610.31 Coordination of planning efforts.**

(a) In addition to the public involvement prescribed by § 1610.20, the Bureau of Land Management will coordinate with other Federal agencies, state and local governments, and federally recognized Indian tribes consistent with section 202(c)(9) of the Federal Land Policy and Management Act.

(1) Coordination during the land use planning process means inviting the participation of Federal agencies, State and local governments, and Indian tribes germane to the planning area in the development, revision, or amendment of a land use plan to advise on the general approach of the planning effort as representatives of people and institutions that are affected by decisions made in land use plans.

(2) [Reserved]

(b) When developing, revising, or amending land use plans, State Directors shall consider approved resource-related plans in the land resource management programs of State, local, and federally recognized Tribal governments submitted by these entities in the land use planning coordination process.

(1) Approved resource-related plans means plans and policies for resource management programs germane to the development of land use plans for public lands prepared and approved pursuant to and in accordance with authorization provided by State, local, or Tribal constitutions, legislation, or charters for the relevant governmental entity.

(2) [Reserved]

(c) State Directors shall, to the extent practicable, keep apprised of approved State and local governmental and Indian tribal plans that are germane in the development of land use plans for public lands, but they shall not be accountable for considering plans if they have not been provided to the Bureau of Land Management in a timely manner by State and local governments or Indian tribes.

**§ 1610.32 Seeking consistency with State and local plans.**

(a) The development, revision, or amendment of a land use plan shall be consistent to the maximum extent consistent with Federal law and the purposes of the Federal Land Policy and Management Act with approved

resource-related plans of State and local governments, so long as these plans are consistent with the purposes, policies, and programs of Federal laws and regulations applicable to public lands.

(1) Consistent means that, as a general rule, no use of public land should be permitted which is prohibited by approved resource-related plans of State or local governments that are germane to the development of land use plans for public lands, unless such use is found by the Bureau of Land Management to be in the national interest.

(2) Approved resource-related plans means plans and policies for resource management programs germane to the development of land use plans for public lands prepared and approved pursuant to and in accordance with authorization provided by State or local constitutions, legislation, or charters for the relevant governmental entity.

(b) State Directors shall not be accountable for ensuring consistency if they have not been notified in a timely manner, in writing, by State and local governments of an apparent, specific inconsistency.

**§ 1610.40 Land use planning process.**

The following sections outline procedures for conducting the land use planning process.

**§ 1610.41 Preparing for planning.**

(a) In preparing for planning, the Bureau of Land Management will:

(1) Assemble existing resource, environmental, social, economic, and institutional data and information. Inventory data and information shall be assembled in a manner that aids application in the planning process, including subsequent monitoring requirements.

(2) Request approved resource-related plans of State and local governments and Indian tribes. The Bureau of Land Management will ask State and local governments and Indian tribes to identify plans they have approved that are germane to the Bureau of Land Management's development of land use plans, as well as a summary of the uses that each such government plan generally prohibits or restricts. State and local governments and Indian tribes have 45 calendar days to provide the requested information for it to be considered by the Bureau of Land Management.

(3) For the development or revision of a land use plan, document a profile of the planning area and analysis framework to inform the planning process. This will include the current conditions, trends, and forecasts for resources, resource uses, existing designated uses of public lands, and social and economic conditions within the planning area. The Bureau of Land Management will provide a framework for the analysis to avoid unnecessary data collection and analysis and will present the preliminary alternatives under consideration for the planning effort. The State Director will make this document publicly available.

(b) [Reserved]

**§ 1610.42 Public notice of planning.**

The State Director will provide public notice when the Bureau of Land Management initiates the development, revision, or amendment of a land use plan and will request public participation consistent with § 1610.20(a) and (b).

**§ 1610.43 Proposed land use plan, revision, or amendment.**

Prior to approving a land use plan, revision, or amendment, the State Director will publish a proposed land use plan, revision, or amendment, which will be subject to public protest pursuant to § 1610.51. The proposed land use plan, revision, or amendment shall establish intervals and standards, as appropriate, for monitoring and evaluation of the plan.

**§ 1610.50 Land use plan pre-decisional review, approval, use, and modification.**

The following sections describe the procedures for pre-decisional review, approval, use, and modification of approved land use plans.

**§ 1610.51 Protest procedures.**

(a) Any person who participated in the planning process and has an interest which is or may be adversely affected by the approval of a land use plan, revision, or amendment may protest such proposed land use plan, revision, or amendment. A protest may raise only those issues submitted to the Bureau of Land Management during the planning process or issues concerning substantial changes to a proposed plan, revision, or amendment made by the State Director and that could not previously have been raised during the planning process.

(1) Any protest shall be in writing and filed electronically with the Bureau of Land Management Headquarters through the agency's national register for National Environmental Policy Act related documents. Consistent with § 1610.20(c), any protest must be received within 30 calendar days following the publication of the proposed plan, revision, or amendment on the agency's national register for National Environmental Policy Act related documents.

(2) The protest shall contain:

(i) The name and interest of the person filing the protest;

(ii) A statement of the issue or issues being protested; and

(iii) A concise statement explaining why the State Director's proposed decision is believed to be inconsistent with relevant law, regulation, or policy.

(3) The Office of the Bureau of Land Management Director shall render a decision on each protest before the Bureau of Land Management approves a plan, revision, or amendment.

(b) The Office of the Bureau of Land Management Director will publish written responses to any protests it received, setting forth the reasons for the Bureau of Land Management Director's resolution of the protest.

**§ 1610.52 Governor's consistency review procedures.**

(a) Prior to the public release of a proposed land use plan, revision, or amendment, the State Director shall submit to the Governor of the State involved, the proposed land use plan, revision, or amendment and shall identify known inconsistencies with approved State plans.

(b) The Governor shall have 30 calendar days beginning the day after receipt of the proposed land use plan, revision, or amendment to identify additional inconsistencies and provide recommendations for resolving inconsistencies in writing to the State Director. Recommendations from the Governor must be received within 30 calendar days to be considered by the Bureau of Land Management. If the Governor does not provide a recommendation to resolve inconsistencies, they are presumed resolved.

**§ 1610.53 Local governments' consistency review procedures.**

(a) Prior to the public release of a proposed land use plan, revision, or amendment, the State Director shall submit to the appropriate officials for the local governments within the planning area, the proposed land use plan, revision, or amendment and shall identify known inconsistencies with approved local plans.

(b) The local government official shall have 30 calendar days beginning the day after receipt of the proposed land use plan, revision, or amendment to identify additional inconsistencies and provide recommendations for resolving inconsistencies in writing to the State Director. Recommendations from the local government official must be received within 30 calendar days to be considered by the Bureau of Land Management. If the local government

official does not provide a recommendation to resolve inconsistencies, they are presumed resolved.

**§ 1610.54 Land use plan approval.**

(a) Following the resolution of any protest under § 1610.51, and the resolution of any inconsistencies identified by the Governor under § 1610.52 or local government officials under § 1610.53, the State Director will issue a decision concerning the approval of the plan, revision, or amendment.

(b) The Bureau of Land Management's decision concerning the approval of a plan, revision, or amendment under paragraph (a) of this section is the final decision of the Department of the Interior.

**§ 1610.55 Conformity and implementation.**

(a) All future authorizations and actions shall conform to the Bureau of Land Management's approved plan. Conformance means that the use, authorization, or action is provided for by the land use plan or, if not provided for, shall be consistent with the decisions of the approved land use plan, unless specifically authorized otherwise by law.

(b) If a proposed action is not in conformance and warrants further consideration before a plan revision is scheduled, such consideration shall be through a plan amendment in accordance with the provisions of § 1610.57.

(c) The Bureau of Land Management shall be responsible for monitoring and evaluating its approved land use plans in accordance with the established intervals and standards and at other times as appropriate to determine whether there is sufficient cause to warrant amendment or revision of the plan based on new data, new or revised policy, or a change in circumstances.

**§ 1610.56 Maintenance.**

(a) In circumstances when the President or Congress establishes land uses or restrictions of land uses on public lands either through proclamation or law, the Bureau of Land Management will document maintenance to update applicable land use plans to reflect the decision of the higher-level authority. Any other changes to established land use planning decisions other than those expressly made by the proclamation or law must be reviewed through planning procedures for amendment or revision pursuant to §§ 1610.57 and 1610.58.

(b) The Bureau of Land Management may document maintenance to correct errors and is limited to further refining the documentation of a decision of the approved plan. Maintenance shall not result in expansion in the scope of resource uses or restrictions, or change the decisions of the approved plan.

(c) Maintenance is not considered a plan amendment and shall not require the formal public involvement and interagency coordination process described under §§ 1610.20 and 1610.30 or environmental review.

(d) Maintenance shall be documented in plans and supporting records.

**§ 1610.57 Amendment.**

A land use plan may be changed through amendment to maintain decisions providing for the management of public lands that are current. An amendment shall be initiated, as appropriate, by the Bureau of Land Management's consideration of monitoring and evaluation findings (§ 1610.55(c)) or a proposed action that would result in a change in the scope of resource uses or a change in a limited scope of the decisions of the approved plan. If the amendment is being considered in response to a specific proposal, the analysis required for the proposal and for the amendment may occur simultaneously and in the same documentation.

**§ 1610.58 Revision.**

A land use plan shall be revised when the Bureau of Land Management contemplates substantial changes to the scope of the planning decisions providing for the management of public lands. A revision shall be initiated, as appropriate, based on the Bureau of Land Management's consideration of monitoring and evaluation findings (§ 1610.55(c)) affecting the entire plan or major portions of the plan.

**§ 1610.60 Management decision review by Congress.**

Any Bureau of Land Management planning decision that totally eliminates one or more principal or major uses listed at section 103(l) of the Federal Land Policy and Management Act for two or more years with respect to contiguous tracts of 100,000 acres or more, shall be reported to Congress. This report shall not be required prior to approval of a land use plan which, if fully or partially implemented, would result in such an elimination. The required report shall be submitted as the first action step in implementing that portion of a land use plan which would require elimination of such a use.

**§ 1610.70 Designation of areas of critical environmental concern.**

(a) The Bureau of Land Management shall identify and evaluate if public lands have the potential for areas of critical environmental concern designation and management for protection against irreparable damage. The Bureau of Land Management evaluates and considers designation only through the process of developing or revising a land use plan, or when amending a land use plan when the evaluation and consideration falls within the scope of the amendment. If a nomination for an area of critical environmental concern is received outside of the planning process, the evaluation and consideration will be deferred to an upcoming planning process.

(b) In order for the Bureau of Land Management to designate an area of critical environmental concern, it must find that an area of public lands meets all three of the following criteria:

(1) *Relevance.* There shall be present historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or natural hazards.

(2) *Importance.* The resource, system, process, or hazard that the Bureau of Land Management determines to be relevant shall also have substantial value. This generally requires characteristics that demonstrate qualities of more than localized distinctiveness, especially when compared to similar resources. A natural hazard can be important if it is a threat to human life or property.

(3) *Special management attention.* The area requires special management to protect and prevent irreparable damage from a reasonably foreseeable use to those values that the Bureau of Land Management determines to be relevant and important.

(c) The boundaries of designated areas of critical environmental concern shall encompass the smallest area of public lands necessary to protect and prevent irreparable damage of the relevant and important values.

(d) The State Director, through the land use planning process, may in whole or in part remove or modify the designation of an area of critical environmental concern.

**§ 1610.80 Transition period.**

(a) Proposed management actions must conform to approved management framework plans until such time as those plans are superseded by land use plans or amended under § 1610.57.

(b) The Bureau of Land Management is not required to initiate land use planning in areas with no land use plan

or a management framework plan, except to consider the sale of lands consistent with section 203 of the Federal Land Policy and Management Act. The Bureau of Land Management will consider proposed actions on unplanned public lands consistent with applicable Federal statutes and procedures.

## Subpart 1611—Amending Land Use Plans To Address Emergencies

### § 1611.10 Emergency procedures.

(a) To address emergency circumstances, any individual in the Office of the Secretary who has been appointed by the President, by and with the advice and consent of the Senate, may, consistent with the Federal Land Policy and Management Act and other applicable law, authorize modified procedural requirements that depart from those otherwise required by this subpart for amending land use plans, to facilitate review of a proposed implementation action to address the emergency circumstances. Modified procedures may include:

(1) Public participation. Reducing the timeframes required for public participation described at § 1610.20(b) or (c), or waiving the requirement for public participation at notice described at § 1610.20(a)(1) or protest described at § 1610.20(a)(2), but not waiving both.

(2) Coordination. Waiving the specific procedures for invitation to participate in coordination described at § 1610.31(a) and the review of plans for consideration described at § 1610.31(b). If these procedures are waived, communications tailored to collect only the information needed to support the plan amendment under review must occur.

(3) Consistency. Reducing the timeframes required to respond to the Bureau of Land Management's request for approved resource-related plans of State and local governments and Indian tribes and statement of prohibited uses described at § 1610.41(a)(2) and for the Governor's consistency review described at § 1610.52(b) and local governments' consistency review described at § 1610.53(b), or waiving the requirement to request plans or hold consistency reviews for the Governor and local governments, but not waiving both.

(b) The authority to apply emergency procedures of paragraph (a) of this section applies only for the duration of emergency circumstances and only for the preparation of land use amendments supporting the review of a project(s) that respond to the emergency circumstances.

(c) At the start of the planning effort, the State Director will publish the modified planning procedures to inform the public and other Federal agencies, State and local governments, and Indian tribes how the requirements for public involvement, coordination, and consistency during planning on public lands will be met for the amendment.

[FR Doc. 2026–22860 Filed 11–9–26; 8:45 am]

**BILLING CODE 4331–27–P**

# Notices

Federal Register
Vol. 91, No. 216
Tuesday, November 10, 2026

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

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by December 10, 2026 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**Forest Service**

*Title:* Qualified Product List for Wild Land Fire Chemicals.

*OMB Control Number:* 0596–0182.

*Summary of Collection:* The policy of the USDA Forest Service (USDA FS) is stated in Forest Service Handbook (FSH 5109.16, chapters zero code and 20), ''Use only evaluated, approved and qualified fire chemicals.'' This policy requires the Agency to evaluate all wildland fire chemicals before use in fire management activities on lands managed by the USDA FS. Additionally, the Agency needs ''to have available and utilize adequate types and quantities of qualified fire chemical products to accomplish fire management activities safely, efficiently, and effectively.'' To accomplish this objective, the USDA FS evaluates fire chemical products available for use in direct wildland-fire management operations prior to such use on lands managed by the Agency. (FSH5109.16, zero code, sections 02 and 03).

*Need and Use of the Information:* Information is collected for each formulation or reformulation once, upon the respondent's initial request for evaluation. For the purposes of this information collection, we're anticipating an average of five respondents will submit ten new responses during a twelve-month period. This information collection and the product evaluation must be conducted on an ongoing basis to ensure the Agency can solicit and award contracts in a timely manner to provide firefighters with safe and effective wildland fire chemical products.

*Description of Respondents:* Business or other for-profit.

*Number of Respondents:* 15.

*Frequency of Responses:* Reporting: Other (once).

*Total Burden Hours:* 64.

**Levi S. Harrell,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2026–22855 Filed 11–9–26; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Administration

### The Emergency Food Assistance Program; Availability of Foods for Fiscal Year 2027

**AGENCY:** Food and Nutrition Administration, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces the surplus and purchased foods that the Department expects to make available for donation to States for use in providing nutrition assistance to the needy under The Emergency Food Assistance Program (TEFAP) in Fiscal Year (FY) 2027. The foods made available under this notice must, at the discretion of the State, be distributed to eligible recipient agencies (ERAs) for use in preparing meals and/or for distribution to households for home consumption.

**FOR FURTHER INFORMATION CONTACT:** Farah Ahmad, Food Distribution Policy Branch, Policy Division, Food and Nutrition Administration, U.S. Department of Agriculture, 1400 Jefferson Dr. SW, Washington, DC 20250.

**SUPPLEMENTARY INFORMATION:** In accordance with the provisions set forth in the Emergency Food Assistance Act of 1983 (EFAA), 7 U.S.C. 7501, *et seq.,* and the Food and Nutrition Act of 2008, 7 U.S.C. 2036, the Department makes foods available to States for use in providing nutrition assistance to those in need through TEFAP. In accordance with section 214 of the EFAA, 7 U.S.C. 7515, funding for TEFAP foods is allocated among States according to a formula that accounts for poverty and unemployment levels within each State. Section 214(a)(1) of the Act requires that 60 percent of each State's allocation be based on the number of people with incomes below the poverty level within the State; and Section 214(a)(2) requires that the remaining 40 percent be equal to the percentage of the nation's unemployed persons within the State. State officials are responsible for establishing the network through which the foods will be used by ERAs in providing nutrition assistance to those in need and for allocating foods among those ERAs. States have full discretion in determining the amount of foods that

will be made available to ERAs for use in preparing meals and/or for distribution to households for home consumption.

**Surplus Foods**

Surplus foods donated for distribution under TEFAP are Commodity Credit Corporation (CCC) foods purchased under the authority of section 416 of the Agricultural Act of 1949, 7 U.S.C. 1431 (section 416) and foods purchased under the surplus removal authority of section 32 of the Act of August 24, 1935, 7 U.S.C. 612c (section 32). The types of foods typically purchased under section 416 include dairy, grains, oils, and peanut products. The types of foods purchased under section 32 include meat, poultry, fish, vegetables, dry beans, juices, and fruits.

Approximately $360 million in surplus foods acquired in FY 2026 are being delivered to States in FY 2027. Surplus foods currently scheduled for delivery in FY 2027 include apricot products, beans, blackberries, butter, catfish, cheese, cherries, chicken, eggs, fresh grapes, grape juice, grapefruit, groundfish, lentils, mandarins, milk, oranges, peach products, canned pears, pecans, plums, Alaska Pollock, pork products, raisins, split peas, shrimp, and walnuts. Other surplus foods may be made available to TEFAP throughout the year. The Department would like to point out that food acquisitions are based on changing agricultural market conditions; therefore, the availability of foods is subject to change.

**Purchased Foods**

In accordance with section 27 of the Food and Nutrition Act of 2008, 7 U.S.C. 2036, the Secretary is directed to purchase an estimated $481.500 million worth of foods in FY 2027 for distribution through TEFAP.

For FY 2027, the Department anticipates purchasing the foods listed in the following table for distribution through TEFAP. The amounts of each item purchased will depend on the prices the Department must pay, as well as the quantity of each item requested by the States. Changes in agricultural market conditions may result in the availability of additional types of foods or the non-availability of one or more foods listed in the table.

FY 2027 USDA FOODS AVAILABLE LIST FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP)

| |
|---|
| FRUITS: |
| Apples, Empire, Fresh |
| Apples, Fuji, Fresh |
| Apples, Gala, Fresh |
| Apples, Granny Smith, Fresh |
| Apples, Red Delicious, Fresh |
| Apples, Fresh |
| Apple Juice, 100%, Unsweetened |
| Apple Slices, Unsweetened, Frozen (IQF) |
| Applesauce, Unsweetened, Canned (K) |
| Applesauce, Unsweetened, Cups, Shelf-Stable |
| Apricots, Halves, Extra Light Syrup, Canned |
| Blueberries, Highbush, Unsweetened, Frozen |
| Cherry Apple Juice, 100%, Unsweetened |
| Cranberry Apple Juice, 100%, Unsweetened |
| Cranberries, Dried, Individual Portion |
| Grape Juice, Concord, 100%, Unsweetened |
| Grapefruit Juice, 100%, Unsweetened |
| Fruit and Nut Mix, Dried |
| Mixed Fruit, Extra Light Syrup, Canned |
| Oranges, Fresh |
| Orange Juice, 100%, Unsweetened |
| Peaches, Freestone, Slices, Frozen |
| Peaches, Sliced, Extra Light Syrup, Canned |
| Pears, Bartlett, Fresh |
| Pears, Bosc, Fresh |
| Pears, D'Anjou, Fresh |
| Pears, Fresh |
| Pears, Extra Light Syrup, Canned (K) |
| Plums, Pitted, Dried |
| Raisins, Unsweetened, Individual Portion |
| Raisins, Unsweetened |
| Strawberries, Whole, Unsweetened, Frozen (IQF) |
| DAIRY: |
| Cheese, American, Reduced Fat, Loaves, Refrigerated |
| Cheese, Cheddar, Yellow, Shredded, Refrigerated |
| Cheese, Cheddar, Yellow, Chunks, Refrigerated |
| Milk, 1%, Shelf-Stable UHT |
| Milk, 1%, Individual Portion, Shelf-Stable UHT |
| Milk 1% Fresh |
| Milk, Skim, Fresh |
| Milk, Whole Fresh |
| Yogurt, High-Protein, Vanilla, Chilled (K) |
| Yogurt, High-Protein, Blueberry, Chilled (K) |
| Yogurt, High-Protein, Strawberry, Chilled (K) |
| VEGETABLES: |
| Beans, Green, Low-sodium, Canned (K) |
| Beans, Green, No Salt Added, Frozen |
| Carrots, Diced, No Salt Added, Frozen |
| Carrots, Sliced, Low-sodium, Canned |
| Corn, Whole Kernel, No Salt Added, Canned (K) |
| Corn, Cream Style, Low-sodium, Canned |
| Corn, Whole Kernel, No Salt Added, Frozen |
| Mixed Produce Box, Fresh |
| Mixed Vegetables, 7-Way Blend, Low-sodium, Canned |
| Peas, Green, Low-sodium, Canned |
| Peas, Green, No Salt Added, Frozen |
| Potatoes, Dehydrated Flakes |
| Potatoes, Round, Fresh |
| Potatoes, Russet, Fresh |
| Potatoes, Sliced, Low-sodium, Canned |
| Pumpkin, No Salt Added, Canned |
| Spaghetti Sauce, Low-sodium, Canned |
| Spinach, Low-sodium, Canned |
| Sweet Potatoes, Fresh |
| Tomato Juice, 100%, Low-sodium |
| Tomato Sauce, Low-sodium, Canned |
| Tomato Sauce, Low-sodium, Canned (K) (H) |
| Tomato Soup, Condensed, Low-sodium, Canned |
| Tomatoes, Diced, No Salt Added, Canned |
| Vegetable Soup, Condensed, Low-Sodium, Canned |
| LEGUMES: |
| Beans, Black, Low-sodium, Canned |
| Beans, Black, Dry |
| Beans, Black-eyed Pea, Low-sodium, Canned |
| Beans, Black-eyed Pea, Dry |
| Beans, Garbanzo, Canned (K) |
| Beans, Great Northern, Dry |
| Beans, Kidney, Light Red, Low-sodium, Canned |
| Beans, Kidney, Light Red, Dry |
| Beans, Lima, Baby, Dry |
| Beans, Pinto, Low-sodium, Canned |
| Beans, Pinto, Dry |
| Beans, Refried, Low-sodium, Canned |
| Beans, Vegetarian, Low-sodium, Canned |
| Lentils, Dry |
| Peas, Green Split, Dry |
| PROTEIN FOODS: |
| Alaska Pollock, Fillets, Frozen |
| Alaska Pollock, Whole Grain Breaded Fish Sticks, Frozen |
| Almonds, Natural, Whole, Shelled |
| Atlantic Haddock, Fillet, Frozen |
| Atlantic, Pollock, Fillet, Frozen |
| Beef, Canned/Pouch |
| Beef, Fine Ground, 85% Lean/15% Fat, Frozen |
| Beef Stew, Canned/Pouch |
| Catfish, Fillets, Farm-Raised, Frozen |
| Catfish, Fillets, Wild-Caught, Frozen |
| Chicken, Boneless Breast, Frozen |
| Chicken, Canned |
| Chicken, Drumsticks, Frozen |
| Chicken, Pouch |
| Chicken, Split Breast, Frozen |
| Chicken, Whole, Frozen |
| Eggs, Fresh |
| Egg Mix, Dried |
| Peanut Butter, Smooth |
| Peanut Butter, Smooth (K) |
| Peanut Butter, Smooth, Individual Portion |
| Peanuts, Roasted, Unsalted |
| Pork, Canned/Pouch |
| Pork, Ham, Frozen |
| Pork, Chops, Boneless, Frozen |
| Salmon, Pink, Canned |
| Salmon, Pink, Canned (K) |
| Shrimp, Peeled, Deveined, 31–50 Count, Frozen |
| Turkey, Deli Breast, Sliced, Frozen |
| Walnut, Pieces |
| GRAINS: |
| Bakery Mix, Low-fat (K) |
| Cereal, Ready-to-Eat |
| Cereal, Wheat Farina, Enriched |
| Crackers, Unsalted |

FY 2027 USDA FOODS AVAILABLE LIST FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP)—Continued

| |
|---|
| Cornmeal, Yellow |
| Flour, All Purpose, Enriched, Bleached |
| Flour, White Whole Wheat (WG) |
| Grits, Corn, White |
| Grits, Corn, Yellow |
| Oats, Rolled, Quick Cooking (WG) |
| Pasta, Egg Noodles |
| Pasta, Macaroni, Enriched |
| Pasta, Macaroni (WG) |
| Pasta, Macaroni and Cheese |
| Pasta, Rotini (WG) |
| Pasta, Spaghetti, Enriched |
| Pasta, Spaghetti (WG) |
| Rice, Brown, Long-Grain, Parboiled (WG) |
| Rice, Medium Grain |
| Rice, Long Grain |
| Tortillas, Frozen (WG) |
| OILS: |
| Oil, Vegetable |
| OTHER: |
| Soup, Cream of Chicken, Condensed, Reduced Sodium |
| Soup, Cream of Mushroom, Condensed, Reduced Sodium |
| KEY: |
| H—Halal Certification Required |
| K—Kosher Certification Required |
| IQF—Individually Quick Frozen |
| UHT—Ultra-High Temperature Pasteurization |
| WG—Whole Grain |

**Shiela Corley,**

*Acting Administrator,Food and Nutrition Administration, USDA.*

[FR Doc. 2026–22876 Filed 11–9–26; 8:45 am]

**BILLING CODE 3410–30–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Tennessee Advisory Committee

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Announcement of Virtual Business Meeting

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA) that the Tennessee Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meetings via Zoom on Monday, December 7, 2026 and Monday January 11, 2027, from 3:00 p.m.–4:00 p.m. CT. For the purpose of discussing ideas for their first project.

**DATES:** The meetings will take place on

**Monday, Dec. 7th From 3:00 p.m.–4:00 p.m. CT**

- *Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_vodIn7WHToiySE9oylsSmQ.*
- *Join by Phone (Audio Only):* 1–833–435–1820 USA Toll Free; Webinar ID: 165 544 0200#.

**Monday, Jan. 11th From 3:00 p.m.–4:00 p.m. CT**

- *Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_SH4T9nKQQrmYMnJvXJ-hMw.*
- *Join by Phone (Audio Only):* 1–833–435–1820 USA Toll Free; Webinar ID: 165 543 8555#.

*Agendas:* (*note:* final meeting agendas will be available prior to the meeting dates).

- 12/7/26 *https://usccr.box.com/s/o0f37ne54aep4x3peoem7l4z5wa5g1r7.*
- 01/11/27 *https://usccr.box.com/s/nam89zj0apdwd7jmnbmawdjdznn50m5h.*

**FOR FURTHER INFORMATION CONTACT:** Brooke Peery, Designated Federal Officer (DFO) at *bpeery@usccr.gov* or by phone at (202) 701–1376.

**SUPPLEMENTARY INFORMATION:** Committee meetings are available to the public through the videoconference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Corrine Sanders, Support Services Specialist, *csanders@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments can be sent via email to Brooke Peery (DFO) at *bpeery@usccr.gov.*

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Tennessee Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at *csanders@usccr.gov.*

Dated: November 6, 2026.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2026–22921 Filed 11–9–26; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Wisconsin Advisory Committee to the U.S. Commission on Civil Rights

**AGENCY:** U.S. Commission on Civil Rights.

**ACTION:** Notice of public meeting.

**SUMMARY:** Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the Wisconsin Advisory Committee to the U.S. Commission on Civil Rights will hold virtual business meetings via Zoom on Thursday November 19, 2026 and Thursday, December 17, 2026. The purpose of these meetings is to plan their 2027 virtual briefings focused on Religious Liberty in Wisconsin after the *Catholic Charities Bureau* v. *Labor & Industry Review Commission* decision.

**DATES:** The meetings will take place on:

**Thursday, November 19th From 3:30 p.m.–5:00 p.m. CT**

- *Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_Xy7IYPUfTGm0CRPifrt9_A.*

*Join by Phone (Audio Only):* 1–833–435–1820 USA Toll-Free; Webinar ID: 165 820 3988#.

**Thursday, December 17th From 3:30 p.m.–5:00 p.m. CT**

- *Registration Link (Audio/Visual): https://www.zoomgov.com/webinar/register/WN_Q9ZNazCQTGide8sGNda36Q.*

*Join by Phone (Audio Only):* 1–833–435–1820 USA Toll-Free; Webinar ID: 165 652 8067#.

- 11/19/26 *https://usccr.box.com/s/wek21oannxnvu9xbimuzaz2b9nvky6wy.*

• 12/17/26 *https://usccr.box.com/s/a882nakt48hupretwru2ynjumm7qfril.*

**FOR FURTHER INFORMATION CONTACT:** Ana Victoria Fortes, Designated Federal Officer, at *afortes@usccr.gov* or (202) 681–0857.

**SUPPLEMENTARY INFORMATION:** This committee meeting is available to the public through the registration link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. Per the Federal Advisory Committee Act, public minutes of the meeting will include a list of persons who are present at the meeting. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any charges incurred. Callers will incur no charge for calls when they initiate over land-line connections to the toll-free telephone number. Closed captioning will be available for individuals who are deaf, hard of hearing, or who have certain cognitive or learning impairments. To request additional accommodations, please email Corrine Sanders, Support Specialist, at *csanders@usccr.gov* at least 10 business days prior to the meeting.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Ana Victoria Fortes at *afortes@usccr.gov*. Persons who desire additional information may contact the Regional Programs Coordination Unit at (202) 681–0857.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit Office, as they become available, both before and after the meeting. Records of the meetings will be available via the file sharing website, *www.box.com,* (*https://usccr.app.box.com/s/r6wz3kfxa5jdlrg44ycky0x4w4tbuhzs*) as well as at *www.facadatabase.gov.* Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Dated: November 6, 2026.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2026–22920 Filed 11–9–26; 8:45 am]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

**[Docket No.: 261027–0008]**

## Membership of the Performance Review Boards

**AGENCY:** Department of Commerce, Office of the Secretary.

**ACTION:** Notice of Membership on Performance Review Boards.

**SUMMARY:** The Department of Commerce (DOC) announces the appointment of those individuals who have been selected to serve as members of the Office of the Secretary Performance Review Board, International Trade Administration (ITA) Performance Review Board, the Bureau of Industry and Security (BIS) Performance Review Board, Census Bureau Performance Review Board (Census), Bureau of Economic Analysis (BEA) Performance Review Board, National Oceanic and Atmospheric Administration (NOAA) Performance Review Board, National Institute of Standards and Technology (NIST) Performance Review Board, Economic Development Administration (EDA) Performance Review Board, and National Telecommunications and Information Administration (NTIA) Performance Review Board.

**DATES:** The appointment for those individuals selected for the Performance Review Boards begins immediately upon publication of this notice. Service is expected to last through Fiscal Year 2028.

**FOR FURTHER INFORMATION CONTACT:** James Triem, U.S. Department of Commerce, Office of Human Resources Management, Office of Executive Resources, 1401 Constitution Avenue NW, Washington, DC 20230, at (202) 482–7460.

**SUPPLEMENTARY INFORMATION:** In accordance with 5 U.S.C. 4314 (c)(4), DOC, Office of the Secretary (OS), announces the appointment of those individuals who have been selected to serve as members of the OS, ITA, BIS, Census, BEA, NOAA, NIST, and NTIA Performance Review Boards. The Performance Review Boards are responsible for (1) reviewing performance appraisals and ratings of Senior Executive Service and Senior Leader members and (2) making recommendations to the appointing authority on other performance management issues, such as pay adjustments and bonuses. The members listed in this notice can serve on any of the eight (8) boards mentioned if alternate members are needed.

This notice supersedes the list published in the **Federal Register** on December 2, 2025 (Docket No. 251124–0174).

*The Performance Review Board Members:* The name, position title, and bureau of each member are set forth below:

Abaroa, Patricia—Deputy Director, Bureau of Economic Analysis (BEA)
Arora, Vipin—Director, Bureau of Economic Analysis (BEA)
Boehm, Jason—Chief of Staff for National Institute of Standards and Technology (NIST)
Boards, Fernandez—Chief Financial Officer (Census)
Bolitzer, Benjamin—Deputy Chief Economist (Office of the Under Secretary for Economic Affairs)
Bradley, Olivia—Senior Procurement Executive and Director for Acquisition Management (OS)
Brodian, David—Chief Counsel for NTIA, Office of the General Counsel (OS)
Brown, Essex—Director, Office of Human Resources Management (NIST)
Brown, Hannah—Chief Information Officer for NIST (NIST)
Carlis, DaNa—Director, National Severe Storms Laboratory (NOAA)
Chin, Joannie—Director, Engineering Laboratory (NIST)
Christ, Katelyn—Senior Advisor (BIS)
Coldiron, Kelly—Deputy Assistant Secretary for Asia (ITA)
Doster, Kimberly—Director of Communications (NOAA)
Donilon, Brooke—Chief of Staff for NTIA (NTIA)
Epley, Brian—Chief Information Officer (OS)
Fangmeyer, Robert—Director, Baldridge Performance Excellence Program (NIST)
Folk, Alex—Director for Acquisition and Agreements Program Management (NIST)
Fullerton, Scot—Associate Deputy Assistant Secretary for AD/CVD Operations (ITA)
Garcia, Alexandra ''Bonnie''—Director, Acquisition (NIST)
Gardner, Stephen—Chief Counsel for Commercial Law Development Program, Office of the General Counsel (OS)
Greten, Timothy—Director, Office of Observations (NOAA)
Grimm, Laura—Deputy Under Secretary for Oceans and Atmosphere (NOAA)
Hare, Jonathan—Science and Research Director, Northeast Region (NOAA)
Kinkoph, Doug—Associate Administrator for Office of internet Connectivity and Growth (NTIA)
Kurland, Kevin—Principal Deputy Assistant Secretary for Export Enforcement (BIS)

Lachhanski, Michael—Deputy Director Data, Policy and Science (Census)
Lin, Eric—Deputy Director for Programs (NIST)
Martinez, Angela—Denver Regional Director (EDA)
McKinney, Bradley—Deputy Assistant Secretary for U.S. Field (ITA)
Monk, Laurie—ITA Director of Human Capital (ITA)
Moore Jr., James—Associate Director for Communications (Census)
Muslu, Deniz—Director, Office of Enforcement Analysis (BIS)
Noble, Erik—Deputy Assistant Secretary for Oceans and Atmosphere (NOAA)
O'Connor, Kasey—Chief of Staff, Office of the General Counsel (OS)
Paoletta, Patricia—Deputy Assistant Secretary to NTIA (NTIA)
Pineiro-Soler, Eugenio—Assistant Administrator for Marine Fisheries (NOAA)
Points, Marcus—Chief Financial and Administrative Officer (ITA)
Presing, Steven—Executive for Anti-Dumping and Subsidies Policy and Negotiation (ITA)
Schad, Carolyn—Director for Human Capital Management (USPTO)
Shipp, Christopher—Chief of Staff (USPTO)
Soderstrom, Sandra—Director of Management and Resources (EDA)
Sonderman, John—Director, Office of Export Enforcement (BIS)
Stein, Ariel—Director, Air Resources Laboratory (NOAA)
Studds, John—Deputy Director for Administration and Operations (Census)
Valentin, Keven—Deputy Under Secretary for Industry and Security (BIS)
Villanueva, Alex—Senior Director (ITA)

Dated: October 26, 2026.

**Benjamin Kagan-Guthrie,**

*Director, Office of Human Resources Management and Chief Human Capital Officer.*

[FR Doc. 2026–22933 Filed 11–6–26; 4:15 pm]

**BILLING CODE 3510–03–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–19–2026]**

### Foreign-Trade Zone (FTZ) 216; Authorization of Production Activity; Essex Laboratories LLC; (Mint Oil Blends); Chehalis, Washington

On February 18, 2026, the Port of Olympia, grantee of FTZ 216, submitted a notification of proposed production activity to the FTZ Board on behalf of Essex Laboratories, within FTZ 216, in Chehalis, Washington.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (91 FR 8406, February 23, 2026). On November 5, 2026, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized on a limited basis, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14, and further subject to quantitative limits on the admission of foreign status Mentha Piperita Oil, Mentha Spearmint Oil, and Mentha Arvensis Oil. The annual quantitative limit for foreign status Mentha Piperita Oil will be equal to one-fifth the number of U.S.-origin sourced Mentha Piperita Oil. The annual quantitative limit for foreign status Mentha Spearmint Oil and Mentha Arvensis will be 45,000 kgs, and 4,000 kgs respectively. Essex must provide a single report within one year of approval documenting its foreign and domestic sourcing of these components. If Essex fails to provide this report, the FTZ Board should review the authorization for the importation of the components.

Dated: November 5, 2026.

**Colin Agostisi,**

*Executive Secretary.*

[FR Doc. 2026–22935 Filed 11–9–26; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–883]**

### Tin Mill Products From Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that tin mill products (tin mill) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2025, through March 31, 2026. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable November 10, 2026.

**FOR FURTHER INFORMATION CONTACT:** Carter Sherwin, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4260.

**SUPPLEMENTARY INFORMATION:**

#### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on April 29, 2026.[1] On August 7, 2026, Commerce postponed the preliminary determination of this investigation and the revised deadline is now November 5, 2026.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

#### Scope of the Investigation

The products covered by this investigation are tin mill products from Taiwan. For a complete description of the scope of this investigation, *see* Appendix I.

#### Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the

[1] *See Tin Mill Products from the People's Republic of China, Taiwan, and the Republic of Türkiye: Initiation of Less-Than-Fair-Value Investigations,* 91 FR 24157 (May 5, 2026) (*Initiation Notice*).

[2] *See Tin Mill Products from Taiwan and the Republic of Türkiye: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 91 FR 51150 (August 7, 2026).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Tin Mill Products from Taiwan,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[5] *See Initiation Notice,* 91 at FR 24157–58.

record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I to this notice.

**Methodology**

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

**All-Others Rate**

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated weighted-average dumping margin for all exporters and producers not individually examined, *i.e.,* the all-others rate. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Commerce has calculated a preliminary weighted-average dumping margin is not zero, *de minimis,* or based on section 776 of the Act for Ton Yi Industrial Corporation (Ton Yi), the sole respondent in this investigation. Accordingly, the rate calculated for Ton Yi is also assigned as the estimated weighted-average dumping margin for all other producers and exporters.

**Preliminary Determination**

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

| Exporter or producer | Estimated weighted-average dumping margin (percent) |
|---|---|
| Ton Yi Industrial Corporation ..... | 18.07 |
| All Others ..... | 18.07 |

[6] *See* Memorandum, ''Antidumping and Countervailing Duty Investigations of Tin Mill Products from the People's Republic of China, Taiwan, and the Republic of Türkiye: Preliminary Scope Decision Memorandum,'' dated September 8, 2026 (Preliminary Scope Decision Memorandum).

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) for subject merchandise exported by one of the companies listed above, the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

These suspension of liquidation instructions and cash deposit requirements will remain in effect until further notice.

**Disclosure**

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

**Verification**

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

**Public Comment**

Non-scope related case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. 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]

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 executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[10]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

[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.

[10] *See APO and Service Procedures.*

### Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On September 8, 2026, pursuant to 19 CFR 351.210(e), Ton Yi requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[11] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

### U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

[11] *See* Ton Yi's Letter, ''Request to Postpone the Final Determination,'' dated September 8, 2026.

Dated: November 5, 2026.

**Scot Fullerton,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix I

### Scope of the Investigation

The products within the scope of this investigation are tin mill flat-rolled products that are coated or plated with tin, chromium, or chromium oxides. Flat-rolled steel products coated with tin are known as tinplate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such as scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material.

Excluded from the scope of this investigation is certain single-reduced electrolytically chromium-coated steel tape for use as an armoring and shielding layer for fiber optic and telecommunications cables (commonly known in the industry as ''copolymer coated steel tape''). Such excluded certain single-reduced electrolytically chromium-coated steel tape is excluded only if it meets all seven (7) of the below requirements:

(1) Single-reduced electrolytically chromium-coated steel,

(2) Actual thickness of 0.160 mm or less (55-pound base box weight),

(3) Type MR steel,

(4) T2–T3 temper,

(5) With a tensile range of 45–57 KSI or 310.20–393.00 Mpa,

(6) 15% minimum elongation, and

(7) 0.06–012 g/m2 chromium coating.

The merchandise subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0020, 7210.50.0090, 7212.10.0000, 7212.50.0000, if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0180 if of alloy steel. Although the subheadings are 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 Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2026–22938 Filed 11–9–26; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–882]**

## Polytetramethylene Ether Glycol From Taiwan: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that polytetramethylene ether glycol (PTMEG) from Taiwan is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2025, through March 31, 2026. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable November 10, 2026.

**FOR FURTHER INFORMATION CONTACT:** Javeria Ali or Jacob Waddell, 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) 482–0462 or (202) 482–1369, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 5, 2026.[1] On August 28, 2026, Commerce postponed the preliminary determination of this investigation and the revised deadline is now November 4, 2026.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics

[1] *See Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 91 FR 24162 (May 5, 2026) (*Initiation Notice*); *see also Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations; Correction,* 91 FR 27266 (May 14, 2026).

[2] *See Polytetramethylene Ether Glycol from the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations,* 91 FR 55514 (August 28, 2026).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-

Continued

included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

**Scope of the Investigation**

The product covered by this investigation is PTMEG from Taiwan. For a complete description of the scope of this investigation, *see* Appendix I.

**Scope Comments**

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal comments submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily not modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

**Methodology**

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772(a) of the Act. Normal value is calculated in accordance with section 773 of the Act. Pursuant to section 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available, with adverse inferences, for Formosa Asahi Spandex Co., Ltd (FAS). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

**All-Others Rate**

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned a rate based entirely on adverse facts available to FAS. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Dairen Chemical Corporation (Dairen). Consequently, the rate calculated for Dairen is also assigned as the rate for all other producers and exporters.

**Preliminary Determination**

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

| Exporter/producer | Estimated weighted-average dumping margin (percent) |
|---|---|
| Dairen Chemical Corporation | 7.46 |
| Formosa Asahi Spandex Co., Ltd | *26.42 |
| All Others | 7.46 |

*Rate based on facts available with adverse inferences.

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise. These suspension of liquidation instructions will remain in effect until further notice.

**Disclosure**

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

**Verification**

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

**Public Comment**

Non-scope related case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. 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]

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

Fair-Value Investigation of Polytetramethylene Ether Glycol from Taiwan,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[5] *See Initiation Notice,* 91 FR at 24163.

[6] *See* Memorandum, ''Less-than-Fair-Value Investigations of Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum,'' dated concurrently with this notice (Preliminary Scope Decision Memorandum).

[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)

in their briefs.[9] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[10]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: 1) the party's name, address, and telephone number; 2) the number of participants and whether any participant is a foreign national; and 3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

**Postponement of Final Determination and Extension of Provisional Measures**

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On August 20, 2026, pursuant to 19 CFR 351.210(e), Dairen requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[11] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

**U.S. International Trade Commission (ITC) Notification**

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

**Notification to Interested Parties**

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 4, 2026.

**Scot Fullerton,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix I

**Scope of the Investigation**

The merchandise covered by the investigation is polytetramethylene ether glycol (PTMEG), which is a polymer consisting of linear diols (*i.e.,* organic chemical compound that has two hydroxyl (-OH) functional groups) with a molecular backbone of repeating tetramethylene units (-CH2CH2CH2CH2-) interconnected through ether bonds (*i.e.,* a single oxygen atom bonded to two carbon atoms), with a chemical formula HO{(CH2)4}nOH. PTMEG is also referred to as Polytetrahydrofuran, PTHF, Polytetramethylene ether glycol, PTMG, and Polybutylene glycol. PTMEG is typically blended with butylated hydroxytoluene (BHT) or another stabilizer such as higher molecular weight hindered phenols or phosphoric acid. In addition to a stabilizer, PTMEG is sometimes blended with a modifier or additive, such as phosphoric acid or sulfuric acid. The scope includes all blends consisting of PTMEG and stabilizers, modifiers, and/or additives, where the stabilizers, modifiers, and/or additives collectively account for no more than two percent of the total weight of the PTMEG blend. PTMEG is normally associated with Chemical Abstracts Service (CAS) registry number 25190–06–1.

The scope includes all forms of PTMEG, regardless of physical form, purity, molecular weight, number of hydroxyls, number of acids, color, density, softening point, glass transition point, flash point, water content, viscosity, and packaging. PTMEG that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled but that have not been chemically reacted with each other to produce a different product. For such blends, only the PTMEG component of the mixture, inclusive of any stabilizers, modifiers, and/or additives collectively accounting for no more than two percent of the combined weight of the PTMEG component and the stabilizers, modifiers, and/or additives, is covered by the scope of the investigation.

The scope includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, introducing, or removing stabilizers, modifiers, or additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country. The scope also includes PTMEG that is commingled or blended with PTMEG from sources not subject to the investigation. Only the subject component of such commingled products is covered by the scope of the investigation.

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 3907.29.0000. Subject merchandise may also be imported under HTSUS subheadings 2932.11.0000 and 3404.90.5150. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

## Appendix II

**List of Topics Discussed in the Preliminary Decision Memorandum**

I. Summary
II. Background
III. Period of Investigation
IV. Affiliation
V. Application of Facts Available and Use of Adverse Inference
VI. Discussion of the Methodology
VII. Currency Conversion
VIII. Recommendation

[FR Doc. 2026–22940 Filed 11–9–26; 8:45 am]

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[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.

[10] *See APO and Service Procedures.*

[11] *See* Dairen's Letter, ''Request to Postpone the Final Determination,'' dated September 8, 2026.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–227]**

## Polytetramethylene Ether Glycol From the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that polytetramethylene ether glycol (PTMEG) from the People's Republic of China (China) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2025, through March 31, 2026. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable November 10, 2026.

**FOR FURTHER INFORMATION CONTACT:** Daniel Saba or Kate Fracke, 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) 482–5849 or (202) 482–3299, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 5, 2026.[1] On August 28, 2026, Commerce postponed the preliminary determination of this investigation and the revised deadline is now November 4, 2026.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

### Scope of the Investigation

The product covered by this investigation is PTMEG from China. For a complete description of the scope of this investigation, *see* Appendix I.

### Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily not modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

### Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to sections 776(a) and (b) of the Act, Commerce preliminarily has relied upon facts otherwise available, with adverse inferences, for the China-wide entity. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

### Combination Rates

In the *Initiation Notice,*[7] Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[8] In this case, because no respondent qualified for a separate rate, producer/exporter combination rates were not calculated.

### Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margin exists:

| Producer | Exporter | Estimated weighted-average dumping margin (percent) |
|---|---|---|
| China-Wide Entity | | * 213.44 |

* Rate is based on total facts available with adverse inferences.

### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin, as follows: (1) for all Chinese producers/exporters of subject merchandise, which are treated as part of the China-wide entity because they

[1] *See Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 91 FR 24162 (May 5, 2026 (*Initiation Notice*).

[2] *See Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations* 91 FR 55514 (August 28, 2026).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Polytetramethylene Ether Glycol from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[5] *See Initiation Notic*e, 91 FR at 24163.

[6] *See* Memorandum, ''Less-than-Fair-Value Investigations of Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum,'' dated concurrently with this preliminary determination (Preliminary Scope Decision Memorandum).

[7] *See Initiation Notice,* 91 FR at 241626–24167.

[8] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at *https://www.trade.gov/enforcement-and-compliance-policy-bulletins-0.*

have not established eligibility for a separate rate, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the China-wide entity; and (2) for all third-county exporters of merchandise under consideration, the cash deposit rate is the cash deposit rate applicable to the China-wide entity that supplied that third-country exporter.

These suspension of liquidation instructions will remain in effect until further notice.

**Disclosure**

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of its 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). However, because Commerce preliminarily applied total adverse facts available (AFA) to the China-wide entity in this investigation, in accordance with section 776 of the Act, and the applied AFA rate is based solely on the Petition, there are no calculations to disclose.

**Verification**

Because no company has established separate rate eligibility, verification will not be conducted.

**Public Comment**

Non-scope related case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 14 days after the date of publication of the preliminary determination in the **Federal Register**. 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.[9] 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.[10]

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.[11] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

**Final Determination**

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

**U.S. International Trade Commission (ITC) Notification**

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

**Notification to Interested Parties**

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 4, 2026.

**Scot Fullerton,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix I

**Scope of the Investigation**

The merchandise covered by the investigation is polytetramethylene ether glycol (PTMEG), which is a polymer consisting of linear diols (*i.e.,* organic chemical compound that has two hydroxyl (-OH) functional groups) with a molecular backbone of repeating tetramethylene units (-CH2CH2CH2CH2-) interconnected through ether bonds (*i.e.,* a single oxygen atom bonded to two carbon atoms), with a chemical formula HO{(CH2)4} nOH. PTMEG is also referred to as Polytetrahydrofuran, PTHF, Polytetramethylene ether glycol, PTMG, and Polybutylene glycol. PTMEG is typically blended with butylated hydroxytoluene (BHT) or another stabilizer such as higher molecular weight hindered phenols or phosphoric acid. In addition to a stabilizer, PTMEG is sometimes blended with a modifier or additive, such as phosphoric acid or sulfuric acid. The scope includes all blends consisting of PTMEG and stabilizers, modifiers, and/or additives, where the stabilizers, modifiers, and/or additives collectively account for no more than two percent of the total weight of the PTMEG blend. PTMEG is normally associated with Chemical Abstracts Service (CAS) registry number 25190–06–1.

The scope includes all forms of PTMEG, regardless of physical form, purity, molecular weight, number of hydroxyls, number of acids, color, density, softening point, glass transition point, flash point, water content, viscosity, and packaging. PTMEG that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled but that have not been chemically reacted with each other to produce a different product. For such blends, only the PTMEG component of the mixture, inclusive of any stabilizers, modifiers, and/or additives collectively accounting for no more than two percent of the combined weight of the PTMEG component and the stabilizers, modifiers, and/or additives, is covered by the scope of the investigation.

The scope includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, introducing, or removing stabilizers, modifiers, or additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country. The scope also includes PTMEG that is commingled or blended with PTMEG from sources not subject to the investigation. Only the subject component of such commingled products is covered by the scope of the investigation. The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 3907.29.0000. Subject merchandise may also be imported under

[9] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[10] *See* 19 351.309(c)(2) and (d)(2)

[11] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[12] *See APO and Service Final Rule.*

HTSUS subheadings 2932.11.0000 and 3404.91.5150. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

## Appendix II

**List of Topics Discussed in the Preliminary Decision Memorandum**

I. Summary
II. Background
III. Period of Investigation
IV. Discussion of the Methodology
V. Application of Facts Available and Use of Adverse Information
VI. Recommendation

[FR Doc. 2026–22942 Filed 11–9–26; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–489–857]**

### Tin Mill Products From the Republic of Türkiye: Preliminary Affirmative Determination of Sales at Less Than Fair Value, and Preliminary Affirmative Determination of Critical Circumstances, in Part

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that tin mill products from the Republic of Türkiye (Türkiye) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2025, through March 31, 2026. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable November 10, 2026.

**FOR FURTHER INFORMATION CONTACT:** Joshua Jacobson or Paul Kebker, 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 or (202) 482–2254, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 5, 2026.[1] On August 7, 2026, Commerce postponed the preliminary determination of this investigation and the revised deadline is now November 5, 2026.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

## Scope of the Investigation

The products covered by this investigation are tin mill products from Türkiye. For a complete description of the scope of this investigation, *see* Appendix I.

## Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the revised scope in Appendix I to this notice.

## Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available, with adverse inferences, for Tatrix Internation (Tatrix). For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

## Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily finds that critical circumstances exist for Tatrix. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

## All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated weighted-average dumping margin for all exporters and producers not individually examined, *i.e.,* the all-others rate. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned a rate based entirely on facts available to Tatrix. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Tosyali Toyo Celik A.S. and Toscelik Profil ve Sac Endustrisi A.S. (collectively, Tosyali). Consequently, the rate calculated for Tosyali is also assigned as the estimated weighted-average dumping margin for all other producers and exporters.

## Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

[1] *See Tin Mill Products From the People's Republic of China, Taiwan, and the Republic of Türkiye: Initiation of Less-Than-Fair-Value Investigations*, 91 FR 24157 (May 5, 2026) (*Initiation Notice*).

[2] *See Tin Mill Products From Taiwan and the Republic of Türkiye: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigations,* 91 FR 51150 (August 7, 2026).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Tin Mill Products from the Republic of Türkiye,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[5] *See Initiation Notice,* 91 at FR 24157–58.

[6] *See* Memorandum, ''Antidumping and Countervailing Duty Investigations of Tin Mill Products from the People's Republic of China, Taiwan, and the Republic of Türkiye: Preliminary Scope Decision Memorandum,'' dated September 8, 2026 (Preliminary Scope Decision Memorandum).

| Exporter/producer | Estimated weighted-average dumping margin (percent) |
|---|---|
| Tosyali Toyo Celik A.S. and Toscelik Profil ve Sac Endustrisi A.S.[7] | 3.89 |
| Tatrix Internation | *42.06 |
| All Others | 3.89 |

*Rate is based on facts available with adverse inferences.

**Suspension of Liquidation and Cash Deposit Requirements**

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit as follows: (1) for subject merchandise exported by one of the companies listed above, the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of: (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered; or (b) the date on which notice of initiation of the investigation was published. Commerce preliminarily finds that critical circumstances exist for imports of subject merchandise produced or exported by Tatrix. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise produced or exported by Tatrix that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice. Further, we will instruct CBP to collect a cash deposit for estimated antidumping duties on such suspended entries as described above.

These suspension of liquidation instructions and cash deposit requirements will remain in effect until further notice.

**Disclosure**

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

**Verification**

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

**Public Comment**

Non-scope related case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[8] Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.[9]

As provided under 19 CFR 351.309(c)(2)(iii) and (d)(2)(iii), we request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.[10] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[11]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

**Final Determination**

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

**U.S. International Trade Commission (ITC) Notification**

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

[7] Commerce preliminarily determines that Tosyali Toyo Celik A.S. and Toscelik Profil ve Sac Endustrisi A.S. are a single entity. *See* Preliminary Decision Memorandum.

[8] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

[9] *See* 19 CFR 351.309(c)(2) and (d)(2).

[10] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[11] *See APO and Service Procedures.*

## Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 5, 2026.

**Scot Fullerton,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix I

### Scope of the Investigation

The products within the scope of this investigation are tin mill flat-rolled products that are coated or plated with tin, chromium, or chromium oxides. Flat-rolled steel products coated with tin are known as tinplate. Flat-rolled steel products coated with chromium or chromium oxides are known as tin-free steel or electrolytic chromium-coated steel. The scope includes all the noted tin mill products regardless of thickness, width, form (in coils or cut sheets), coating type (electrolytic or otherwise), edge (trimmed, untrimmed or further processed, such as scroll cut), coating thickness, surface finish, temper, coating metal (tin, chromium, chromium oxide), reduction (single- or double-reduced), and whether or not coated with a plastic material.

Excluded from the scope of this investigation is certain single-reduced electrolytically chromium-coated steel tape for use as an armoring and shielding layer for fiber optic and telecommunications cables (commonly known in the industry as ''copolymer coated steel tape''). Such excluded certain single-reduced electrolytically chromium-coated steel tape is excluded only if it meets all seven (7) of the below requirements:

(1) Single-reduced electrolytically chromium-coated steel,

(2) Actual thickness of 0.160 mm or less (55-pound base box weight),

(3) Type MR steel,

(4) T2–T3 temper,

(5) With a tensile range of 45–57 KSI or 310.20–393.00 Mpa,

(6) 15% minimum elongation, and

(7) 0.06–012 g/m2 chromium coating.

The merchandise subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS), under HTSUS subheadings 7210.11.0000, 7210.12.0000, 7210.50.0020, 7210.50.0090, 7212.10.0000, 7212.50.0000, if of non-alloy steel and under HTSUS subheadings 7225.99.0090, and 7226.99.0180 if of alloy steel. Although the subheadings are 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 Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Affiliation and Single Entity Treatment
V. Particular Market Situation
VI. Application of Facts Available and Use of Adverse Inferences
VII. Discussion of the Methodology
VIII. Preliminary Affirmative Determination of Critical Circumstances, In Part
IX. Currency Conversion
X. Recommendation

[FR Doc. 2026–22937 Filed 11–9–26; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

## International Trade Administration

**[A–580–922]**

## Polytetramethylene Ether Glycol From the Republic of Korea: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that polytetramethylene ether glycol (PTMEG) from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2025, through March 31, 2026. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable November 10, 2026.

**FOR FURTHER INFORMATION CONTACT:** Alexander Cipolla or Travis Hargett, 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) 482–4956 or (202) 482–4604, respectively.

**SUPPLEMENTARY INFORMATION:**

## Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 5, 2026.[1] On August 28, 2026, Commerce postponed the preliminary determination of this investigation, and the revised deadline is now November 4, 2026.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

## Scope of the Investigation

The product covered by this investigation is PTMEG from Korea. For a complete description of the scope of this investigation, *see* Appendix I.

## Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

## Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices in accordance with section 772 of the Act. Normal

[1] *See Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 91 FR 24162 (May 5, 2026) (*Initiation Notice*).

[2] *See Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 91 FR 55514 (August 28, 2026).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Polytetramethylene Ether Glycol from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See Initiation Notice,* 91 FR at 24162.

[6] *See* Memorandum, ''Less-than-Fair-Value Investigations of Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum,'' dated concurrently with this preliminary determination (Preliminary Scope Decision Memorandum).

value is calculated in accordance with section 773 of the Act. Furthermore, pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily relied upon facts otherwise available, with adverse inferences for BASF Company Ltd. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

**All-Others Rate**

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated weighted-average dumping margin for all exporters and producers not individually examined, *i.e.,* the all-others rate. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily assigned a rate based entirely on facts available to BASF Company Ltd. Therefore, the only rate that is not zero, *de minimis* or based entirely on facts otherwise available is the rate calculated for Korea PTG Co., Ltd. (KPTG). Consequently, the estimated weighted-average dumping margin calculated for KPTG is also assigned as the estimated weighted-average dumping margin for all other producers and exporters.

**Preliminary Determination**

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

| Exporter or producer | Weighted-average dumping margin (percent) |
|---|---|
| Korea PTG Co., Ltd | 25.32 |
| BASF Company Ltd | *49.79 |
| All Others | 25.32 |

*Rate based on facts available with adverse inferences.

**Suspension of Liquidation and Cash Deposit Requirements**

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions and cash deposit requirements will remain in effect until further notice.

**Disclosure**

Commerce intends to disclose its calculations performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

**Verification**

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

**Public Comment**

Non-scope related case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[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]

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 executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[10]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

**Postponement of Final Determination and Extension of Provisional Measures**

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of

[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.

[10] *See APO and Service Procedures.*

exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On October 23, 2026, pursuant to 19 CFR 351.210(e), KPTG requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[11] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

### U.S. International Trade Commission (ITC) Notification

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

### Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 4, 2026.

**Scot Fullerton,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix I

### Scope of the Investigation

The merchandise covered by the investigation is polytetramethylene ether glycol (PTMEG), which is a polymer consisting of linear diols (*i.e.,* organic chemical compound that has two hydroxyl (-OH) functional groups) with a molecular backbone of repeating tetramethylene units (-CH2CH2CH2CH2-) interconnected through ether bonds (*i.e.,* a single oxygen atom bonded to two carbon atoms), with a chemical formula HO{(CH2)4}nOH. PTMEG is also referred to as Polytetrahydrofuran, PTHF, Polytetramethylene ether glycol, PTMG, and Polybutylene glycol. PTMEG is typically blended with butylated hydroxytoluene (BHT) or another stabilizer such as higher molecular weight hindered phenols or phosphoric acid. In addition to a stabilizer, PTMEG is sometimes blended with a modifier or additive, such as phosphoric acid or sulfuric acid. The scope includes all blends consisting of PTMEG and stabilizers, modifiers, and/or additives, where the stabilizers, modifiers, and/or additives collectively account for no more than two percent of the total weight of the PTMEG blend. PTMEG is normally associated with Chemical Abstracts Service (CAS) registry number 25190–06–1.

The scope includes all forms of PTMEG, regardless of physical form, purity, molecular weight, number of hydroxyls, number of acids, color, density, softening point, glass transition point, flash point, water content, viscosity, and packaging. PTMEG that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled but that have not been chemically reacted with each other to produce a different product. For such blends, only the PTMEG component of the mixture, inclusive of any stabilizers, modifiers, and/or additives collectively accounting for no more than two percent of the combined weight of the PTMEG component and the stabilizers, modifiers, and/or additives, is covered by the scope of the investigation.

The scope includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, introducing, or removing stabilizers, modifiers, or additives, or performing any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country. The scope also includes PTMEG that is commingled or blended with PTMEG from sources not subject to the investigation. Only the subject component of such commingled products is covered by the scope of the investigation.

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 3907.29.0000. Subject merchandise may also be imported under HTSUS subheadings 2932.11.0000 and 3404.90.5150. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

## Appendix II

### List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Application of Facts Available and Use of Adverse Inference
V. Discussion of the Methodology
VI. Currency Conversion
VII. Recommendation

[FR Doc. 2026–22941 Filed 11–9–26; 8:45 am]

**BILLING CODE 3510–DS–P**

[11] *See* KPTG's Letter, ''Request for Extension of Final Determination,'' dated October 23, 2026.

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–552–855]**

## Polytetramethylene Ether Glycol From the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

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

**SUMMARY:** The U.S. Department of Commerce (Commerce) preliminarily determines that polytetramethylene ether glycol (PTMEG) from the Socialist Republic of Vietnam (Vietnam) is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is October 1, 2025, through March 31, 2026. Interested parties are invited to comment on this preliminary determination.

**DATES:** Applicable November 10, 2026.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Janz or Isabella Przybylo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2972 or (202) 482–1079, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on May 5, 2026.[1] On August 28, 2026, Commerce postponed the preliminary

[1] *See Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 91 FR 24162 (May 5, 2026) (*Initiation Notice*); *see also Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations; Correction,* 91 FR 27266 (May 14, 2026) (correcting a typographical error in the *Initiation Notice* with respect to the Harmonized Tariff Schedule of the United States (HTSUS) subheadings in the scope of the investigations).

determination of this investigation and the revised deadline is now November 4, 2026.[2]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), which is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/frnotices.*

**Scope of the Investigation**

The product covered by this investigation is PTMEG from Vietnam. For a complete description of the scope of this investigation, *see* Appendix I.

**Scope Comments**

In accordance with the *Preamble* to Commerce's regulations,[4] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[5] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this investigation, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[6] Commerce is preliminarily not modifying the scope language as it appeared in the *Initiation Notice. See* the scope in Appendix I to this notice.

**Methodology**

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has calculated export prices and constructed export prices in accordance with sections 772(a) and (b) of the Act, respectively. Because Vietnam is a non-market economy, within the meaning of section 771(18) of the Act, Commerce has calculated normal value in accordance with section 773(c) of the Act. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

**Combination Rates**

In the *Initiation Notice,*[7] Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[8]

**Preliminary Determination**

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

| Producer | Exporter | Estimated weighted-average dumping margin (percent) |
|---|---|---|
| Hyosung Dong Nai Company Limited | Hyosung Dong Nai Company Limited | 36.55 |
| Vietnam-Wide Entity | | 36.55 |

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin, as follows: (1) for the producer/exporter combination listed in the table above, the cash deposit rate is equal to the estimated weighted-average dumping margin listed for that combination in the table; (2) for all combinations of Vietnamese producers/exporters of the merchandise under consideration that have not established eligibility for their own separate rates, the cash deposit rate will be equal to the estimated weighted-average dumping margin established for the Vietnam-wide entity; and (3) for all third-county exporters of the merchandise under consideration not listed in the table above, the cash deposit rate is the cash deposit rate applicable to the Vietnam producer/exporter combination (or Vietnam-wide entity) that supplied that third-country exporter.

These suspension of liquidation instructions will remain in effect until further notice.

**Disclosure**

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

[2] *See Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations of Antidumping Duty Investigations,* 91 FR 55514 (August 28, 2026).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Polytetramethylene Ether Glycol from the Socialist Republic of Vietnam,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[5] *See Initiation Notice,* 91 FR at 24163.

[6] *See* Memorandum, ''Less-than-Fair-Value Investigations of Polytetramethylene Ether Glycol from the People's Republic of China, the Republic of Korea, Taiwan, and the Socialist Republic of Vietnam: Preliminary Scope Decision Memorandum,'' dated concurrently with this preliminary determination (Preliminary Scope Decision Memorandum).

[7] *See Initiation Notice,* 91 FR at 24167.

[8] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (Policy Bulletin 05.1), available on Commerce's website at *https://enforcement.trade.gov/policy/bull05-1.pdf.*

**Verification**

As provided in section 782(i)(1) of the Act, Commerce intends to verify information relied upon in making its final determination.

**Public Comment**

Non-scope related case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in this investigation. A timeline for the submission of case briefs and written comments will be notified to interested parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[9] 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.[10]

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.[11] Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination in this investigation. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[12]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

**Postponement of Final Determination and Extension of Provisional Measures**

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On October 21, 2026, pursuant to 19 CFR 351.210(e), Hyosung Dong Nai Company Limited (Hyosung Dong Nai) requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[13] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) the preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

**U.S. International Trade Commission (ITC) Notification**

In accordance with section 733(f) of the Act, Commerce will notify the ITC of its preliminary determination of sales at LTFV. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the date of this preliminary determination or 45 days after the final determination whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry.

**Notification to Interested Parties**

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: November 4, 2026.

**Scot Fullerton,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

## Appendix I

**Scope of the Investigation**

The merchandise covered by the investigation is polytetramethylene ether glycol (PTMEG), which is a polymer consisting of linear diols (*i.e.,* organic chemical compound that has two hydroxyl (-OH) functional groups) with a molecular backbone of repeating tetramethylene units ($-CH_2CH_2CH_2CH_2-$) interconnected through ether bonds (*i.e.,* a single oxygen atom bonded to two carbon atoms), with a chemical formula $HO\{(CH_2)_4\}nOH$. PTMEG is also referred to as Polytetrahydrofuran, PTHF, Polytetramethylene ether glycol, PTMG, and Polybutylene glycol. PTMEG is typically blended with butylated hydroxytoluene (BHT) or another stabilizer such as higher molecular weight hindered phenols or phosphoric acid. In addition to a stabilizer, PTMEG is sometimes blended with a modifier or additive, such as phosphoric acid or sulfuric acid. The scope includes all blends consisting of PTMEG and stabilizers, modifiers, and/or additives, where the stabilizers, modifiers, and/or additives collectively account for no more than two percent of the total weight of the PTMEG blend. PTMEG is normally associated with Chemical Abstracts Service (CAS) registry number 25190–06–1.

The scope includes all forms of PTMEG, regardless of physical form, purity, molecular weight, number of hydroxyls, number of acids, color, density, softening point, glass transition point, flash point, water content, viscosity, and packaging. PTMEG that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled but that have not been chemically reacted with each other to produce a different product. For such blends, only the PTMEG component of the mixture, inclusive of any stabilizers, modifiers, and/or additives collectively accounting for no more than two percent of the combined weight of the PTMEG component and the stabilizers, modifiers, and/or additives, is covered by the scope of the investigation.

The scope includes merchandise matching the above description that has been processed in a third country, including by commingling, diluting, introducing, or removing stabilizers, modifiers, or additives, or performing any other processing that

[9] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings,* 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

[10] *See* 19 CFR 351.309(c)(2) and (d)(2).

[11] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[12] *See APO and Service Final Rule.*

[13] *See* Hyosung Dong Nai's Letter, ''Request to Extend Final Determination,'' dated October 21, 2026.

would not otherwise remove the merchandise from the scope of the investigation if performed in the subject country. The scope also includes PTMEG that is commingled or blended with PTMEG from sources not subject to the investigation. Only the subject component of such commingled products is covered by the scope of the investigation.

The subject merchandise is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 3907.29.0000. Subject merchandise may also be imported under HTSUS subheadings 2932.11.0000 and 3404.90.5150. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

## Appendix II

**List of Topics Discussed in the Preliminary Decision Memorandum**

I. Summary
II. Background
III. Period of Investigation
IV. Discussion of the Methodology
V. Currency Conversion
VI. Recommendation

[FR Doc. 2026–22939 Filed 11–9–26; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–954, C–570–955]**

### Certain Magnesia Carbon Bricks From the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping and Countervailing Duty Orders

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

**SUMMARY:** In response to a request from the Magnesia Carbon Bricks Fair Trade Committee (the Committee) (the requester), the U.S. Department of Commerce (Commerce) is initiating a country-wide circumvention inquiry to determine whether imports of certain refractory bricks containing alumina in an amount greater than zero but less than five percent by weight (bricks with trace alumina) from the People's Republic of China (China) are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on certain magnesia carbon bricks (Bricks) from China.

**DATES:** Applicable November 10, 2026.

**FOR FURTHER INFORMATION CONTACT:** Justin Enck or Cassie Graham, Office of Policy, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW Washington, DC 20230; telephone: (202) 482–1614 or (202) 482–2159, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On September 21, 2026, pursuant to section 781(c) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226(j), the requester [1] filed a circumvention inquiry request alleging that bricks with trace alumina produced in China and exported to the United States constitute merchandise altered in form or appearance in minor respects that is circumventing the AD and CVD orders on bricks from China [2] and, accordingly, should be included within the scope of the *Orders*.[3]

On October 1, 2026, FRC Global, Inc. (FRC Global) filed comments on the adequacy of the Circumvention Request.[4] On October 6, 2026, the requester filed rebuttal comments in response to FRC Global's comments.[5] On October 8, 2026, Commerce officials met with counsel to the requester to discuss the Circumvention Request.[6]

On October 9, 2026, Commerce issued a supplemental questionnaire to the requester.[7] On October 15, 2026, the requester filed its response to Commerce's requests for additional information.[8] On October 19, 2026, Commerce extended the initiation deadline by 15 days, in accordance with 19 CFR 351.226(d)(1).[9]

### Scope of the Orders

The scope of the *Orders* includes certain chemically-bonded (resin or pitch), magnesia carbon bricks with a magnesia component of at least 70 percent magnesia (MgO) by weight, regardless of the source of raw materials for the MgO, with carbon levels ranging from trace amounts to 30 percent by weight, regardless of enhancements (for example, magnesia carbon bricks can be enhanced with coating, grinding, tar impregnation or coking, high temperature heat treatments, anti-slip treatments or metal casing) and regardless of whether or not antioxidants are present (for example, antioxidants can be added to the mix from trace amounts to 15 percent by weight as various metals, metal alloys, and metal carbides). For a full description of the scope of the *Orders, see* the Circumvention Initiation Checklist.[10]

### Merchandise Subject to the Circumvention Inquiry

The circumvention inquiry covers certain chemically bonded (resin or pitch) refractory bricks having a magnesia component of at least 70 percent magnesia (MgO) by weight and carbon levels ranging from trace amounts to 30 percent by weight, and containing alumina ($Al_2O_3$) in an amount greater than zero but less than five percent by weight upon importation, produced in China and exported to the United States. X-ray diffraction should be used to determine the amount of aluminum oxide under such condition that aluminum oxide would not be created from aluminum during the analysis.

### Initiation of Circumvention Inquiry

Section 351.226(d)(1)(iii) of Commerce's regulations states that if Commerce determines that a request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c), then Commerce ''will accept the request and initiate a circumvention inquiry.'' Section 351.226(c)(1) of Commerce's regulations, in turn, requires that each circumvention inquiry request allege ''that the elements necessary for a circumvention determination under section 781 of the Act exist'' and be ''accompanied by information reasonably available to the interested party supporting these allegations.'' The requester alleged circumvention pursuant to section 781(c) of the Act (merchandise altered in form or appearance in minor respects).

[1] The Committee is an *ad hoc* association of the following U.S. producers of Bricks: Magnesita Refractories Company; HarbisonWalker International, Inc.; and Resco Products, Inc.

[2] *See Certain Magnesia Carbon Bricks from Mexico and the People's Republic of China: Antidumping Duty Orders,* 75 FR 57257 (September 20, 2010); *see also Certain Magnesia Carbon Bricks from the People's Republic of China: Countervailing Duty Order,* 75 FR 57442 (September 21, 2010) (collectively, *Orders*).

[3] *See* Requester's Letter, ''Request for Circumvention Inquiry Pursuant to Section 781(c) of the Tariff Act of 1930 and 19 CFR 351.226,'' dated September 21, 2026 (Circumvention Request).

[4] *See* FRC Global's Letter, ''Comments in Opposition to Initiation of Anticircumvention Inquiry,'' dated October 1, 2026.

[5] *See* Requester's Letter, ''Response to Comments and Factual Information of FRC Global,'' dated October 6, 2026.

[6] *See* Memorandum, ''Meeting with Counsel to the Magnesia Carbon Bricks Fair Trade Committee,'' dated October 9, 2026.

[7] *See* Commerce's Letter, ''Circumvention Inquiry Request Supplemental Questionnaire,'' dated October 9, 2026.

[8] *See* Requester's Letter, ''Response to Supplemental Questionnaire,'' dated October 15, 2026.

[9] *See* Memorandum, ''Extension of Circumvention Inquiry Initiation Deadline,'' dated October 19, 2026.

[10] *See* Checklist, ''Certain Magnesia Carbon Bricks from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Circumvention Initiation Checklist), at Attachment I.

Section 781(c)(1) of the Act provides that the class or kind of merchandise subject to an AD or CVD order shall include articles that have been ''altered in form or appearance in minor respects . . . whether or not included in the same tariff classification.'' Section 781(c)(2) of the Act provides an exception that section 781(c)(1) of the Act ''shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the {order}.'' Concerning the allegation of minor alterations under section 781(c) of the Act and 19 CFR 351.226(j), Commerce may consider criteria including, but not limited to: (1) the overall physical characteristics of the merchandise; (2) the expectations of the ultimate users; (3) the use of the merchandise; (4) the channels of marketing; and (5) the cost of any modification relative to the total value of the imported products.

In accordance with 19 CFR 351.226(m)(2), for companion AD and CVD proceedings, ''the Secretary will initiate and conduct a single inquiry with respect to the product at issue for both orders only on the record of the antidumping proceeding.'' Further, once ''the Secretary issues a final circumvention determination on the record of the AD proceeding, the Secretary will include a copy of that determination on the record of the CVD.'' Accordingly, once Commerce concludes this circumvention inquiry, Commerce intends to place its final circumvention determination on the record of the companion CVD proceeding.

**Analysis**

Based on our analysis of the requester's circumvention inquiry request and supplemental response, we determine that it has satisfied the criteria under 19 CFR 351.226(c), and thus, pursuant to 19 CFR 351.226(d)(1)(iii), we are initiating the requested circumvention inquiry. For a full discussion of the basis for our decision to initiate the circumvention inquiry, *see* the Circumvention Initiation Checklist. As explained in the Circumvention Initiation Checklist, the information provided by the requester warrants initiating the circumvention inquiry on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts warranted initiation on a country-wide basis.[11]

Consistent with the approach in the prior circumvention inquiries that were initiated on a country-wide basis, Commerce intends to solicit information from certain companies in China concerning their production of bricks with trace alumina and their shipments thereof to the United States.

**Suspension of Liquidation**

Pursuant to 19 CFR 351.226(l)(1), Commerce will notify U.S. Customs and Border Protection (CBP) of this initiation and direct CBP to continue the suspension of liquidation of entries of products subject to the circumvention inquiry that were already subject to the suspension of liquidation under the *Orders* and to apply the cash deposit rates that would be applicable if the products were determined to be covered by the scope of the *Orders.*

Should Commerce issue an affirmative preliminary or final circumvention determination, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(l)(2)-(4). In the event that Commerce issues an affirmative preliminary or final circumvention determination that the products are circumventing the *Orders,* Commerce will instruct CBP to continue the suspension of liquidation of previously suspended entries and to apply the applicable cash deposit rate. Commerce will also instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the notice of initiation of the circumvention inquiry pursuant to 19 CFR 351.226(l)(2)(ii) and (l)(3)(ii). In addition, pursuant to 19 CFR 351.226(l)(2)(iii)(A) and (l)(3)(iii)(A), Commerce may instruct CBP to begin the suspension of liquidation and application of cash deposits for any unliquidated entries not yet suspended, entered, or withdrawn from warehouse, for consumption, prior to the date of initiation of the circumvention inquiry, but not for such entries prior to November 4, 2021, the effective date of these provisions in the *Final Rule.*[12] These rules will not affect CBP's authority to take any additional action with respect to the suspension of liquidation or related measures for these entries, as stated in 19 CFR 351.226(l)(5).

**Notification to Interested Parties**

In accordance with 19 CFR 351.226(d) and section 781(c) of the Act, Commerce determines that the requester's request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c). Accordingly, Commerce is notifying all interested parties of the initiation of the circumvention inquiry to determine whether bricks with trace alumina are circumventing the *Orders.* In addition, we have included a description of the products that are subject to this inquiry, and an explanation of Commerce's decision to initiate the inquiry is provided in the accompanying Circumvention Initiation Checklist.[13]

In accordance with 19 CFR 351.226(e)(1), unless the circumvention inquiry is rescinded, in whole or in part, or extended, Commerce intends to issue its preliminary circumvention determination no later than 150 days from the date of publication of the notice of initiation of this circumvention inquiry in the **Federal Register**. Furthermore, in accordance with section 781(f) of the Act and 19 CFR 351.226(e)(2), unless the circumvention inquiry is rescinded, in whole or in part, or extended, Commerce intends to issue its final determination within 300 days from the date of publication of the notice of initiation of the circumvention inquiry in the **Federal Register**.

This notice is published in accordance with section 781(c) of the Act and 19 CFR 351.226(d)(1)(iii).

Dated: November 5, 2026.

**Scot Fullerton,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2026–22943 Filed 11–9–26; 8:45 am]

**BILLING CODE 3510–DS–P**

[11] *See, e.g., Hydrofluorocarbon Blends from the People's Republic of China: Initiation of Circumvention Inquiry on the Antidumping Duty Order,* 88 FR 74150 (October 30, 2023).

[12] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300, 52345 (September 20, 2021) (*Final Rule*).

[13] *See* Circumvention Initiation Checklist.

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XG160]**

### North Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of hybrid conference; meetings of the North Pacific Fishery

Management Council and its advisory committees.

**SUMMARY:** The North Pacific Fishery Management Council (Council) and its advisory committees will meet on Monday, November 30, 2026, through Wednesday, December 9, 2026.

**DATES:** The Council's Scientific and Statistical Committee (SSC) will begin at 8 a.m. on Monday, November 30, 2026, and continue through Thursday, December 3, 2026. The Council's Advisory Panel (AP) will begin at 8 a.m. on Wednesday, December 2, 2026, and continue through Saturday, December 5, 2026. The Charter Halibut Management Committee will meet on December 2, 2026, from 2 p.m. to 6 p.m. The Council will begin at 8 a.m. on Friday, December 4, 2026, and continue through Wednesday, December 9, 2026. All listed times are Alaska Time.

**ADDRESSES:** The meetings will be a hybrid conference. The in-person component of the meeting will be held at the Egan Center, 555 W 5th Ave., Anchorage, AK 99501, or join the meeting online through the links at *https://www.npfmc.org/current-or-next-council-meeting/.*

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

**FOR FURTHER INFORMATION CONTACT:** Diana Evans, Council staff; email: *devans@npfmc.org;* telephone: (907) 271–2809. For technical support, please contact our Council administrative staff, email: *support@npfmc.org.*

**SUPPLEMENTARY INFORMATION:**

## Agenda

*Monday, November 30, 2026, Through Thursday, December 3, 2026*

The SSC agenda will include the following issues:

(1) Administrative Issues
(2) Contextual Information for Total Allowable Catches (TACs)
(3) Gulf of Alaska (GOA) Groundfish specifications
(4) Bering Sea Aleutian Island (BSAI) Crab specifications

The SSC will also meet in Executive Session on Monday morning, to discuss internal administrative issues. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/8167* prior to the meeting, along with meeting materials.

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Council's primary peer review panel for scientific information, as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066, July 19, 2013). The peer-review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

*Wednesday, December 2, 2026, Through Saturday, December 5, 2026*

The Advisory Panel agenda will include the following issues:

(1) Administrative Issues
(2) Contextual Information for TACs
(3) BSAI Groundfish Specifications
(4) GOA Groundfish Harvest Specifications
(5) BSAI Crab Specifications
(6) Amendment 80 Replacement Vessel Initial Review
(7) Prohibited Species Catch (PSC) Disposition Discussion Paper
(8) Groundfish FMP policy modernization
(9) 2027 Charter Halibut Annual Management Measures
(10) Meeting wrap-up and workload updates

The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/8168* prior to the meeting, along with meeting materials.

*Wednesday, December 2, 2026*

Charter Halibut Management Committee Agenda

The Charter Halibut Management Committee agenda will include (a) 2027 management measures; and (b) other business. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/8169* prior to the meeting, along with meeting materials.

*Friday, December 4, 2026, Through Wednesday, December 9, 2026*

The Council agenda will include the following issues. The Council may take appropriate action on any of the issues identified.

(1) Approval of Agenda
(2) B Reports (Executive Director [including presentation on fishery disaster insurance programs], NMFS Management Report [including Final 2027 Annual Deployment Plan], NOAA General Counsel [GC], NOAA Enforcement, Alaska Department of Fish and Game [ADF&G], United States Coast Guard [USCG], United States Fish and Wildlife Service [USFWS], U.S. State Department Report, Pacific States Marine Fisheries Commission (PSMFC), Advisory Panel, SSC)
(3) Cook Inlet Salmon proposed specifications
(4) Contextual Information for TACs
(5) BSAI Groundfish Specifications
(6) GOA Groundfish Harvest Specifications
(7) BSAI Crab Specifications
(8) 2027 Charter Halibut Annual Management Measures
(9) Amendment 80 Replacement Vessel Initial Review
(10) PSC Disposition Discussion Paper
(11) Groundfish FMP policy modernization
(12) Meeting wrap-up and workload updates

The Council will also meet in Executive Session on Sunday afternoon, to discuss internal administrative issues. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/8168* prior to the meeting, along with meeting materials.

## Connection Information

You can attend the meeting online using a computer, tablet, or smartphone, or by phone only. Connection information will be posted online at: *https://www.npfmc.org/current-or-next-council-meeting.* For technical support please contact our administrative staff, email: *support@npfmc.org.*

## Public Comment

Public comment letters will be accepted and should be submitted electronically through the eAgenda at *https://meetings.npfmc.org/Meeting/Details/8168.* The Council strongly encourages written public comment for this meeting to avoid any potential for technical difficulties to compromise oral testimony. The written comment period is open from November 6, 2026, to November 27, 2026, and closes at 12 p.m. Alaska Time on Friday, November 27, 2026.

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

Dated: November 6, 2026.

**Rey Israel Marquez,**

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

[FR Doc. 2026–22927 Filed 11–9–26; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

**[Docket No.: PTO–C–2026–0595]**

### Performance Review Board

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Notice.

**SUMMARY:** In conformance with the Civil Service Reform Act of 1978, the United States Patent and Trademark Office (USPTO) announces the appointment of persons to serve as members of its Performance Review Board (PRB).

**ADDRESSES:** Office of Human Resources, USPTO, P.O. Box 1450, Alexandria, VA 22313–1450.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Schad, Director, Human Capital Management, USPTO, at 571–272–7003.

**SUPPLEMENTARY INFORMATION:** The membership of the USPTO's PRB is as follows:

*Anne T. Mendez,* Chair, Acting Deputy Under Secretary of Commerce for Intellectual Property and Acting Deputy Director of the USPTO

*David Shewchuk,* Vice Chair, Deputy General Counsel for General Law, USPTO

*Christopher J. Shipp,* Chief of Staff, USPTO

*John Duffy,* General Counsel, USPTO

*Gregory Dolin,* Deputy General Counsel for Intellectual Property and Solicitor, USPTO

*Barry Schindler,* Acting Commissioner for Patents, USPTO

*Debbie Stephens,* Chief Information Officer, USPTO

*Daniel Vavonese,* Acting Commissioner for Trademarks, USPTO

*Bill Guidera,* Deputy Under Secretary for Innovation and Engagement Office of the Under Secretary, DOC

*Alternate:*

*Greg Vidovich,* Deputy Commissioner for Patents, USPTO

**John A. Squires,**

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

[FR Doc. 2026–22902 Filed 11–9–26; 8:45 am]

**BILLING CODE 3510–16–P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Response to Office Action and Voluntary Amendment Forms

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

**ACTION:** Notice of information collection; request for comments.

**SUMMARY:** The United States Patent and Trademark Office (hereafter ''USPTO'' or ''Agency'') 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. The USPTO invites comments on the information collection renewal of 0651–0050, which helps the USPTO assess the impact of its information collection requirements and minimize the reporting burden to the public. Public comments were previously requested via the **Federal Register** on July 17, 2026, during a 60-day comment period (91 FR 44830). This notice allows for an additional 30 days for public comments.

**DATES:** To ensure consideration, you must submit comments regarding this information collection on or before December 10, 2026.

**ADDRESSES:** Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website, *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB Control Number, 0651–0050. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:**

- This information collection request may be viewed at *https://www.reginfo.gov/.* Follow the instructions to view the Department of Commerce, USPTO information collections currently under review by OMB.
- *Email: InformationCollection@uspto.gov.* Include ''0651–0050 information request'' in the subject line of the message.
- *Mail:* Justin Isaac, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Telephone:* Emily Carlsen, Senior Attorney Advisor, 571–272–2235.

**SUPPLEMENTARY INFORMATION:**

*Title:* Response to Office Action and Voluntary Amendment Forms.

*OMB Control Number:* 0651–0050.

*Abstract:* This collection of information is required by the Trademark Act (Act), 15 U.S.C. 1051 *et seq.,* which provides for the registration of trademarks, service marks, collective trademark and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their marks with the United States Patent and Trademark Office (USPTO). This information collection generally contains information that is not submitted with the initial trademark application but is associated with, or required for, the USPTO review of applications for registration.

In some instances, the USPTO issues Office actions to applicants who have applied to register a mark, or to request information that was not provided with the initial submission but is required before the issuance of a registration. Also, the USPTO may determine that a mark is not entitled to registration, pursuant to one or more provisions of the Act. In such cases, the USPTO will issue an Office action advising the applicant of the refusal to register the mark. Applicants respond to these Office actions by providing the required information and/or by advancing legal arguments as to why the refusal of registration should be withdrawn.

The USPTO administers the Act through Title 37 of the Code of Federal Regulations. These rules allow the USPTO to request and receive information required to process applications. These rules also allow applicants to submit certain amendments to their applications.

Applicants may also supplement their applications and provide additional information by filing a Voluntary Amendment Not in Response to USPTO Office Action/Letter, a Request for Reconsideration after Final Action, a Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment, a Response to Suspension Inquiry or Letter of Suspension, or a Request for Extension of Time to File a Response.

Since the publication of the 60-day notice, the USPTO has updated the number of responses associated with

this information collection to remove the PTO–1772 form (Petition to Amend Basis Post-Publication). As the PTO–1772 form is no longer in use, filers will instead use the PTO–2301 form (Petition to Director), which is covered in information collection 0651–0061 (Trademark Petitions). For information collection 0651–0050, this action results in a decrease of 1,600 respondents and responses, 928 burden hours, and $640,100 in non-hourly costs from the previous notice.

*Forms:*

- PTO–1771 (Post-Approval/Publication/Post-Notice of Allowance (NOA) Amendment)
- PTO–1822 (Response to Suspension Inquiry or Letter of Suspension)
- PTO–1957 (Response to Office Action)
- PTO–1960 (Request for Reconsideration after Final Action)
- PTO–1966 (Voluntary Amendment Form)
- PTO–2313 (Request for Extension of Time to File a Response)

*Type of Review:* Extension and revision of a currently approved information collection.

*Affected Public:* Private sector.

*Respondent's Obligation:* Required to obtain or retain benefits.

*Frequency:* On occasion.

*Estimated Number of Annual Respondents:* 430,300 respondents.

*Estimated Number of Annual Responses:* 430,300 responses.

*Estimated Time per Response:* The USPTO estimates that the responses in this information collection will take the public approximately 5 minutes (0.08 hours) to 50 minutes (0.83 hours) to complete. This includes the time to gather the necessary information, create the document, and submit the completed item(s) to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 309,034 hours.

*Estimated Total Annual Respondent Non-hourly Cost Burden:* $28,176,590.

**Justin Isaac,**

*Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.*

[FR Doc. 2026–22924 Filed 11–9–26; 8:45 am]

**BILLING CODE 3510–16–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0015, Copies of Crop and Market Information Reports

**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 in response to the notice. This notice solicits comments, as described below, on the Information Collection Request (''ICR'') titled, Copies of Crop and Market Information Reports.

**DATES:** Comments must be submitted on or before January 11, 2027.

**ADDRESSES:** You may submit comments, specifically referencing ''OMB Control No. 3038–0015,'' 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 17 CFR 145.9 for requesting confidential treatment under the Freedom of Information Act (FOIA) of information submitted to the Commission.

The CFTC reserves the right, but shall have no obligation, to review, pre-screen, filter, or redact all or any part of your comment submission. The CFTC also reserves the right, without further notification, to refuse to publish or to remove from public view all or any part of your submission to the extent it contains content inappropriate for publication in a comment file, such as—without limitation—obscene language, threats of violence, solicitations for commercial sales or illegal activity, or obvious spam. If a submission that is refused for or withdrawn from publication because of inappropriate content also contains comments on the merits of this notice, such submission will be retained in the record for the matter and will be considered as required under the Administrative Procedure Act, the Paperwork Reduction Act, and other applicable laws, and may be accessible under the FOIA.

**FOR FURTHER INFORMATION CONTACT:** John Dunfee, Division of Enforcement, (202) 418–5396, email: *jdunfee@cftc.gov,* Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581, and refer to OMB Control No. 3038–0015.

**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 before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed 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:* ''Copies of Crop and Market Information Reports,'' OMB Control No. 3038–0015. This is a request for extension of a currently approved information collection.

*Abstract:* The collection of information pursuant to this rule, 17 CFR 1.40, is in the public interest and is necessary for market surveillance. Manipulation of commodity futures prices is a violation of the Commodity Exchange Act (Act). Section 9(a)(2) of the Act (7 U.S.C. 13(a)(2)) prohibits the dissemination of false or misleading or knowingly inaccurate reports that affect or tend to affect the prices of commodities. In order to facilitate the enforcement of this provision, Commission regulation 1.40 requires that members of an exchange and FCMs provide upon request copies of any report published or given general circulation which concerns crop or market information that affects or tends to affect the price of any commodity.

With respect to the following 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:* The burden for this collection is estimated to be as follows:

*Respondents/Affected Entities:* Entities potentially affected by this action include future commission merchants (''FCMs'') and members of designated contract markets and swap execution facilities.

- *Estimated number of respondents/affected entities:* 10.
- *Estimated annual hours per respondent/response:* 2.
- *Estimated total annual burden:* 20 hours.
- *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: November 6, 2026.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2026–22890 Filed 11–9–26; 8:45 am]

**BILLING CODE 6351–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0026, Gross Collection of Exchange-Set Margins for Omnibus Accounts

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice.

**SUMMARY:** The Commodity Futures Trading Commission (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 the extension of information collection requirements relating to Gross Collection of Exchange-Set Margins for Omnibus Accounts of CFTC Regulation 1.58.

**DATES:** Comments must be submitted on or before January 11, 2027.

**ADDRESSES:** You may submit comments, specifically referencing ''Notice of Intent to Extend Collection 3038–0026: Gross Collection of Exchange-Set Margins for Omnibus Accounts,'' 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 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:** Jennifer Narvaez, Attorney Advisor, Market Participants Division, Commodity Futures Trading Commission, (202) 418–5152, *jnarvaez@cftc.gov,* and refer to OMB Control No. 3038–0026.

**SUPPLEMENTARY INFORMATION:** Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 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 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:* Gross Collection of Exchange-Set Margins for Omnibus Accounts (OMB Control Number 3038–0026). This is a request for extension of a currently approved information collection.

*Abstract:* Commission Regulation 1.58 requires that FCMs margin omnibus accounts on a gross, rather than a net, basis. The regulation provides that the carrying FCM need not collect margin for positions traded by a person through an omnibus account in excess of the amount that would be required if the same person, instead of trading through an omnibus account, maintained its own account with the carrying FCM. To prevent abuse of this exception to the regulation, a carrying FCM must maintain a written representation from the originating FCM or foreign broker that the particular positions held in the omnibus account are part of a hedge or spread transaction. This rule is promulgated pursuant to the Commission's rulemaking authority contained in Sections 4c, 4d, 4f, 4g and 8a of the Commodity Exchange Act, 7 U.S.C. 6c, 6d, 6f, 6g and 12a (2000).

With respect to the following 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:* The Commission is revising its estimate of the burden due to the increased number of futures commission merchants in the industry. The respondent burden for this collection is estimated to be as follows:

- *Estimated Number of Respondents:* 74.
- *Total Annual Responses:* 296.
- *Estimated Total Annual Burden Hours:* 24.
- *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: November 6, 2026.

**Robert Sidman,**

*Deputy Secretary of the Commission.*

[FR Doc. 2026–22889 Filed 11–9–26; 8:45 am]

**BILLING CODE 6351–01–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### President's Military Spouse Commission; Notice of Federal Advisory Committee Meeting; Amendment

**AGENCY:** Under Secretary of Defense for Personnel and Readiness, Department of Defense (DoD).

**ACTION:** Notice of Federal Advisory Committee meeting; amendment.

**SUMMARY:** The DoD (referred to herein as ''Department of War'') published a notice on October 19, 2026 to announce the next Federal Advisory Committee meeting of the President's Military Spouse Commission. Subsequent to publication of the notice, the meeting time and meeting agenda changed. This amendment notice provides the updated time and updated agenda. All other information in the October 19, 2026 notice remains the same.

**DATES:** Open to the public via livestream, Monday, October 19, 2026, from 2:00 p.m. Eastern Time (ET) to 3:00 p.m. ET.

**ADDRESSES:** This meeting was held at the White House and viewable by the public at *https://www.whitehouse.gov/military-spouse-commission/.* Registration was 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:** The Department of War published a notice on October 19, 2026 (91 FR 66118–66119) to announce the next Federal Advisory Committee meeting of the President's Military Spouse Commission. The meeting time has been updated in the **DATES** section. The updated agenda is as follows:

Chairwoman's Remarks, Best Practices Presentations on Spouse Employment, Deployment Support, Childcare, and Housing, Commission Announcements, Adjourn.

Dated: November 5, 2026.

**Stephanie J. Bost,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2026–22839 Filed 11–9–26; 8:45 am]

**BILLING CODE 6001–FR–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DOD–2026–OS–2410]**

### Notice of Removal of Designated Chinese Military Company

**AGENCY:** Office of the Under Secretary of Defense (Acquisition and Sustainment), Department of Defense.

**ACTION:** Notice of removal of a company from the 1260H List of Chinese military companies operating in the United States.

**SUMMARY:** The Deputy Secretary of War has decided to delist the entity listed in the **SUPPLEMENTARY INFORMATION** section of this notice from the list of Chinese military companies operating in the United States, without prejudice to relisting the company on additional or supplementary grounds.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathryn Collins, (703) 697–2908.

**SUPPLEMENTARY INFORMATION:** Section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283, as amended (codified at 10 U.S.C. 113, note)) (Section 1260H) provides that the Secretary of Defense is to identify and publish a list of ''Chinese military companies'' annually until December 31, 2030, and to make additions or deletions to the list not less frequently than annually. Section 1260H(b)(2) requires the Secretary of Defense to publish the unclassified portion of the list in the **Federal Register**.

The Deputy Secretary of Defense has decided to delist the following entity from the list of ''Chinese military companies'' in accordance with section 1260H, without prejudice to relisting the entity on additional or supplementary grounds:

WuXi AppTec Co., Ltd. (WuXi AppTec)

• The Deputy Secretary of War has determined that WuXi AppTec should be removed from the most recent Section 1260H List that was published in the **Federal Register** on June 10, 2026, in compliance with the order issued by the U.S. District Court of Columbia on August 7, 2026, granting WuXi AppTec's Motion for Preliminary Injunction, which enjoins the Department from enforcing, implementing, or otherwise giving effect to the Department's designation of WuXi AppTec as a Chinese military company under Section 1260H.

The entity delisted from the list of ''Chinese military companies'' is also identified in Mandarin and can be found in this notice's docket on *https://www.regulations.gov.* Search by the docket ID, DOD–2026–OS–2410. The Mandarin version of the delisting notice is available for public viewing at the Supporting & Related Material tab. Any correspondence related to the 1260H List must be emailed to *osd.pentagon.ousd-a-s.list.1260h-list@mail.mil.*

Dated: November 5, 2026.

**Aaron T. Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2026–22840 Filed 11–9–26; 8:45 am]

**BILLING CODE 6001–FR–P**

## DEPARTMENT OF ENERGY

### President's Council of Advisors on Science and Technology (PCAST)

**AGENCY:** Department of Energy.

**ACTION:** Notice of cancellation of open virtual meeting.

**SUMMARY:** On November 6, 2026, the Department of Energy published a notice of open meeting announcing a virtual meeting on November 13, 2026, of the President's Council of Advisors on Science and Technology (PCAST). This notice announces the cancellation of this virtual meeting.

**DATES:** The virtual meeting rescheduled for Friday, November 13, 2026, announced in the Friday, November 6, 2026, issue of the **Federal Register** (FR Doc. 2026–22668, 91 FR 70078), is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Kristen Ellis, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; email: *pcast@doe.gov;* telephone: (202) 586–5810.

**Signing Authority**

This document of the Department of Energy was signed on November 6, 2026, by David Borak, Committee Management Officer, Secretarial Office of Boards & Councils, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on November 6, 2026.

**Treena V. Garrett,**

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

[FR Doc. 2026–22918 Filed 11–9–26; 8:45 am]

**BILLING CODE 6405–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Effectiveness of Exempt Wholesale Generator Status

| | Docket Nos. |
|---|---|
| Greenalia Solar Power Misae III, LLC | EG26–286–000 |
| Dolet Hills Solar, LLC | EG26–287–000 |
| Canal Generating LLC | EG26–288–000 |
| Stellar Wright BESS LLC | EG26–289–000 |
| ET Genco LLC | EG26–290–000 |
| ET Genco LLC | EG26–291–000 |
| ET Genco LLC | EG26–292–000 |
| ET Genco LLC | EG26–293–000 |
| Overnight Solar LLC | EG26–294–000 |
| AC Ranch Solar LLC | EG26–295–000 |
| Westminster Reliability Project LLC | EG26–296–000 |
| White Tank Energy Storage, LLC | EG26–297–000 |
| Tidwell Prairie IIA LLC | EG26–298–000 |
| Alamo City ESS LLC | EG26–299–000 |
| Noosa Energy Storage LLC | EG26–300–000 |
| HIVOLT POWER I LLC | EG26–301–000 |
| HIVOLT POWER II LLC | EG26–302–000 |
| HIVOLT POWER III LLC | EG26–303–000 |
| HIVOLT POWER IV LLC | EG26–304–000 |
| HIVOLT POWER V LLC | EG26–305–000 |
| Badger State Solar, LLC | EG26–306–000 |
| GREE bn, LLC | EG26–307–000 |

Take notice that during the month of October 2026, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a) (2025).

Dated: November 5, 2026.

**Carlos D. Clay,**

*Deputy Secretary.*

[FR Doc. 2026–22880 Filed 11–9–26; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following Electric Corporate filings:

*Docket Numbers:* EC27–13–000.

*Applicants:* ATCO Ltd., Emera Incorporated.

*Description:* Joint Application for Authorization Under Section 203 of the

Federal Power Act of Emera Incorporated, *et al.*

*Filed Date:* 11/4/26.

*Accession Number:* 20261104–5229.

*Comment Date:* 5 p.m. ET 11/25/26.

*Docket Numbers:* EC27–14–000.

*Applicants:* Catalyst Power & Gas NY LLC, Catalyst Power & Gas LLC, Catalyst Power REPCo LLC, AP Gas & Electric, LLC, U.S. Energy Partners LLC.

*Description:* Joint Application for Authorization Under Section 203 of the Federal Power Act of Catalyst Power REPCo LLC, *et al.*

*Filed Date:* 10/29/26.

*Accession Number:* 20261029–5307.

*Comment Date:* 5 p.m. ET 11/19/26.

Take notice that the Commission received the following Complaints and *Compliance filings in EL Dockets:*

*Docket Numbers:* EL27–12–000.

*Applicants:* Invenergy Transmission LLC v. Midcontinent Independent System Operator, Inc.

*Description:* Complaint of Invenergy Transmission LLC v. Midcontinent Independent System Operator, Inc.

*Filed Date:* 11/4/26.

*Accession Number:* 20261104–5147.

*Comment Date:* 5 p.m. ET 11/24/26.

Take notice that the Commission received the following Electric Rate filings:

*Docket Numbers:* ER10–2538–012.

*Applicants:* Panoche Energy Center, LLC.

*Description:* Notice of Non-Material Change in Status of Panoche Energy Center, LLC.

*Filed Date:* 10/30/26.

*Accession Number:* 20261030–5493.

*Comment Date:* 5 p.m. ET 11/20/26.

*Docket Numbers:* ER10–2835–015.

*Applicants:* Google Energy LLC.

*Description:* Notice of Change in Status of Google Energy LLC.

*Filed Date:* 10/30/26.

*Accession Number:* 20261030–5492.

*Comment Date:* 5 p.m. ET 11/20/26.

*Docket Numbers:* ER10–2980–008; ER11–4423–004.

*Applicants:* Lockport Energy Associates, L.P., Castleton Power, LLC.

*Description:* Notice of Non-Material Change in Status of Castleton Power, LLC, *et al.*

*Filed Date:* 10/30/26.

*Accession Number:* 20261030–5479.

*Comment Date:* 5 p.m. ET 11/20/26.

*Docket Numbers:* ER11–2105–007.

*Applicants:* Oklahoma Gas and Electric Company.

*Description:* Notice of Change in Status of Oklahoma Gas and Electric Company.

*Filed Date:* 10/30/26.

*Accession Number:* 20261030–5489.

*Comment Date:* 5 p.m. ET 11/20/26.

*Docket Numbers:* ER13–2143–025; ER10–3167–025; ER13–203–024; ER13–1613–025; ER24–2580–006.

*Applicants:* White Pine Hydro, LLC, Brookfield White Pine Hydro LLC, Black Bear SO, LLC, Black Bear Hydro Partners, LLC, Black Bear Development Holdings, LLC.

*Description:* Notice of Non-Material Change in Status of Black Bear Development Holdings, LLC, *et al.*

*Filed Date:* 11/2/26.

*Accession Number:* 20261102–5396.

*Comment Date:* 5 p.m. ET 11/23/26.

*Docket Numbers:* ER15–1494–008; ER13–1793–021; ER12–1260–019; ER22–541–005; ER22–542–005; ER22–543–006; ER22–544–005; ER22–545–005; ER24–1980–005; ER24–1981–005; ER24–1983–005; ER25–1837–002; ER25–2676–002; ER25–2675–002; ER24–750–007; ER26–1467–002; ER26–1466–002; ER21–9–011; ER21–86–011; ER21–88–011.

*Applicants:* Orange County Energy Storage 3 LLC, Orange County Energy Storage 2 LLC, Henrietta D Energy Storage LLC, Holyoke Energy Storage 1 LLC, Bensonhurst Energy Storage 1 LLC, Town Hill Energy Storage 1 LLC, West Boylston Energy Storage I LLC, OSCII Gildersleeve, LLC, OSCII Gun Hill LLC, West Warwick Energy Storage 3 LLC, West Warwick Energy Storage 2 LLC, West Warwick Energy Storage 1 LLC, NSF Chaumont Site 5 LLC, Bracewell LLP, NSF Chaumont Site 4 LLC, Bracewell LLP, NSF Chaumont Site 3 LLC, Bracewell LLP, NSF Chaumont Site 2 LLC, Bracewell LLP, NSF Chaumont Site 1 LLC, Bracewell LLP, Stephentown Spindle, LLC, Hazle Spindle, LLC, Convergent Energy and Power Inc.

*Description:* Notice of Non-Material Change in Status of Convergent Energy and Power LP, *et al.*

*Filed Date:* 10/30/26.

*Accession Number:* 20261030–5486.

*Comment Date:* 5 p.m. ET 11/20/26.

*Docket Numbers:* ER17–1931–017; ER17–1930–017; ER17–1932–017; ER14–594–031; ER20–649–017; ER14–867–017; ER14–868–018.

*Applicants:* AEP Retail Energy Partners, AEP Energy, Inc., AEP Energy Partners, Inc., Ohio Power Company, Southwestern Electric Power Company, Public Service Company of Oklahoma, AEP Texas Inc.

*Description:* Notice of Change in Status of AEP Texas Inc., *et al.*

*Filed Date:* 10/30/26.

*Accession Number:* 20261030–5495.

*Comment Date:* 5 p.m. ET 11/20/26.

*Docket Numbers:* ER17–2340–025; ER16–90–028; ER17–1774–018; ER17–2152–027.

*Applicants:* Cottonwood Wind Project, LLC, NextEra Energy Bluff Point, LLC, Golden Hills Interconnection, LLC, Golden Hills North Wind, LLC.

*Description:* Notice of Change in Status of Golden Hills North Wind, LLC, *et al.*

*Filed Date:* 10/30/26.

*Accession Number:* 20261030–5491.

*Comment Date:* 5 p.m. ET 11/20/26.

*Docket Numbers:* ER19–158–024; ER10–2674–021; ER11–2449–011; ER15–1598–015; ER15–1599–029; ER14–1569–029; ER25–12–007; ER10–2616–036; ER11–4400–033; ER20–1436–010; ER20–1438–010; ER19–2807–021; ER10–2421–021; ER12–1769–023; ER19–967–008; ER15–1600–014; ER15–748–012; ER15–1602–014; ER11–4634–015; ER10–1547–021; ER14–883–025; ER10–2619–019; ER13–2475–020; ER12–192–023; ER15–1596–028; ER19–102–021; ER11–2457–021; ER15–1605–014; ER10–2617–018; ER10–2677–022; ER12–2253–022; ER12–2251–022; ER12–75–024; ER10–1975–037; ER14–2245–023; ER19–2809–020; ER19–2803–019; ER19–2810–020; ER19–2811–020; ER25–202–007; ER15–1607–014.

*Applicants:* Washington Power Generation LLC, Vision Trading Company LLC, Viridian Energy, LLC, Viridian Energy PA, LLC, Cincinnati Bell Energy LLC, Viridian Energy NY, LLC, TriEagle Energy, LP, Sayreville Power Generation LP, Public Power, LLC., Public Power & Utility of NY, Inc, Public Power & Utility of Maryland, LLC, Pleasants Energy, LLC, Ontelaunee Power Operating Company LLC, Miami Fort Power Company LLC, Massachusetts Gas & Electric, Inc., Luminant Energy Company LLC, Luminant Commercial Asset Management LLC, Liberty Electric Power, LLC, Kincaid Generation, L.L.C., Kendall Power Company LLC, Illinois Power Marketing Company, Hopewell Power Generation, LLC, Hazleton Generation LLC, Dynegy Hanging Rock Power Company LLC, Garrison Energy Center LLC, Fayette Power Company LLC, Fairless Energy, L.L.C., Everyday Energy, LLC, Energy Services Providers, LLC, Energy Rewards, LLC ,Energy Harbor Nuclear Generation LLC, Energy Harbor LLC, Dynegy Power Marketing, LLC, Dynegy Marketing and Trade, LLC, Dynegy Energy Services Mid-Atlantic, LLC, Dynegy Energy Services, LLC, Dynegy Energy Services (East), LLC, Dicks Creek Power Company LLC, Connecticut Gas & Electric, Inc., Calumet Energy Team, LLC, Ambit Northeast, LLC.

*Description:* Notice of Non-Material Change in Status of Ambit Northeast, LLC, *et al.*

*Filed Date:* 10/30/26.
*Accession Number:* 20261030–5484.
*Comment Date:* 5 p.m. ET 11/20/26.
*Docket Numbers:* ER24–2815–001; ER24–2816–002; ER26–725–002; ER25–3211–001; ER25–3212–001; ER25–3213–001.
*Applicants:* Olympus Phase 3, LLC, Olympus Phase 2, LLC, Olympus Phase 1, LLC, MEC Phase 2, LLC, Harquahala Sun 2, LLC, Harquahala Sun 1, LLC.
*Description:* Notice of Change in Status of Harquahala Sun 1, LLC, *et al.*
*Filed Date:* 10/30/26.
*Accession Number:* 20261030–5490.
*Comment Date:* 5 p,m. ET 11/20/26.
*Docket Numbers:* ER25–1744–006; ER25–1437–005; ER25–1874–003; ER25–2357–003; ER25–2688–003; ER25–1315–005.
*Applicants:* Willow Creek Wind Project, LLC, Star Light Energy Center, LLC, Northern Divide Energy Storage, LLC, FRP Miller Solar, LLC, Bronson Solar, LLC, Appleseed Solar, LLC.
*Description:* Notice of Change in Status of Appleseed Solar, LLC, *et al.*
*Filed Date:* 10/30/26.
*Accession Number:* 20261030–5481.
*Comment Date:* 5 p.m. ET 11/20/26.
*Docket Numbers:* ER25–2211–004.
*Applicants:* American Beech Solar LLC.
*Description:* Supplement to 07/28/2026, Notice of Non-Material Change in Status of American Beech Solar LLC.
*Filed Date:* 11/2/26.
*Accession Number:* 20261102–5397.
*Comment Date:* 5 p.m. ET 11/23/26.
*Docket Numbers:* ER25–2416–004; ER25–2690–003; ER25–1962–008.
*Applicants:* Century Oaks Energy Storage, LLC, Key Energy Storage, LLC, Weld Energy Storage, LLC.
*Description:* Notice of Change in Status of Weld Energy Storage, LLC, *et al.*
*Filed Date:* 10/30/26.
*Accession Number:* 20261030–5488.
*Comment Date:* 5 p.m. ET 11/20/26.
*Docket Numbers:* ER25–2504–002; ER25–3012–003; ER25–3256–003.
*Applicants:* Windy Lane Energy Center, LLC, Pierce County Energy Center, LLC, Dry Lake East Energy Center, LLC.
*Description:* Notice of Change in Status of Dry Lake East Energy Center, LLC, *et al.*
*Filed Date:* 10/30/26.
*Accession Number:* 20261030–5487.
*Comment Date:* 5 p.m. ET 11/20/26.
*Docket Numbers:* ER26–864–003.
*Applicants:* Energy Prepay XIV, LLC.
*Description:* Notice of Change in Status of Energy Prepay XIV, LLC.
*Filed Date:* 11/2/26.
*Accession Number:* 20261102–5394.
*Comment Date:* 5 p.m. ET 11/23/26.
*Docket Numbers:* ER26–1159–001.
*Applicants:* 26SB 8me LLC.
*Description:* Notice of Change in Status of 26SB 8me LLC.
*Filed Date:* 10/30/26.
*Accession Number:* 20261030–5485.
*Comment Date:* 5 p.m. ET 11/20/26.
*Docket Numbers:* ER26–2893–002.
*Applicants:* Public Service Company of Colorado.
*Description:* Compliance filing: 2026–11–05 Att N Response to Oct 13 Order in ER26–2893 to be effective 8/21/2026.
*Filed Date:* 11/5/26.
*Accession Number:* 20261105–5121.
*Comment Date:* 5 p.m. ET 11/27/26.
*Docket Numbers:* ER26–3286–002.
*Applicants:* Mulqueeney Wind Energy LLC.
*Description:* Notice of Non-Material Change in Status of Mulqueeney Wind Energy LLC.
*Filed Date:* 11/2/26.
*Accession Number:* 20261102–5395.
*Comment Date:* 5 p.m. ET 11/23/26.
*Docket Numbers:* ER26–3516–001.
*Applicants:* Louisville Gas and Electric Company.
*Description:* Tariff Amendment: Cambellsville CIAC Supplemental Filing to be effective 10/13/2026.
*Filed Date:* 11/5/26.
*Accession Number:* 20261105–5090.
*Comment Date:* 5 p.m. ET 11/27/26.
*Docket Numbers:* ER26–3517–001.
*Applicants:* Kentucky Utilities Company.
*Description:* Tariff Amendment: Cambellsville CIAC Supplemental Filing to be effective 10/13/2026.
*Filed Date:* 11/5/26.
*Accession Number:* 20261105–5098.
*Comment Date:* 5 p.m. ET 11/27/26.
*Docket Numbers:* ER26–3644–000; ER26–3645–000.
*Applicants:* Grand Basin Energy Storage LLC, Voyager Energy Storage LLC.
*Description:* Response to 08/28/2026, Deficiency Letter of Voyager Energy Storage LLC, *et al.*
*Filed Date:* 11/4/26.
*Accession Number:* 20261104–5202.
*Comment Date:* 5 p.m. ET 11/12/26.
*Docket Numbers:* ER26–3720–001.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Tariff Amendment: Deficiency Response—Revisions to Address Supply Adequacy in the SPP West BAA to be effective 12/1/2026.
*Filed Date:* 11/5/26.
*Accession Number:* 20261105–5046.
*Comment Date:* 5 p.m. ET 11/27/26.
*Docket Numbers:* ER26–3736–001.
*Applicants:* Evergreen Energy Center, LLC.
*Description:* Tariff Amendment: Amendment to 1 to be effective 9/9/2026.
*Filed Date:* 11/5/26.
*Accession Number:* 20261105–5120.
*Comment Date:* 5 p.m. ET 11/27/26.
*Docket Numbers:* ER27–417–000.
*Applicants:* Dominion Energy South Carolina, Inc.
*Description:* 205(d) Rate Filing: SCRTP to SERTP Filing to be effective 1/1/2027.
*Filed Date:* 11/4/26.
*Accession Number:* 20261104–5188.
*Comment Date:* 5 p.m. ET 11/25/26.
*Docket Numbers:* ER27–418–000.
*Applicants:* Southwestern Public Service Company, Southwest Power Pool, Inc.
*Description:* 205(d) Rate Filing: Southwest Power Pool, Inc. submits tariff filing per 35.13(a)(2)(iii: 5020 Enbridge Wind (Easter) & SPS Facilities Service Agreement to be effective 1/5/2027.
*Filed Date:* 11/5/26.
*Accession Number:* 20261105–5013.
*Comment Date:* 5 p.m. ET 11/27/26.
*Docket Numbers:* ER27–419–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* 205(d) Rate Filing: Revisions to Clarify MMU Transmission Market Power Terminology to be effective 12/31/9998.
*Filed Date:* 11/5/26.
*Accession Number:* 20261105–5055.
*Comment Date:* 5 p.m. ET 11/27/26.
*Docket Numbers:* ER27–420–000.
*Applicants:* Midcontinent Independent System Operator, Inc., Union Electric Company.
*Description:* 205(d) Rate Filing: Union Electric Company submits tariff filing per 35.13(a)(2)(iii: 2026–11–05_SA 1887 Ameren MO-Farmington 2nd Rev WDS to be effective 1/1/2027.
*Filed Date:* 11/5/26.
*Accession Number:* 20261105–5063.
*Comment Date:* 5 p.m. ET 11/27/26.
*Docket Numbers:* ER27–421–000.
*Applicants:* Midcontinent Independent System Operator, Inc.
*Description:* 205(d) Rate Filing: 2026–11–05_SA 1989 GRE–GRE 1st Rev GIA (J2116) to be effective 10/27/2026.
*Filed Date:* 11/5/26.
*Accession Number:* 20261105–5081.
*Comment Date:* 5 p.m. ET 11/27/26.
*Docket Numbers:* ER27–422–000.
*Applicants:* NextEra Energy Services, LLC.
*Description:* 205(d) Rate Filing: Notice of Succession to be effective 11/6/2026.
*Filed Date:* 11/5/26.

*Accession Number:* 20261105–5113.

*Comment Date:* 5 p.m. ET 11/27/26.

*Docket Numbers:* ER27–423–000.

*Applicants:* Appalachian Power Company.

*Description:* 205(d) Rate Filing: OATT—Revise Attachment K, AEP Texas Inc. Rate Update to be effective 12/31/9998.

*Filed Date:* 11/5/26.

*Accession Number:* 20261105–5135.

*Comment Date:* 5 p.m. ET 11/27/26.

*Docket Numbers:* ER27–424–000.

*Applicants:* San Diego Gas & Electric Company.

*Description:* Informational Filing of 2027 Transmission Owner Tariff Formula Rate Annual Update of Pacific Gas and Electric Company.

*Filed Date:* 10/29/26.

*Accession Number:* 20261029–5310.

*Comment Date:* 5 p.m. ET 11/19/26.

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: November 5, 2026.

**Carlos D. Clay,**

*Deputy Secretary.*

[FR Doc. 2026–22879 Filed 11–9–26; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* PR27–10–000.

*Applicants:* Public Service Company of Colorado.

*Description:* 284.123(g) Rate Filing: Statement of Rates_10–06–2026_GRC to be effective 10/6/2026.

*Filed Date:* 11/5/26.

*Accession Number:* 20261105–5040.

*Comment Date:* 5 p.m. ET 11/25/26.

*284.123(g) Protest:* 5 p.m. ET 1/4/27.

*Docket Numbers:* RP27–154–000.

*Applicants:* Carlsbad Gateway, LLC.

*Description:* Penalty Revenue Crediting Report of Carlsbad Gateway, LLC.

*Filed Date:* 10/30/26.

*Accession Number:* 20261030–5456.

*Comment Date:* 5 p.m. ET 11/12/26.

*Docket Numbers:* RP27–155–000.

*Applicants:* Cheniere Corpus Christi Pipeline, L.P.

*Description:* Semi-Annual Transportation Retainage Report of Cheniere Corpus Christi Pipeline, L.P.

*Filed Date:* 10/30/26.

*Accession Number:* 20261030–5458.

*Comment Date:* 5 p.m. ET 11/12/26.

*Docket Numbers:* RP27–160–000.

*Applicants:* Rockies Express Pipeline LLC.

*Description:* 4(d) Rate Filing: REX 2026–11–05 Negotiated Rate Agreement Amendments to be effective 11/5/2026.

*Filed Date:* 11/5/26.

*Accession Number:* 20261105–5038.

*Comment Date:* 5 p.m. ET 11/17/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 5, 2026.

**Carlos D. Clay,**

*Deputy Secretary.*

[FR Doc. 2026–22877 Filed 11–9–26; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EL27–4–000]**

### ConocoPhillips Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On November 4, 2026, the Commission issued an order in Docket No. EL27–4–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether ConocoPhillips Company's market-based rate authority is considered unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *ConocoPhillips Company,* 197 FERC ¶ 61,092 (2026).

The refund effective date in Docket No. EL27–4–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL27–4–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2025), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *mail to: ferconlinesupport@ferc.gov* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *mail to: OPP@ferc.gov.*

Dated: November 5, 2026.

**Carlos D. Clay,**

*Deputy Secretary.*

[FR Doc. 2026–22878 Filed 11–9–26; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day-27–1355; Docket No. CDC–2026–1751]**

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Evaluation of the Division of Overdose Prevention Technical Assistance Center. This data collection activity is focused on comprehensive and interdisciplinary opioid overdose prevention efforts in 90 jurisdictions.

**DATES:** CDC must receive written comments on or before January 11, 2027.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2026–1751 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

*Please note:* Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

**Proposed Project**

Evaluation of the Division of Overdose Prevention Technical Assistance Center (OMB Control No. 0920–1355, Exp. 12/31/2027)—Extension—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

This Extension is being submitted to support the evaluation of technical assistance (TA) provided for the Overdose Data to Action (OD2A) in States (S) and OD2A: Limiting Overdose through Collaborative Actions in Localities (LOCAL) programs. OD2A–S and OD2A: LOCAL are cooperative agreements funded in 2023 to focus on comprehensive and interdisciplinary opioid overdose prevention efforts in 90

jurisdictions, including 49 state health departments, 39 localities, Puerto Rico, and Washington DC. Each program consists of two required components; a surveillance component and a prevention component. OD2A recipients implement a combination of activities across nine state strategies and eight local strategies within these components to gain access to high quality, complete, and timelier data on opioid prescribing and overdoses, and to use those data to inform prevention and response efforts in their jurisdictions.

In the previously approved iteration of this information collection request (ICR), the information collected surrounding OD2A recipient feedback on their experiences receiving TA has been invaluable in improving TA delivery. The feedback provided in the original data collection instruments was also used to improve the TA Strategy of OD2A at large. Further information gathering will enhance TA perspectives and needs to utilize the Division of Overdose Prevention (DOP) TA Center resource effectively and responsibly.

Training and TA is essential to building knowledge and strengthening the capacity of recipients to implement and evaluate OD2A program strategies. CDC developed and deployed a TA hub (hereafter referred to as the DOP TA Center) to deliver comprehensive technical assistance and training to support the successful implementation and evaluation of surveillance and prevention activities. The DOP TA Center is designed to enhance the efficiency, coordination, and effectiveness of TA efforts by streamlining and centralizing the provision of overdose surveillance and prevention TA. TA to OD2A recipients is divided into four different levels with multiple modes of TA delivery and involves a wide range of TA providers including CDC staff, internal and external subject matter experts (SMEs) and program partners as well as Tanaq and ICF staff. The TA levels are used to direct the process for engaging stakeholders to support program recipients and triage appropriate resources to support their needs.

This package aims to extend approval for the instruments previously approved. CDC requests OMB approval for an estimated 388 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|---|
| OD2A (OD2A in States and OD2A: LOCAL) Recipients. | TA Feedback Form Individual | 618 | 2 | 5/60 | 103 |
| | TA Feedback Form Universal | 617 | 2 | 5/60 | 103 |
| | Annual Technical Assistance Survey. | 162 | 1 | 10/60 | 27 |
| | Implementation Feedback Survey | 18 | 1 | 15/60 | 5 |
| | Email invitation for Annual Survey | 900 | 1 | 2/60 | 30 |
| | Focus Groups Email invitation | 600 | 1 | 2/60 | 20 |
| | Focus Group Session | 100 | 1 | 1 | 100 |
| Total | | | | | 388 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2026–22881 Filed 11–9–26; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2024–D–2707]**

### Validation of Certain In Vitro Diagnostic Devices for Emerging Pathogens During a Section 564 Declared Emergency; Guidance for Industry and Food and Drug Administration Staff; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance titled ''Validation of Certain In Vitro Diagnostic Devices for Emerging Pathogens During a Section 564 Declared Emergency.'' The guidance describes general recommendations for the validation of in vitro diagnostic devices (IVDs) for emerging pathogens during an applicable declaration of public health emergency (PHE). This guidance and the associated template include the recommendations that apply to test data and information submitted in a pre-Emergency Use Authorization (EUA), an EUA request, or to a test offered as described in an applicable enforcement discretion policy.

**DATES:** The announcement of the guidance is published in the **Federal Register** on November 10, 2026.

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

*Electronic Submissions*

Submit electronic comments in the following way:

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

*Written/Paper Submissions*

Submit written/paper submissions as follows:

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

*Instructions:* All submissions received must include the Docket No. FDA–2024–D–2707 for ''Validation of Certain In Vitro Diagnostic Devices for Emerging Pathogens During a Section 564 Declared Emergency.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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

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

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

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document titled ''Validation of Certain In Vitro Diagnostic Devices for Emerging Pathogens During a Section 564 Declared Emergency'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5441, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

**FOR FURTHER INFORMATION CONTACT:** Toby Lowe, Center for Devices and Radiological Health, Food and Drug Administration, 301–796–6512.

**SUPPLEMENTARY INFORMATION:**

## I. Background

The guidance describes general recommendations for the validation of IVDs for emerging pathogens to help test manufacturers better prepare for future outbreaks by clarifying FDA's recommendations for test validation during an applicable declaration under section 564 of the Federal Food, Drug, and Cosmetic Act (FD&C Act). Accurate and reliable IVDs are critical to the diagnosis, tracking, treatment, and interruption of transmission of infectious diseases during outbreaks, as well as for diagnosing and treating diseases or conditions caused by chemical, biological, radiological, or nuclear threats. These recommendations apply to test data and information submitted in a pre-EUA, an EUA request, or to a test offered as described in an applicable enforcement discretion policy. This guidance and the associated template address recommendations from two independent assessments of FDA's response to COVID–19. Specifically, FDA selected Booz Allen Hamilton to do such an independent assessment, which culminated in an October 2021 report, ''Emergency Use Authorization Assessment—Final Report,'' that recommended FDA ''Develop a framework for how to conduct validation of diagnostic tests for emerging pathogens in the setting of a declared PHE.'' Similarly, the Health and Human Services Office of the Inspector General's September 2022 report, ''FDA Repeatedly Adapted Emergency Use Authorization Policies To Address the Need for COVID–19 Testing,'' recommended that FDA ''Develop a suite of EUA templates for future emergencies involving novel pathogens'' and ''Expand and improve resources'' on the EUA process among other actions FDA has taken or is taking.

A notice of availability of the draft guidance appeared in the **Federal Register** of January 7, 2025 (90 FR 1168). FDA considered comments received and revised the guidance as appropriate in response to the comments, including providing consolidated and streamlined test validation recommendations applicable across diagnostic test types, adding language emphasizing flexibility in the validation recommendations and addressing challenges at different stages of an outbreak, and clarifying FDA's focus on the most important and least burdensome information to collect and/or submit during a section 564 declared emergency.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on Validation of Certain In Vitro Diagnostic Devices for Emerging Pathogens During a Section 564 Declared Emergency. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

FDA considered the applicability of Executive Order 14192, per OMB guidance in M–25–20, and finds this action to be neither an E.O. regulatory action nor an E.O. deregulatory action.

## II. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents.* Persons unable to download an electronic copy of ''Validation of Certain In Vitro Diagnostic Devices for Emerging

Pathogens During a Section 564 Declared Emergency'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00007020 and complete title to identify the guidance you are requesting.

### III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. The previously approved collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

| 21 CFR part; guidance; or FDA form | Topic | OMB control No. |
|---|---|---|
| ''Emergency Use Authorization of Medical Products and Related Authorities; Guidance for Industry and Other Stakeholders''. | Emergency use authorization | 0910–0595 |
| 807, subpart E | Premarket notification | 0910–0120 |
| 814, subparts A through E | Premarket approval | 0910–0231 |
| 814, subpart H | Humanitarian Use Devices; Humanitarian Device Exemption. | 0910–0332 |
| 812 | Investigational Device Exemption | 0910–0078 |
| 860, subpart D | De Novo classification process | 0910–0844 |
| ''Administrative Procedures for CLIA Categorization'' and ''Recommendations: Clinical Laboratory Improvement Amendments of 1988 (CLIA) Waiver Applications for Manufacturers of In Vitro Diagnostic Devices''. | CLIA Administrative Procedures; CLIA Waivers | 0910–0607 |
| 800, 801, 809, and 830 | Medical Device Labeling Regulations; Unique Device Identification. | 0910–0485 |
| 820 | Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation. | 0910–0073 |
| 50, 56 | Protection of Human Subjects and Institutional Review Boards. | 0910–0130 |

**Grace R. Graham,**

*Deputy Commissioner for Policy, Legislation, and International Affairs.*

[FR Doc. 2026–22883 Filed 11–9–26; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute On Aging, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, National Institute on Aging.

*Date:* October 19–21, 2027.

*Closed:* October 19, 2027, 8:00 a.m. to 9:00 a.m.

*Agenda:* Executive Session; Board Business.

*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.

*Meeting Format:* Hybrid.

*Open:* October 19, 2027, 9:00 a.m. to 11:45 p.m.

*Agenda:* Review of Labs and PI's.

*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.

*Meeting Format:* Hybrid.

*Closed:* October 19, 2027, 11:45 a.m. to 2:15 p.m.

*Agenda:* Review of Labs and PI's.

*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.

*Meeting Format:* Hybrid.

*Open:* October 19, 2027, 2:15 p.m. to 3:15 p.m.

*Agenda:* Review of Labs and PI's.

*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.

*Meeting Format:* Hybrid.

*Closed:* October 19, 2027, 3:15 p.m. to 5:00 p.m.

*Agenda:* Review of Labs and PI's; Executive Session; Adjournment.

*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.

*Meeting Format:* Hybrid.

*Closed:* October 20, 2027, 8:00 a.m. to 4:30 p.m.

*Agenda:* Executive Session; Board Business.

*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.

*Meeting Format:* Hybrid.

*Open:* October 20, 2027, 9:00 a.m. to 11:00 p.m.

*Agenda:* Review of Labs and PI's.

*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.

*Meeting Format:* Hybrid.

*Closed:* October 20, 2027, 11:00 a.m. to 4:30 p.m.

*Agenda:* Review of Lab's and PI's; Executive Session; Adjournment.

*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.

*Meeting Format:* Hybrid.

*Closed:* October 21, 2027, 8:00 a.m. to 9:00 a.m.

*Agenda:* Executive Session; Board Business.

*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Blvd., Baltimore, MD 21224.

*Meeting Format:* Hybrid.

*Open:* October 21, 2027, 9:00 a.m. to 11:00 a.m.
*Agenda:* Review of Labs and PI's.
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Closed:* October 21, 2027, 11:00 a.m. to 4:30 p.m.
*Agenda:* Review of Lab's and PI's; Executive Session; Adjournment.
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Contact Person:* Luigi Ferrucci, M.D., Ph.D., Scientific Director, National Institute on Aging, National Institutes of Health, 251 Bayview Boulevard, Suite 100, Room 4C225, Baltimore, MD 21224, 410–558–8110, *LF27Z@NIH.GOV.*

Registration is not required to attend the open portion of this meeting.

In the interest of security, NIH has procedures at *https://security.nih.gov/visitors/Pages/visitor-campus-access.aspx* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 5, 2026.

**Margaret Vardanian,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2026–22873 Filed 11–9–26; 8:45 am]

**BILLING CODE 4167–05–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute On Aging, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, National Institute on Aging.
*Date:* May 4–6, 2027.
*Closed:* May 04, 2027, 8:00 a.m. to 9:00 a.m.
*Agenda:* Executive Session and Board Business.
*Address:* National Institutes of Health National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Open:* May 04, 2027, 9:00 a.m. to 11:45 a.m.
*Agenda:* Review of Labs and PI's.
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Blvd, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Closed:* May 04, 2027, 11:45 a.m. to 2:15 p.m.
*Agenda:* Review of Labs and PI's
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Blvd, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Open:* May 04, 2027, 2:15 p.m. to 3:15 p.m.
*Agenda:* Review of Labs and PI's.
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Closed:* May 04, 2027, 3:15 p.m. to 5:00 p.m.
*Agenda:* Review of Labs and PI's; Executive Session; Adjournment.
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Closed:* May 05, 2027, 8:00 a.m. to 4:30 p.m.
*Agenda:* Executive Session; Board Business.
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Open:* May 05, 2027, 9:00 a.m. to 11:00 a.m.
*Agenda:* Review of Labs and PI's.
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Closed:* May 05, 2027, 11:00 a.m. to 4:30 p.m.
*Agenda:* Review of Lab's and PI's; Executive Session; Adjournment.
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Closed:* May 06, 2027, 8:00 a.m. to 9:00 a.m.
*Agenda:* Executive Session; Board Business.
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Open:* May 06, 2027, 9:00 a.m. to 11:00 a.m.
*Agenda:* Review of Labs and PI's.
*Address:* National Institutes of Health, National Institutes on Aging, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Closed:* May 06, 2027, 11:00 a.m. to 4:30 p.m.
*Agenda:* Review of Lab's and PI's; Executive Session; Adjournment.
*Address:* National Institutes of Health, National Institutes on Aging, Biomedical Research Center, 3rd Floor/Room 3C211, 251 Bayview Boulevard, Baltimore, MD 21224.
*Meeting Format:* Hybrid.
*Contact Person:* Luigi Ferrucci, M.D., Ph.D., Scientific Director, National Institute on Aging, National Institutes of Health, 251 Bayview Boulevard, Suite 100, Room 4C225, Baltimore, MD 21224, 410–558–8110, *LF27Z@NIH.GOV.*

Registration is not required to attend the open portion of this meeting.

In the interest of security, NIH has procedures at *https://security.nih.gov/visitors/Pages/visitor-campus-access.aspx* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: November 5, 2026.

**Margaret Vardanian,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2026–22872 Filed 11–9–26; 8:45 am]

**BILLING CODE 4167–05–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Arthritis and Musculoskeletal and Skin Diseases.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Arthritis and Musculoskeletal and Skin Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, National Institute of Arthritis and Musculoskeletal and Skin Diseases.

*Date:* April 14, 2027.

*Time:* 9:00 a.m. to 3:50 p.m.

*Agenda:* To review and evaluate personnel qualifications and performance, and competence of individual investigators.

*Address:* National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

*Meeting Format:* In Person and Virtual Meeting.

*Contact Person:* Tamara N. Alliston, Ph.D., Scientific Director, Intramural Research Program (IRP), National Institute of Arthritis and Musculoskeletal and Skin Diseases, 9000 Rockville Pike, Bethesda, MD 20892, *tamara.alliston@nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *https://www.niams.nih.gov/about/working-groups/niams-board-scientific-counselors,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research; 93.AR4, Arthritis, Musculoskeletal and Skin Diseases Research—Training Institutional (TI); 93.AR6, Arthritis, Musculoskeletal and Skin Diseases Research—Other Research (OR); 93.AR5, Arthritis, Musculoskeletal and Skin Diseases Research—Research Centers (RC); 93.AR7, Arthritis, Musculoskeletal and Skin Diseases Research—SBIR/STTR; 93.AR1, Arthritis, Musculoskeletal and Skin Diseases Research—Research Projects; 93.AR3, Arthritis, Musculoskeletal and Skin Diseases Research—Training Individual (TR), National Institutes of Health, HHS)

Dated: November 5, 2026.

**Rosalind M. Niamke,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2026–22844 Filed 11–9–26; 8:45 am]

**BILLING CODE 4167–05–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Pathophysiology of Eye Disease.

*Date:* December 1, 2026.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

*Meeting Format:* Virtual Meeting.

*Contact Person:* Myongsoo Matthew Oh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1011F, Bethesda, MD 20892, (301) 451–7968, *ohmm@csr.nih.gov*.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Fellowships: Neuronal Injury, Pain and Related Disorders.

*Date:* December 3–4, 2026.

*Time:* 9:30 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

*Meeting Format:* Virtual Meeting.

*Contact Person:* Natalia Strunnikova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8863, *natalia.strunnikova@nih.gov*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Fellowships: Infectious Diseases and Immunology F21B Review Panel.

*Date:* December 3, 2026.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

*Contact Person:* Diana Maria Ortiz-Garcia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–5614, *diana.ortiz-garcia@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small business: Anti-Infective Therapeutics, Diagnostic Immunology, and Decontamination.

*Date:* December 3–4, 2026.

*Time:* 10:00 a.m. to 8:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

*Meeting Format:* Virtual Meeting.

*Contact Person:* Samita Sarkar Andreansky, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–3411 *samita.andreansky@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Renal and Urology.

*Date:* December 3, 2026.

*Time:* 10:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

*Meeting Format:* Virtual Meeting.

*Contact Person:* Ryan G. Morris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 721–B, Bethesda, MD 20892, (301) 451–1322, *ryan.morris@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; PAR–23–077: Collaborative Program Grant for Multidisciplinary Teams.

*Date:* December 3–4, 2026.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

*Meeting Format:* Virtual Meeting.

*Contact Person:* Bruce Sundstrom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–4481, *jay.sundstrom@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Neural Mechanisms of Substance Use Disorders.

*Date:* December 3, 2026.

*Time:* 10:00 a.m. to 9:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

*Meeting Format:* Virtual Meeting.

*Contact Person:* Bo-Shiun Chen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–8177, *bo-shiun.chen@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Lifestyle and Health Behaviors: Special Topics in Social and Behavioral Epidemiology.

*Date:* December 3, 2026.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

*Meeting Format:* Virtual Meeting.

*Contact Person:* Jewel Lynn Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–9038, *jewel.wright@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in HIV Comorbidities and Clinical Studies.

*Date:* December 3, 2026.

*Time:* 10:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

*Meeting Format:* Virtual Meeting.

*Contact Person:* Anthony David Foster, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–3297, *anthony.foster@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; RFA–NS–27–015: BRAIN Initiative Connectivity across Scales (BRAIN CONNECTS): Specialized Projects for Scalable Technologies (U01).

*Date:* December 3, 2026.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

*Meeting Format:* Virtual Meeting.

*Contact Person:* Kristina S. Wickham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–2490, *kristina.wickham@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 5, 2026.

**Margaret Vardanian,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2026–22871 Filed 11–9–26; 8:45 am]

**BILLING CODE 4167–05–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Office of the Secretary; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Interagency Autism Coordinating Committee.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: *https://videocast.nih.gov/.*

*Name of Committee:* Interagency Autism Coordinating Committee.

*Date:* November 20, 2026.

*Time:* 11:00 a.m. to 3:00 p.m.

*Agenda:* To discuss the IACC Summary of Advances and other business, updates, and issues related to autism research and services activities.

*Meeting Format:* Virtual Meeting.

*Contact Person:* Ms. Rebecca Martin, Office of National Autism Coordination, National Institute of Mental Health, NIH, Phone: 301–435–0886, Email: *IACCPublicInquiries@mail.nih.gov.*

*Public Comments:* A request for input for the IACC Summary of Advances was published in the **Federal Register** on October 13, 2026, and submissions are now closed. Any interested person may file written comments with the committee by submitting the statement in writing via email addressed to *IACCPublicInquiries@mail.nih.gov* prior to November 13, 2026. The Committee is not able to respond individually to comments. All public comments become part of the public record.

*Technical Issues:* If you experience any technical problems with the webcast, please email *IACCPublicInquiries@mail.nih.gov.*

*Disability Accommodations:* All IACC Full Committee Meetings provide Closed Captioning through the NIH videocast website. Individuals whose full participation in the meeting will require special accommodation (*e.g.,* sign language or interpreting services, etc.) must submit a request to the Contact Person listed on the notice at least seven (7) business days prior to the meeting. Such requests should include a detailed description of the accommodation needed and a way for the IACC to contact the requester if more information is needed to fill the request. Special requests should be made at least seven (7) business days prior to the meeting; last-minute requests may be made but may not be possible to accommodate.

Meeting schedule subject to change.

*More Information:* Information about the IACC is available on the website: *http://www.iacc.hhs.gov.*

Dated: November 6, 2026.

**Rosalind M. Niamke,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2026–22917 Filed 11–9–26; 8:45 am]

**BILLING CODE 4167–05–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, Regulatory mechanisms of neural development and function, November 19, 2026, 09:00 a.m. to November 20, 2026, 05:30 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on October 23, 2026, Doc. 2026–21688, 91 FR 66861.

This meeting is being amended to change the contact person from Eric Tucker to Katrina Ferrara, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Rockledge Drive, Bethesda, MD 20892. The meeting is closed to the public.

Dated: November 5, 2026.

**Margaret Vardanian,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2026–22874 Filed 11–9–26; 8:45 am]

**BILLING CODE 4167–05–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Sensorimotor, Interoceptive and Chemosensory Neuroscience.
*Date:* December 1, 2026.
*Time:* 10:00 a.m. to 3:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
*Meeting Format:* Virtual Meeting.
*Contact Person:* Brian H. Scott, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–7490, *brianscott@mail.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Accelerating Product Excellence in Innovation and for Clinical Adoption (APEx) (U24).
*Date:* December 2, 2026.
*Time:* 10:00 a.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
*Meeting Format:* Virtual Meeting.
*Contact Person:* Carmen Bertoni, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 805B, Bethesda, MD 20892, (301) 59–9095, *bertonic2@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; CRD Respiratory and Allergic Diseases.
*Date:* December 2, 2026.
*Time:* 10:00 a.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
*Meeting Format:* Virtual Meeting.
*Contact Person:* Raquel Laura Velazquez-kronen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0447, *velazquezrl@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel RFA Panel; Catalyze Research on Heart, Lung, Blood, and Sleep (HLBS) Diseases and Disorders.
*Date:* December 2–3, 2026.
*Time:* 10:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
*Meeting Format:* Virtual Meeting.
*Contact Person:* Poonam Pegu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–8363, *poonam.pegu@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Small Business: Ocular Drug Discovery and Development.
*Date:* December 2, 2026.
*Time:* 11:00 a.m. to 5:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
*Meeting Format:* Virtual Meeting.
*Contact Person:* Elizabeth Litvina, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1010E, Bethesda, MD 20892, (301) 594–5400, *liza.litvina@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Cellular Signaling and Function.
*Date:* December 2, 2026.
*Time:* 1:00 p.m. to 4:30 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health Rockledge II 6701 Rockledge Drive Bethesda, MD 20892.
*Meeting Format:* Virtual Meeting.
*Contact Person:* Anne Marie Strohecker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–0121, *stroheckeram@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Research Enhancement Awards Review Meeting.
*Date:* December 3, 2026.
*Time:* 9:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
*Meeting Format:* Virtual Meeting.
*Contact Person:* Abhignya Subedi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–6143, *abhi.subedi@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Science of Implementation in Health and Healthcare: Mental and Behavioral Health, Community Settings, and Qualitative Approaches.
*Date:* December 3, 2026.
*Time:* 9:00 a.m. to 7:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
*Contact Person:* Lauren Penney, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–1968, *penneyls@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Special Topics in Environmental Health and Toxicology.
*Date:* December 3, 2026.
*Time:* 9:00 a.m. to 6:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
*Meeting Format:* Virtual Meeting.
*Contact Person:* Marcienne Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 594–3878, *marci.wright@nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Fellowships: Topics in Reproduction.
*Date:* December 3, 2026.
*Time:* 9:00 a.m. to 8:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
*Meeting Format:* Virtual Meeting.
*Contact Person:* Anthony Wing Sang Chan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 809K, Bethesda, MD 20892, (301) 496–9392, *chana3@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review, Special Emphasis Panel; Special Topics in Genetics of Health and Diseases and Therapeutic Approaches to Genetic Disorders.
*Date:* December 3, 2026.
*Time:* 9:30 a.m. to 7:00 p.m.
*Agenda:* To review and evaluate grant applications.
*Address:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
*Meeting Format:* Virtual Meeting.
*Contact Person:* Manas Chattopadhyay, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 443–7368, *manas.chattopadhyay@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 5, 2026.

**Margaret Vardanian,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2026–22870 Filed 11–9–26; 8:45 am]

**BILLING CODE 4167–05–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID: FEMA–2026–0298; OMB No. 1660–0118]**

### Agency Information Collection Activities: Submission for OMB Review, Comment Request; Homeland Security Exercise and Evaluation Program (HSEEP) Documentation

**AGENCY:** Federal Emergency Management Agency, Department of Homeland Security.

**ACTION:** 30-Day notice of extension and request for comments.

**SUMMARY:** The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. FEMA invites the general public to take this opportunity to comment on an extension of a currently approved information collection. In accordance with the requirements of the Paperwork Reduction Act of 1995, this notice seeks comments concerning the After Action Report/Improvement Plans, Integrated Preparedness Plans, and Support Request Forms to the National Exercise Program which are used to validate current preparedness capabilities and support future national exercise efforts.

**DATES:** Comments must be submitted on or before December 10, 2026.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Sayoko Hamilton, Section Chief, Performance Analysis and Evaluation, Resilience, FEMA at 202–674–3803, or *Sayoko.Hamilton@fema.dhs.gov.*

**SUPPLEMENTARY INFORMATION:** Presidential Policy Directive 8 (PPD–8: National Preparedness), issued on March 30, 2011, establishes a National Preparedness Goal (NPG) that identifies the core capabilities necessary for preparedness and a National Preparedness System (NPS) which guides activities to enable the nation to achieve the NPG. The NPS allows the nation to track the progress of our ability to build and improve the capabilities necessary to prevent, protect against, mitigate the effects of, respond to, and recover from those threats that pose the greatest risk to the security of the nation. The NPS provides an integrated approach to preparedness that can be implemented and measured at all levels of government. This system is an all-of-nation and whole community approach to preparedness, from neighborhood organizations to civic groups and private businesses. It contains a methodical approach integrated across the preparedness cycle and links together programs and requirements into a comprehensive system, driving rational decision-making and allowing for a direct and defensible assessment of progress against clearly defined objectives. The NPS is based on a consistent methodology for assessing the threats and hazards facing a given jurisdiction. The findings of the assessment drive planning factors and all other components of the preparedness cycle including resource requirements, existing capabilities and capability gaps, driving investments to close those gaps, making and validating improvements in capabilities through training and exercising, and continually assessing progress.

Section 648(b)(1) of the Post-Katrina Emergency Management Reform Act of 2006, Public Law 109–295 (6 U.S.C. 748(b)(1)) also provides for these exercises and states the Administrator ''shall carry out a national exercise program to test and evaluate the national preparedness goal, National Incident Management System, National Response, and other related plans and strategies.''

The Homeland Security Exercise and Evaluation Program (HSEEP) provides the program structure, multi-year planning system, tools, and guidance necessary for entities to build and sustain exercise programs that enhance homeland security capabilities, and ultimately, preparedness. The HSEEP After Action Report/Improvement Plan (AAR/IP), Integrated Preparedness Plans (IPPs), and National Exercise Program (NEP) Support Request Form provide standardized methods for reporting the results of exercises, identifying exercise program priorities, and submitting exercise nominations necessary to validate national preparedness capabilities.

This proposed information collection previously published in the **Federal Register** on June 17, 2026, at 91 FR 36605 with a 60-day public comment period. Four public comments were received. FEMA appreciates the commenters' support for maintaining the HSEEP Documentation information collection and recognizes the continued value of HSEEP in supporting consistent exercise design, conduct, evaluation, after-action reporting, improvement planning, grant accountability, and national preparedness analysis. Commenters emphasized that HSEEP templates and documentation help validate preparedness capabilities, support trend analysis, and encourage participation and accountability across components, jurisdictions, and exercise partners. FEMA also acknowledges concerns that current HSEEP templates can be difficult to manipulate, may require duplicative data entry across documents, and can create administrative burden through formatting, reconciliation, and document-management tasks, particularly for smaller or less-resourced exercise programs.

FEMA will consider the recommendations to simplify and modernize HSEEP templates and reduce redundant content across materials, provide clearer minimum documentation guidance for each of the seven exercise types, and support scalable approaches such as simplified forms, digital submission, reusable structured data, conditional fields, and responsible AI use in future revisions of these collection instruments. FEMA notes that Homeland Security Exercise and Evaluation Program (HSEEP doctrine) emphasizes flexibility, scalability, and the appropriate documentation based on exercise purpose and scope. *See* HSEEP doctrine (January 2020), available at *https://preptoolkit.fema.gov/web/hseep-resources/policy-and-guidance.* FEMA's current collection allows electronic submission, and tools such as the Preparedness Toolkit and Exercise Builder support exercise planning, conduct, evaluation, and documentation. No change to the information collection or the burden estimate is being made during this extension, but FEMA will consider the feedback in future revisions to HSEEP doctrine, templates, forms, supporting tools, and burden analyses. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office

of Management and Budget for review and clearance.

**Collection of Information**

*Title:* Homeland Security Exercise and Evaluation Program (HSEEP) Documentation.

*Type of Information Collection:* Extension of a currently approved information collection.

*OMB Number:* 1660–0118.

*FEMA Forms:* FEMA Form FF–008–FY–21–102 (formerly 091–0–1), After Action Report/Improvement Plan (AAR/IP); FEMA Form FF–008–FY–21–100 (formerly 008–0–26), Integrated Preparedness Plan (IPP); FEMA Form FF–008–FY–21–101 (formerly 008–0–27), National Exercise Program (NEP) Support Request Form.

*Abstract:* The Homeland Security Exercise and Evaluation Program (HSEEP) Documentation collection provides reporting on the results of preparedness exercises and provides assessments of the respondents' capabilities so that strengths and areas for improvement are identified, corrected, and shared as appropriate prior to a real incident. This information is also required to be submitted as part of certain FEMA grant programs.

*Affected Public:* State, Local, and Tribal Governments.

*Estimated Number of Respondents:* 253.

*Estimated Number of Responses:* 471.

*Estimated Average Time per Response:* 30.6964 hours.

*Estimated Total Annual Burden Hours:* 14,458.

*Estimated Total Annual Respondent Cost:* $1,281,412.

*Estimated Respondents' Operation and Maintenance Costs:* $0.

*Estimated Respondents' Capital and Start-Up Costs:* $0.

*Estimated Total Annual Cost to the Federal Government:* $80,054.

**Comments**

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the Agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

**Nigel S. Allicock,**

*Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.*

[FR Doc. 2026–22857 Filed 11–9–26; 8:45 am]

**BILLING CODE 9111–1A–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7110–N–12; OMB Control No.: 2502–0602]**

## 60-Day Notice of Proposed Information Collection: Comprehensive Transactional Forms Supporting FHA's Section 242 Mortgage Insurance Program for Hospitals

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** Comments due January 11, 2027.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to *www.regulations.gov.* Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Darian Ziegler, PRA Liaison, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Darian Ziegler, PRA Liaison, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Darian.Ziegler@hud.gov,* telephone (202) 402–5535. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

Copies of available supporting documents for the proposed collection may be obtained from Ms. Ziegler.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Comprehensive Transactional Forms Supporting FHA's Section 242 Mortgage Insurance Program for Hospitals.

*OMB Approval Number:* 2502–0602.

*Type of Request:* Reinstatement Request.

*Form Number:* HUD–2510R, HUD–90032–OHF, HUD–90033–OHF, HUD–91070–OHF, HUD–91071–OHF, HUD–91073–OHF, HUD–91725–OHF, HUD–91725–INST–OHF, HUD–91725–CERT–OHF, HUD–92013–OHF, HUD–92023–OHF, HUD–92070–OHF, HUD–92080–OHF, HUD–92117–OHF, HUD–92205–OHF, HUD–92223–OHF, HUD–92266–OHF, HUD–92322–OHF, HUD–92330–OHF, HUD–92330A–OHF, HUD–92403–OHF, HUD–92403A–OHF, HUD–92415–OHF, HUD–92422–OHF, HUD–92434–OHF, HUD–92441–OHF, HUD–92442–OHF, HUD–92448–OHF, HUD–92452A–OHF, HUD–92452–OHF, HUD–92455–OHF, HUD–92456–OHF, HUD–92464–OHF, HUD–92466–OHF, HUD–92476–OHF, HUD–92476A–OHF, HUD–92476B–OHF, HUD–92479–OHF, HUD–92554–OHF, HUD–92576–OHF, HUD–93305–OHF, HUD–94000–OHF, HUD–94001–OHF

Description of the need for the information and proposed use:

This collection of information is required specifically for the application and administration of the Department of Housing and Urban Development, Federal Housing Administration Section 242 Hospital Mortgage Insurance Program pursuant to 24 CFR 242, 241, 223(f), and 223(a)(7). The collection is a comprehensive set of HUD documents that are critically needed for processing applications and loan endorsements for FHA mortgage insurance under the Section 242 Hospital Mortgage Insurance Program, for ongoing asset management of such facilities, and other information related to these facilities for loan modifications, construction projects, and physical and environmental reviews. This

information is requested and is used by the Office of Healthcare Facilities (OHF) and Office of Architecture and Engineering (OAE) within FHA's Office of Healthcare Programs (OHP).

The purpose for which the information is being collected by HUD is to review Section 242 applications to determine the eligibility of applicant hospitals for FHA mortgage insurance, underwrite insured hospital loans, ensure that the collateral securing each loan is adequate, capture administrative data, process initial/final endorsement, and manage FHA's hospital portfolio. Additional information related to loan modifications, construction projects, and physical and environmental reviews is collected if applicable.

The information being collected consists of various HUD forms that program participants complete with project specifications, technical descriptions, details, and/or signatures that are utilized by HUD during various stages of the application, underwriting, commitment, closing, and asset management processes involved with the administration of FHA's Section 242 mortgage insurance program.

The information is used by HUD staff for internal review of applications to determine if projects qualify for Section 242 hospital mortgage insurance and to manage and monitor the application, commitment, initial/final endorsement, asset management, and administration processes needed to support hospital projects insured by FHA. Agreements and legal documents are used by HUD staff, lenders, borrowers, construction managers, and depository institutions, when applicable, to process initial/final endorsement of loans. Information reported for ongoing asset management of FHA-insured facilities will be used by HUD staff to monitor and manage risk within the FHA portfolio and ensure ongoing compliance with HUD Program Obligations. Information is also used by HUD staff to determine whether the Program meets its stated goals and management objectives. The information is collected from lenders/mortgage bankers, borrowers/hospital management officials, attorneys, general contractors/construction managers, architects/engineers, agents and others involved in hospital projects, which may, at times include local government entities and other third parties, as well as HUD staff to allow OHF to manage and monitor the application, commitment, initial/final endorsement, asset management, and administration processes needed to support hospital projects insured by FHA.

This collection is needed to update and renew the current collection that was approved for a 36-month period by OMB on April 18, 2023, with an expiration date of April 30, 2026.

The warning language has been updated on all forms. Twelve documents within the collection are being renewed with only changes to the revised Public Burden Statement and the Warning. The remaining twenty-nine of the forty-one forms within the collection are being renewed with changes. Revisions include edits that were made to clarify current policies and definitions, reflect updated generally accepted accounting standards, or to address inconsistencies across documents.

A summary of the specific changes (beyond the warning language) made to the revised documents is provided below.

*Summary of Changes to Documents*

- *HUD–2510R Release of Regulatory Agreement.* Revised burden statement to clarify that form is applicable to all programs, updated warning language, added flexibility to insert different parties and to add reference to amendments/modifications.
- *HUD–90032–OHF Lender Narrative—Interest Rate Reduction.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–90033–OHF Lender's Certification in Support of Request for IRR.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–91070–OHF Consolidated Certifications Borrower.* Minor revisions were made to improve grammar, punctuation, clarity, and role delineations.
- *HUD–91071–OHF Escrow Agreement for Off-Site Facilities.* Only the warning language has been revised.
- *HUD–91073–OHF HUD Survey Instructions, Surveyor's Report, and Borrower's Survey Certification.* Only the warning language has been revised.
- *HUD–91725–OHF Opinion by Counsel to the Borrower.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–91725–INST–OHF Instructions to Opinion of Borrower's Counsel.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–91725–CERT–OHF Exhibit A to Opinion of Borrower's Counsel Certification.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92013–OHF Application for Hospital Project Mortgage Insurance.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92023–OHF Request for Final Endorsement of Credit Instrument.* Only the warning language has been revised.
- *HUD–92070–OHF Lease Addendum.* Only the warning language has been revised.
- *HUD–92080–OHF Change of Mortgage Record.* Only the warning language has been revised.
- *HUD–92117–OHF Borrower's Certification—Full or Partial Completion of Project.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92205–OHF Borrower's Certificate of Known Costs (Section 242/223f, 242/223(a)(7)).* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92223–OHF Surplus Cash Note.* Only the warning language has been revised.
- *HUD–92266–OHF Change in Ownership or Participants.* Renamed Document from ''Application for Transfer of Physical Assets '' to ''Change in Ownership or Participants'' to align with Office of Residential Care Facilities. The document is based on an existing Office of Residential Care Facilities form, modified for Section 242-insured hospitals.
- *HUD–92322–OHF Intercreditor Agreement.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92330A–OHF Contractor's Certificate of Actual Cost.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92330–OHF Borrower's Certificate of Actual Cost.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92403A–OHF Borrower's and Architect's Certificate of Payment.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92403–OHF Application for Insurance of Advance of Mortgage Proceeds.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92415–OHF Request for Permission to Commence Construction Prior to Initial Endorsement for Mortgage Insurance.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92422–OHF Financial and Statistical Data for HUD Reporting.* Only the warning language has been revised.
- *HUD–92434–OHF Lender's Certificate.* Minor revisions were made to improve grammar, punctuation, and clarity.
- *HUD–92441–OHF Building Loan Agreement.* Minor revisions were made

to improve grammar, punctuation, and clarity. Removes references to 223(f) & 223(a)(7).

• *HUD–92442–OHF Construction Contract.* Only the warning language has been revised.

• *HUD–92448–OHF Contractor's Requisition Project Mortgages.* Minor revisions were made to improve grammar, punctuation, and clarity.

• *HUD–92452A–OHF Payment Bond.* Only the warning language has been revised.

• *HUD–92452–OHF Performance Bond.* Minor revisions were made to improve grammar, punctuation, and clarity.

• *HUD–92455–OHF Request for Endorsement of Credit Instrument & Certificate of Lender, Borrower, & General Contractor.* Minor revisions were made to improve grammar, punctuation, and clarity.

• *HUD–92456–OHF Escrow Agreement for Incomplete Construction.* Minor revisions were made to improve grammar, punctuation, and clarity.

• *HUD–92464–OHF Request for Approval of Advance of Escrow Funds.* Only the warning language has been revised.

• *HUD–92466–OHF Regulatory Agreement—Borrower.* In addition to minor revisions made to improve grammar, punctuation, and clarity, other specific changes were made to the following sections of the Regulatory Agreement:

▪ Preamble: Added language to allow HUD (at its discretion) to share Borrower information with the Lender and HUD's authorized representatives.

▪ Section 12 Financial Reports. Greater clarity was provided around the Audited Financial Statements and Board-Certified Financial Statements.

▪ Section 18 Board Review/Business Plan/Consultants' Report. Additional details were provided regarding triggers and reporting requirements.

▪ Section 19 Additional Indebtedness (Including Leasing). Revisions were designed to enhance flexibility for Borrowers.

▪ Section 21 After Acquired Property. Revisions were made to simplify the requirements for Borrowers.

• *HUD–92476–OHF Escrow Agreement for Deferred Repairs.* Minor revisions were made to improve grammar, punctuation, and clarity.

• *HUD–92476A–OHF Escrow Agreement for Deferred Limited Rehabilitation.* Minor revisions were made to improve grammar, punctuation, and clarity.

• *HUD–92476B–OHF Escrow Agreement for Proceeds from Partial Release of Collateral.* Minor revisions were made to improve grammar, punctuation, and clarity.

• *HUD–92479–OHF Off-Site Bond—Dual Obligee.* Only the warning language has been revised.

• *HUD–92554–OHF Supplementary Conditions of the Contract for Construction.* This form has been largely re-written to align with the Office of Multifamily Housing's (Multifamily's) Supplement to the Construction Contract, form HUD–92554M. Multifamily revised form HUD–92554M following the Department of Labor publication of their Final Rule updating Davis-Bacon and Related Acts regulations in 2023.

• *HUD–92576–OHF Certificate for Need for Health Facility and Assurance of Enforcement of State Standards.* Minor revisions were made to improve grammar, punctuation, and clarity.

• *HUD–93305–OHF Agreement and Certification.* Only the warning language has been revised.

• *HUD–94000–OHF Security Instrument/Mortgage/Deed of Trust.* Minor revisions were made to improve grammar, punctuation, and clarity.

• *HUD–94001–OHF Healthcare Facility Note.* Only the warning language has been revised.

*Estimated Number of Respondents:* 718

*Estimated Number of Responses:* 1,302

*Frequency of Response:* 70

*Average Hours per Response:* 112

*Total Estimated Burdens:* $8,674,172

*B. Solicitation of Public Comment*

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

*C. Authority*

44 U.S.C. 3507.

**Paul M. Olin,**

*Acting General Deputy Assistant Secretary for Housing.*

[FR Doc. 2026–22896 Filed 11–9–26; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–6623–N–01]**

## Notice of Intent To Reorganize HUD and Revise Headquarters and Field Operating Model

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice advises the public that HUD intends to make changes to its Headquarters and Field operational structure. These changes are designed to better enable HUD to address crucial workplace and mission needs by eliminating redundancies, streamlining and increasing flexibility in work processes, and consolidating administrative functions, thus allowing the Department to more efficiently deliver on its mission utilizing current resources. It does not propose any office closures or relocation of staff.

**FOR FURTHER INFORMATION CONTACT:** Lori Michalski, General Deputy Assistant Secretary, Office of Administration, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone 202–402–3921. (This is not a toll-free number.) HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

**SUPPLEMENTARY INFORMATION:**

### I. Legal Requirements for This Notice

In accordance with section 7(p) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(p)), a plan for the reorganization of any HUD regional, area, insuring, or other field office may take effect only upon the expiration of 90 days after publication in the **Federal Register** of a cost-benefit analysis of the effect of the plan on each HUD office involved. Such cost-benefit analysis shall include, but not be limited to (1) an estimate of cost savings supported by background information detailing the source and substantiating the amount of the savings; (2) an

estimate of the additional cost which will result from the reorganization; (3) a study of the impact on the local economy; and (4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services. Where any of the factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis. This notice is to satisfy the requirement of section 7(p). Not all changes described in this notice rise to the level legally requiring a 90-day notice period and may be implemented by the Department at its convenience. These changes are being described here to provide a full picture of the future organizational structure of the Department.

**II. Required Statutory Cost-Benefit Analysis**

*A. Background*

Since 2025, due in large part to the success of the Deferred Resignation Program, the Department experienced a significant number of voluntary departures from Federal service and a corresponding reduction in staff across all program offices. Certain offices were particularly impacted by these departures, leaving them constrained in the ability to accomplish Departmental goals and objectives. As a result, each program office undertook a thorough analysis of all operations and functional alignment in order to develop a plan to more efficiently and effectively manage the Department's programs and activities. The result of these efforts is a proposed large-scale reorganization of the Department. The proposed reorganization was communicated to Members of Congress on April 3, 2026. This notice reflects the next step in moving forward with these plans.

The proposed reorganization of the Department is expected to produce net operational efficiencies by allowing for better management of the Department's activities given its current level of staffing. On balance, the proposed reorganization of the Department from its FY 2024 organizational structure would merge smaller units with similar specializations into larger ones, reducing some of the disadvantages of a more complex hierarchy associated with the Department's previous staffing levels. In some cases, a division would be realigned under a different chain of command if doing so improves coordination with other divisions.

The goal is to begin implementing these changes by the end of fiscal year (FY) 2026, with full implementation completed during FY 2027. The reorganization is expected to significantly enhance operational efficiency, as well as improve HUD's program delivery and the service provided to HUD's customers.

*B. Description of Proposed Changes*

1. Departmental Management

a. Executive Secretariat

Staff levels in the Executive Secretariat (ExecSec) were drastically reduced through the voluntary departures of staff via the Deferred Resignation Program. As a result, ExecSec has already implemented cross-training and work-sharing across the office to continue to perform the duties of the office. ExecSec will consolidate these teams to more efficiently manage the work of the staff under one supervisor.

b. Office of Public Affairs

OPA will be consolidated into a single, streamlined Office of Public Affairs.

2. Office of Public and Indian Housing

The Office of Public and Indian Housing (PIH) is consolidating and realigning operations to create greater operational efficiencies and consistency in program administration and oversight. Specifically, PIH will merge all responsibilities for public housing under one Office and all voucher programs in another. This will streamline both processes and program administration. By aligning the offices along program lines, PIH expects improvements in communication and collaboration between the more interrelated units of the Office of Public and Indian Housing.

3. Office of Lead Hazard Control and Healthy Homes

The Office of Lead Hazard Control and Healthy Homes (OLHCHH) will reduce redundant functions performed within OLHCHH and streamline operations into three divisions, down from the current five divisions. This will create additional efficiencies of operation and better utilize OLHCHH's current staff and resources.

4. Office of Fair Housing and Equal Opportunity

FHEO will reorganize and consolidate its office structure to adopt a more functional model designed to better fulfill FHEO's core statutory obligations under the Fair Housing Act and related authorities. FHEO will consolidate its operations under a centralized management structure designed to promote efficiencies of operation and consistency in the enforcement, compliance, and educational activities of the office. This reorganization will eliminate redundant management layers and reduce the duplication of work across FHEO. Additionally, the reorganization will reduce the variability of handling of complaints and conciliations across FHEO, bringing greater consistency to FHEO's work. The reorganization will improve workload balancing while also allowing for increased productivity through specialization, where appropriate. Finally, the centralization made possible through the reorganization will create administrative efficiencies and improve accountability and performance monitoring.

5. Office of the Chief Financial Officer

The Office of the Chief Financial Officer (CFO) will be reorganizing three divisions to ensure better administration of the Department's budget and financial management activities. CFO will establish a new division to consolidate budget assistance for program offices, reducing redundancies across the Department and assisting those program offices who experienced significant voluntary staff separations in the last year. CFO will also create new branches to focus on financial management and accountability in order to better assist the Department in managing its funds. Finally, a new division will consolidate travel management oversight and coordination in support of the Department in a more cost-effective and efficient manner.

6. Office of the Chief Information Officer

The Office of the Chief Information Officer (OCIO) will reorganize to drive efficiency and align our work and services around a portfolio and product-based construct. This shift will optimize office organization around technical solutions management and emphasize OMB's designation of HUD as a High Impact Service Provider (HISP) and our systems and solutions that support the Government Services Delivery Improvement Act through establishment of a design and experience division. This reorganization will enable HUD to evolve into a 21st-century delivery organization that leverages best-in-class industry practices around product management and development, security, and operations (DevSecOps). It will establish a portfolio management organization construct that will enable HUD OCIO to surge and align resources around key delivery initiatives and increase standardization around delivery practices. It will establish a

division for data and super intelligence (SI) under the Chief Technology Officer to ensure HUD is staffing and prioritizing data and SI appropriately. Finally, core business office functions (budget, acquisition, and resourcing) will be consolidated into one office division for better synergy and standardization of processes. Additionally, OCIO will establish a customer experience division to better align responsibilities and deliver services to HUD and its customers. Additionally, contract and financial management will be realigned and consolidated to eliminate redundancies across OCIO. Overall executive operations of OCIO will also be consolidated and realigned to streamline and standardize administrative functions. OCIO will realign the management of HUD's most critical assets to improve management and the response to security threats. Finally, Divisions and branches will be renamed to better reflect the current workload and functions of each OCIO component.

7. Office of Community Planning and Development

The Office of Community Planning and Development (CPD) is modernizing operations and realigning CPD's structure to strengthen the ability of the office to meet its mission and achieve its goals. These changes will allow CPD to better deliver on its mission critical functions while maintaining strong accountability for program performance and the responsible stewardship of taxpayer dollars. CPD will consolidate its Office of Grant Programs non-disaster grant programs into a single office to better integrate and synthesize existing program policy resources and reduce unnecessary barriers to affordable housing creation. CPD will also rename other offices to create better alignment with the Departmental naming conventions for consistency and clarity.

8. Government National Mortgage Association

The Government National Mortgage Association (GNMA or Ginnie Mae) is creating a new division to coordinate and address the need for greater data and market analysis to aid in data-driven decision-making. GNMA will also realign branches to bolster the work of the Office of Enterprise Risk, which will better manage Ginnie Mae's financial reporting, compliance, audit resolution, and enforcement efforts. As part of this realignment, branches will be created to allow focus on GNMA budget and economic analysis by specialized staff with unique skills in these areas. Ginnie Mae is also creating new branches to focus efforts on issuer engagement in a manner that is more tailored to the underlying assets to create efficiencies in account management and compliance. New branches will also be established to better support customer-focused information, training and support. Additional branches will be established to better focus counter party risk management and to direct and manage capital market activities. Finally, the renaming and realignment of functions relating to data and technology management will create operational efficiencies and better reflect the work of each branch.

9. Office of Policy Development and Research

The Office of Policy Development and Research will increase operational efficiencies by realigning the Chief Data Officer to the CIO as described above. Three divisions will be merged and consolidated into a single division responsible for resource management to further operational efficiencies. Finally, one division is being renamed to better reflect the functions performed in that division.

10. Office of General Counsel

The Office of General Counsel (OGC) is reorganizing its office structure to primarily breakdown artificial silos, eliminate redundancies, and streamline management responsibilities to effectively address the significant reduction in staff resulting from the voluntary separation of staff through the Deferred Resignation Program and other planned retirements. Specifically, the reorganization of OGC will eliminate the distinction between Headquarters and Regional/Field offices. Instead, OGC will have a unified structure organized based on programmatic operations. All counsel, regardless of geographic location, will report to one of three Deputy General Counsels, who will divide responsibilities loosely along the following lines: (1) general, cross-cutting legal services and administrative law, (2) grant and assistance program related legal support, and (3) housing finance legal services.

OGC's programmatic approach to legal representation will allow greater flexibility in management of the work flowing from HUD's various program offices while allowing for the development of greater expertise across the Department's grant and assistance programs as well as the Department's housing finance programs. This structure will also allow for the centralization of all administrative and general cross-cutting legal services and facilitate greater workload management across the country. With the voluntary departure of significant numbers of staff, OGC's siloed and restrictive structure made swift adaptation to the new staffing realities and shifting priorities in terms of workload extremely difficult to manage. With an emphasis on flexibility and seamless worksharing in this reorganization, OGC will be better situated to react to changing priorities and program activity levels allowing for the appropriate management of workflows without delay. Additionally, the inherent flexibilities in this reorganization mean that no staff will be relocated as a result of this reorganization and no employees will be negatively impacted in terms of grade/rates of pay.

11. Office of Field Policy and Management

The Office of Field Policy and Management (FPM) will realign the additional cross-cutting program implementation functions associated with the Build America, Buy America Act, into the office that currently oversees various cross-programmatic compliance initiatives for the Department. This shift will allow for increased efficiency in implementation as it better aligns with the existing cross-cutting implementation work and functions of FPM and is expected to enhance the stakeholder experience.

12. Office of Housing—Federal Housing Administration

a. Office of Single Family Housing

The Office of Single Family Housing is transitioning the work of its Homeownership Centers (HOCs) from a geographic-based business model to a function-based business model. Single Family will maintain three official HOC-designated offices, each with its own specialization: Philadelphia (Origination), Denver (Servicing), and Atlanta (Quality Assurance). Santa Ana will no longer be identified as a HOC, however all Single Family office locations, including Santa Ana, will continue to remain in operation, with no geographic reassignments, and minimal changes to employee position descriptions.

These changes will ensure consistency in program delivery, improved workload management across functions, centralized expertise, and streamlined collaboration between field offices and headquarters policymakers.

Additionally, the Investments Division in the Office of Multifamily Housing's Recapitalization Office was

originally established in 2023 to centralize the administration of the Green and Resilient Retrofit Program (GRRP) grant and loan activities, including application review, award processing, transaction closing, and ongoing portfolio monitoring. As there are no GRRP new grants/loans being funded, the GRRP functions for the existing grants/loans have been integrated into the Office of Recapitalization's existing organizational structure, with transaction-related activities assigned to the Transaction Division and closing functions assigned to the Closing Division. As a result of this functional integration, the division is no longer necessary as a separate organizational unit and is being removed from the organizational chart. All staff in the Investments Division have left the Department or taken other positions at HUD.

b. Office of Operations

To increase operational efficiency and eliminate redundancies, as other support offices across HUD provide the same services, the Office of Operations will be streamlined to support the Office of Housing's Management team with a smaller and more efficient footprint. The Office will be renamed the Office of Management Operations.

13. Office of Administration

The Office of Administration is comprised of subcomponents under the leadership of the executive front office of Administration.

a. Executive Office

The Office of the Administration executive front office (Admin) will assume the supervision of all of HUD's national security, continuity, continuity of operations, and emergency planning functions under a new Office of National Security and Continuity Programs. This realignment will elevate these functions from their current location under the CAO to report directly to the General Deputy Assistant Secretary for Admin, in recognition of the importance of these functions and the need to reduce duplicative and unnecessary layers of management in this area.

b. Office of the Chief Human Capital Officer

The Office of the Chief Human Capital Officer (OCHCO) will streamline its executive management layer by reducing its authorized Senior Executive Service (SES) allocation from six to four. Executive oversight will be consolidated under the SES positions of Chief Human Capital Officer (CHCO) and Deputy CHCO, who will oversee two balanced operational pillars led by the remaining two authorized SES directors:

1. *Workforce Accountability, Policy & Compliance:* This will unify regulatory functions, establish an independent Misconduct Inquiries & Investigations Division alongside Policy, Accountability; Personnel Security and Suitability; Reasonable Accommodation; and Performance Management and Recognition.

2. *Talent Strategy, Systems & Enterprise Intelligence:* This will consolidate Data and Human Resources (HR) Systems; house the functions of Recruitment and Staffing; Pay, Benefits and Retirement; Enterprise Training and Executive Development; Administrative Operations, Workforce Health, Wellness and EAP.

Under this realigned architecture, Employee and Labor Relations, Anti-Harassment, Executive Resources and Emergency surge hiring support will be integrated directly into the CHCO Front Office.

c. Office of the Chief Administrative Officer

The Office of the Chief Administrative Officer (OCAO) will realign staff and functions within OCAO to more efficiently use staff resources to manage the work of the office. With the realignment of the national security, continuity programs (COOP), and emergency planning functions to the executive front office of Admin, the remaining physical security functions will be managed out of the new Office of Physical Security. Additionally, the Protective Services Division, which provides protection services to the Secretary and Deputy Secretary, will be managed by a separate division reporting to OCAO. All space and project management functions will be consolidated into the Resource Management division and a division to oversee printing functions will be established within the Office of Digital Enterprise within OCAO. Finally, all FOIA, Privacy, and Electronic Records Management Functions will be aligned under OCAO into one division for efficient management.

d. Office of the Chief Procurement Officer

The Office of the Chief Procurement Officer (OCPO) will restructure its operations to establish a centralized hub for early acquisition life-cycle activities, consolidating the presently dispersed functions and allowing increased efficiency and skill development. Additional efforts to modernize the operations of OCPO will require establishment of various branches across OCPO designed to further the efficient management of procurement activities and establish greater communication and ties with the program offices across HUD.

*C. Estimate of Cost Savings*

Approximately 90 days following the date of publication of this notice, HUD will begin the reorganization of the Department as identified above. Each program office will separately undertake the necessary reorganization, consolidation, and realignment of functions and staff as described. Given the varying level of complexities in the reorganization plan, the full implementation of these plans is expected to occur within Fiscal Year 2026 for some offices while others will continue working towards full implementation in Fiscal Year 2027.

Because these efforts are about streamlining and consolidating organizational structures and reducing redundancies in terms of functions performed rather than any change in terms of footprint or staffing levels, nothing in these plans includes steps to relocate or reduce any staff.[1] As a result, immediate, quantifiable cost savings are not expected to be realized from anything in this reorganization plan. Instead, HUD anticipates greater efficiencies in qualitative operations and the achievement of the Department's mission and goals, including enhanced customer and stakeholder service. These efficiencies will enable the Department to continue efficient and effective management of its programs generally within the existing approved staffing levels of the Department. Current staffing levels are almost 35 percent below historic staffing levels and this reorganization will provide HUD with the ability to operate even more effectively at current staffing levels, ultimately carrying forward savings from the reduced salaries and expenses of the Department.

*D. Estimate of the Additional Costs*

The Department expects that there may be some minor short-term adjustment costs associated with this reorganization plan. Some managers and staff may require time and additional

[1] Please note that the Department separately published a notice of intent to relocate the staff from Kansas City, Missouri field office to the Kansas City, Kansas Regional Office. This move was detailed in a separate notice published in satisfaction of the obligations under section 3535(p) and is separate and distinct from the reorganization plans discussed in this notice.

training in order to adapt to new roles and adjust to managing a slightly different mix of workflows. These upfront costs are expected to be less than the longer-term gains from operational efficiencies generated by the reorganization. The overall goal of the reorganization of the Department's structure is to preserve the availability, access, and quality of the Department's services.

*E. Study of the Impact on the Local Economy*

Because there are no staff relocations or office closures required by this reorganization, there is no anticipated impact on any local economies.

*F. Estimate of the Effect of the Reorganization*

This reorganization is designed to better enable HUD to address crucial workplace and mission needs by eliminating redundancies, streamlining and increasing flexibility in work processes, and consolidating administrative functions, thus allowing the Department to more efficiently deliver on its mission utilizing current resources and mitigate the impact of previously realized staff reductions across the Department, primarily due to voluntary resignations through the Deferred Resignation Program (which was particularly acute for certain program offices).

The proposed reorganization advances a new alignment that will maximize the use of staffing resources to ensure flexibility and maintain quality work across all aspects of its portfolio. The intended future state of the Department will demonstrate a program-focused approach to best leverage current staff, maximize operational efficiencies, and permit better allocation of resources during periods of increased workload, all within the current footprint and geographic dispersion of HUD staff. This reorganization will also better align skillsets across the Department, modernize how offices conduct their work and address the staffing losses mentioned above. The specific shifts away from extremely siloed organizational structures with regional/field office restrictions are designed to change reporting structures, not eliminate offices or force relocation of any staff. While functions and duties of staff may change, HUD will endeavor to minimize impacts on staff and avoid to the greatest extent possible the imposition of any reduction in grade or pay because of this reorganization.

In sum, no immediately quantifiable benefits, and no significant costs or local economic impacts would arise from the reorganization, which maintains the Department's number of staff and field offices, but simply streamlines and realigns functions for optimal efficiency.

HUD will take steps to ensure that the reorganization therein complies with Title 5, applicable civil rights statutes, OPM workforce reshaping guidance, and merit systems principles. HUD's implementation of the reorganization will be phased to ensure continuity of operation. To the extent that future personnel actions may be required, HUD will ensure that they are conducted in accordance with law and regulation.

**III. Environmental Impact**

This notice does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing (other than tenant-based rental assistance), rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), the notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42. U.S.C. 4321 *et seq.*).

**Andrew Hughes,**

*Deputy Secretary.*

[FR Doc. 2026–22838 Filed 11–9–26; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–7110–N–20; OMB Control No.: 2502–0267]**

## 60-Day Notice of Proposed Information Collection: Section 202 Supportive Housing for the Elderly Application Submission Requirements

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

**DATES:** *Comments Due Date:* January 11, 2027.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal.

Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to *www.regulations.gov.* Interested persons are also invited to submit comments regarding this proposal and comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Darian Ziegler, PRA Liaison, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Darian Ziegler, PRA Liaison, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Darian.Ziegler@hud.gov,* telephone (202) 402–5535 (This is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of available supporting documents for the proposed collection may be obtained from Ms. Ziegler.

**SUPPLEMENTARY INFORMATION:** This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

**A. Overview of Information Collection**

*Title of Information Collection:* Section 202 Supportive Housing for the Elderly Application Submission Requirements.

*OMB Approval Number:* 2502–0267.

*Type of Request:* Extension of currently approved collection.

*Form Number:* HUD–92041, HUD–92042, HUD–92015–CA, HUD–2530, HUD–2880, HUD–2993, SF–424, SF–LLL.

*Description of the need for the information and proposed use:* HUD collects this information to review applications for Section 202 Capital Advance and PRAC funding under Section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q). Applicants submit Form HUD–92015–CA, narrative exhibits, and required standard and HUD forms and certifications. HUD uses the submission to determine whether the applicant and the proposed project are eligible, and to rate and score each application. This

covers whether the project meets the need for supportive housing for very-low-income elderly households, whether the development plan, budget, and operating pro forma are feasible, and whether the project satisfies site control, environmental, site and neighborhood, and relocation requirements. It also covers whether the supportive services planned for residents are adequate.

Without this information, HUD could not judge the merit of the applications, confirm that projects and services meet statutory and regulatory requirements, or assess the risk to the Government. The collection helps protect federal funds against fraud, waste, and mismanagement.

*Respondents:* Not-for-profit institutions.

*Estimated Number of Respondents:* 150.

*Estimated Number of Responses:* 4050.

*Frequency of Response:* 1.

*Average Hours per Response:* 2.

*Total Estimated Burdens:* 6,795.

| Information collection | Number of respondents | Frequency of response | Responses per annum | Burden hour per response | Annual burden hours | Hourly cost per response | Annual cost |
|---|---|---|---|---|---|---|---|
| Part 1—Application Form for Section 202 Supportive Housing—Capital Advance | 150 | 1 | 150 | 2 | 300 | 102.88 | $30,864 |
| Part 2—Narrative Responses and Forms BELOW: | | | | | | | |
| Tab A: Eligibility and Articles of Incorporation | 150 | 1 | 150 | 2 | 300 | 102.88 | 30,864 |
| Tab B: Demonstration of Need | 150 | 1 | 150 | 2 | 300 | 102.88 | 30,864 |
| Tab C: The Development Plan | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab D: Development Budget | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab E: Committed Funds | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab F: Capital Needs Assessment | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab G: Operating Pro Forma | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab H: Site Control | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab I: Site and Neighborhood Standards | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab J: Real Property Acquisition and Relocation | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab K: Physical Design | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab L Supportive Services | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab M: Section 3 Employment Opportunities for Low and Very-Low Income Persons | 150 | 1 | 150 | 2 | 150 | 102.88 | 15,432 |
| Tab N: Market | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab O: Capacity and Leverage | 150 | 1 | 150 | 3 | 450 | 102.88 | 46,296 |
| Tab P: Evidence of Compliance with Local Land Use and Zoning Regulations | 150 | 1 | 150 | 1 | 150 | 102.88 | 15,432 |
| Tab Q: Intergenerational Housing (Optional) | 150 | 1 | 150 | 1 | 150 | 102.88 | 15,432 |
| Environmental: Output Sheet verifying HEROS Submission, Phase I Environmental Assessment, Phase II (if required) and description of remedial actions, if required): and Related Laws and Authorities Screens | 150 | 1 | 150 | 2 | 300 | 102.88 | 30,864 |
| Form HUD–92041 | 150 | 1 | 150 | .40 | 60 | 102.88 | 6,172.8 |
| Form HUD–92042 | 150 | 1 | 150 | .40 | 60 | 102.88 | 6,172.8 |
| Form HUD–92015–CA | 150 | 1 | 150 | .50 | 75 | 102.88 | 7,716 |
| **Associated Forms** | | | | | | | |
| Form HUD–2530** | 150 | 1 | 150 | 0 | 0 | 0 | 0 |
| Form HUD–2880** | 150 | 1 | 150 | 0 | 0 | 0 | 0 |
| Form HUD–2993** | 150 | 1 | 150 | 0 | 0 | 0 | 0 |
| Form HUD–2911 | 150 | 1 | 150 | 0 | 0 | 0 | 0 |
| **Standard Forms** | | | | | | | |
| Form SF–424** | 150 | 1 | 150 | .75 | 0 | 0 | 0 |
| Standard Form LLL** | 150 | 1 | 150 | .50 | 0 | 0 | 0 |
| Totals | 150 | 1 | 4200 | 53.8 | 7245 | ..... | 745,366 |

*Hourly cost estimates are the ''mean'' estimate based on the owner, owner's attorney, or public agency's senior management staff (Chief Executive) to review, execute, and/or submit the documentation to HUD. The source is the Bureau of Labor Statistics—Occupational Employment Statistics.

** Forms are a part of another collection and burden hours are not included under 2502–0267.

## B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**C. Authority**

44 U.S.C. 3507.

**Paul M. Olin,**

*Acting General Deputy Assistant Secretary for Housing, Office of the Assistant Secretary for Housing- Federal Housing Commissioner.*

[FR Doc. 2026–22901 Filed 11–9–26; 8:45 am]

**BILLING CODE 4210–67–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Dynamic Random Access Memory (DRAM) Devices and NAND Flash Memory Devices, Products Containing the Same, And Components Thereof, DN 3946;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov* . The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Netlist, Inc. on November 5, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dynamic random access memory (DRAM) devices and NAND flash memory devices, products containing the same, and components thereof. The complaint names as respondents: Kingston Technology Corp. of Fountain Valley, CA; Kingston Technology Co., Inc. of Fountain Valley, CA; Kingston Digital, Inc. of Fountain Valley, CA; Kingston Technology Far East Corp. of Taiwan; Kingston Solutions, Inc. of Taiwan; Kingston Technology Co., Ltd. of China; Kingston Technology (Shanghai) Co. Ltd. of China; Lenovo Group Ltd. of China; Lenovo PC HK Ltd. of China; Lenovo (Beijing) Ltd. of China; Lenovo (United States) Inc. of Morrisville, NC; Lenovo Global Tech. (United States) Inc. of Morrisville, NC; CDW Corp. of Vernon Hills; IL; CDW Logistics LLC of Vernon Hills, IL; Ingram Micro Inc. of Irvine, CA; Insight Enterprises, Inc. of Chandler, AZ; Insight Direct USA, Inc. of Chandler, AZ; and Zones, LLC of Auburn, WA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business (5:15 p.m.),[1] eight calendar days after publication of this notice in the **Federal Register**. Complainant(s) may file replies to any written submissions no later than three calendar days after the date on which the written submissions were due. Notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure, the deadlines for written submissions and replies shall be counted by calendar days starting with the first calendar day following the **Federal Register** publication date or the due date for written submissions, respectively. The provisions of § 201.14(a) regarding the last day of the period still apply concerning the due date of any filings. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3946'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [2]). Please note the Secretary's Office will accept only electronic filings unless an exemption is granted. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) Persons with questions

[1] *See* 19 CFR 201.3(c).

[2] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf.*

regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[3] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[4]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: November 5, 2026.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2026–22904 Filed 11–9–26; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–464 and 731–TA–1160 (Third Review)]**

### Prestressed Concrete Steel Wire Strand From China; Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping and countervailing duty orders on prestressed concrete steel wire strand from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

**Background**

The Commission instituted these reviews on April 1, 2026 (91 FR 16226) and determined on July 6, 2026, that it would conduct expedited reviews (91 FR 52083, August 12, 2026).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on November 6, 2026. The views of the Commission are contained in USITC Publication 5809 (November 2026), entitled *Prestressed Concrete Steel Wire Strand from China: Investigation Nos. 701–TA–464 and 731–TA–1160 (Third Review).*

By order of the Commission.

Issued: November 5, 2026.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2026–22923 Filed 11–9–26; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Electronic Control Units and Products Containing the Same, DN 3947;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.*

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Honeywell Aerospace US LLC on November 5, 2026. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic control units and products containing the same. The complaint names as respondents: Lucid Group, Inc. of Newark, CA; Lucid USA, Inc. of Casa Grande, AZ; Lucid Group USA, Inc. of Newark, CA; Rivian Automotive, Inc. of Irvine, CA; and Rivian Automotive, LLC of Wittman, AZ. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, members of the public, and interested government agencies are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

[3] All contract personnel will sign appropriate nondisclosure agreements.

[4] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Samuel T. Negatu not participating.

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business (5:15 p.m.),[1] eight calendar days after publication of this notice in the **Federal Register**. Complainant(s) may file replies to any written submissions no later than three calendar days after the date on which the written submissions were due. Notwithstanding § 201.14(a) of the Commission's Rules of Practice and Procedure, the deadlines for written submissions and replies shall be counted by calendar days starting with the first calendar day following the **Federal Register** publication date or the due date for written submissions, respectively. The provisions of § 201.14(a) regarding the last day of the period still apply concerning the due date of any filings. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3947'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [2]). Please note the Secretary's Office will accept only electronic filings unless an exemption is granted. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*.) Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[3] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[4]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: November 6, 2026.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2026–22911 Filed 11–9–26; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Rust Foundation

Notice is hereby given that, on June 26, 2026, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Rust Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, CodSpeed Technology SAS, Nanterre, FRENCH REPUBLIC; Integer 32, LLC, Pittsburgh, PA; Peeriot GmbH, Leipzig, FEDERAL REPUBLIC OF GERMANY; Convex Inc., San Francisco, CA; OpenAI OpCo, LLC, San Francisco, CA; and Renesas Electronics Corporation, Tokyo, JAPAN, have been added as parties to this venture.

Also, Accelerant Limited, Lower Hutt, NEW ZEALAND; Automata Labs Ltd, Road Town, BRITISH VIRGIN ISLANDS; Fledgio Limited, London, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; and Trace Machina, Inc., Palo Alto, CA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Rust Foundation intends to file additional written notifications disclosing all changes in membership.

On April 14, 2022, Rust Foundation filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 13, 2022 (87 FR 29384).

The last notification was filed with the Department on March 27, 2026. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 22, 2026 (91 FR 37147).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22915 Filed 11–9–26; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Bytecode Alliance Foundation

Notice is hereby given that, on June 26, 2026, pursuant to section 6(a) of the National Cooperative Research and

[1] *See* 19 CFR 201.3(c).

[2] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf.*

[3] All contract personnel will sign appropriate nondisclosure agreements.

[4] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Bytecode Alliance Foundation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Siemens, Princeton, NJ, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Bytecode Alliance Foundation intends to file additional written notifications disclosing all changes in membership.

On April 20, 2022, Bytecode Alliance Foundation filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 13, 2022 (87 FR 29379).

The last notification was filed with the Department on March 27, 2026. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 22, 2026 (91 FR 37146).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22908 Filed 11–9–26; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—TeleManagement Forum (TM Forum)

Notice is hereby given that, on July 24, 2026, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), TM Forum, a New Jersey Non-Profit Corporation (''the Forum'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, P3 communications GmbH, Baden-Württemberg, FEDERAL REPUBLIC OF GERMANY; Gartner, London, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; MasOrange, Pozuelo de Alarcón, KINGDOM OF SPAIN; Fastweb SpA, Milano, ITALIAN REPUBLIC; Korea Telecom, Gyeonggi-do, REPUBLIC OF KOREA; Integratel Peru S.A.A., Surquillo, REPUBLIC OF PERU; Universidad Mayor de San Andres, La Paz, PLURINATIONAL STATE OF BOLIVIA; PT Telkom Infrastruktur Indonesia (Infranexia), Jakarta Selatan, REPUBLIC OF INDONESIA; China Telecom Digital Intelligence Technology Co., Ltd, Beijing, PEOPLE'S REPUBLIC OF CHINA; AsiaInfo Innovation Technologies (Nanjing) Co., Ltd, Nanjing, PEOPLE'S REPUBLIC OF CHINA; International IT House, Dubai, UNITED ARAB EMIRATES; Morvix Partners, Tanjung Bungah, REPUBLIC OF SINGAPORE; DATADOPE, San Sebastián de los Reyes, KINGDOM OF SPAIN; PT Media Telekomunikasi Mandiri, Jakarta Selatan, REPUBLIC OF INDONESIA; CMAS—Systems Consultants Lda, Lisboa, PORTUGUESE REPUBLIC; Solo.io, Boston, MA; SecurityGen Ltd, London, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; Enfec LLC, Redmond, WA; Tayana Mobility Technologies PVT LTD, Bengaluru, REPUBLIC OF INDIA; Irem Gamzeli Aktas, Zagreb, REPUBLIC OF CROATIA; AXON Networks, Irvine, CA; UST Global, Aliso Viejo, CA; Trend Micro EMEA Ltd, Cork, IRELAND; Vodafone Shared Operations Limited, Newbury, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; Zain Kuwait, Kuwait City, STATE OF KUWAIT; Kron Telekomunikasyon A.S., Istanbul, REPUBLIC OF TÜRKIYE; SunTec Business Solutions Inc, Canonsburg, PA; and Gauvi Sàrl-S, Roodt-sur-Syre, GRAND DUCHY OF LUXEMBOURG have been added as parties to this venture.

Also, Alesia labs, Ciudad de Mexico, UNITED MEXICAN STATES; Articul8 AI, Inc, Santa Clara, CA; Balesia Technologies, Inc., San Diego, CA; Bluestone PIM, Tønsberg, KINGDOM OF NORWAY; Concertia Technologies Inc, Halifax, CANADA; Crystal ASP Services Ltd, Dublin, IRELAND; David Villegas (Affiliate), Roodt-sur-Syre, GRAND DUCHY OF LUXEMBOURG; DOD, Fort Monmouth, NJ; Gomibo Group, Groningen, KINGDOM OF THE NETHERLANDS; Guangzhou Aerospace Winhong Technology Co.Ltd, Beijing, PEOPLE'S REPUBLIC OF CHINA; Innoverta Consulting GmbH, Bern, SWISS CONFEDERATION; Iron Hive doo Beograd, Belgrade, REPUBLIC OF SERBIA; Kratos, Colorado Springs, CO; MATRIXX Software, Foster City, CA; National Broadband Ireland, Dublin, IRELAND; Octolytics, Inc., Zephyr Cove, NV; PRIME FiBER, LLC, Coppell, TX; RTC ARGUS, Saint-Petersburg, RUSSIAN FEDERATION; TGC Technologies Pvt Ltd, Pune, REPUBLIC OF INDIA; UNRYO, Laval, CANADA; US Cellular Corporation, Chicago, IL; Verso Altima d.o.o., Zagreb, REPUBLIC OF CROATIA; X3T Broadband Ltd, Dublin, IRELAND; and Xynexis International, Jakarta, REPUBLIC OF INDONESIA have withdrawn as parties to this venture.

In Addition, the following members have changed their names: Telecom Argentina S.A. to Personal, Buenos Aires, ARGENTINE REPUBLIC; Enxoo Sp. z o.o. to Enxoo P.S.A, Warsaw, REPUBLIC OF POLAND; Hellenic Telecoms Organization to Hellenic Telecommunications Organization S.A. (OTE), Maroussi-Athens, HELLENIC REPUBLIC; and Echostar to Boost SubscriberCo L.L.C., Englewood, CO.

No other changes have been made to either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Forum intends to file additional written notifications disclosing all changes in membership.

On October 21, 1988, the Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on December 8, 1988 (53 FR 49615).

The last notification was filed with the Department on June 18, 2026. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on July 22, 2026 (91 FR 46165).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22893 Filed 11–9–26; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Fire Protection Association

Notice is hereby given that, on July 8, 2026, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Fire Protection Association (''NFPA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade

Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, NFPA has provided an updated and current list of its standards development activities, related technical committee and conformity assessment activities. Information concerning NFPA regulations, technical committees, current standards, standards development, and conformity assessment activities are publicly available at *nfpa.org*.

On September 20, 2004, NFPA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 21, 2004 (69 FR 61869).

The last notification was filed with the Department on February 3, 2026. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on March 26, 2026 (91 FR 14720).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22905 Filed 11–9–26; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—OpenGMSL Association

Notice is hereby given that, on August 11, 2026, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), OpenGMSL Association (''OpenGMSL'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Allion Labs, Taipei, REPUBLIC OF CHINA (TAIWAN); ASMedia Technology Inc., New Taipei City, REPUBLIC OF CHINA (TAIWAN); Beijing Horizon Information Technology Co., Ltd., Beijing, PEOPLE'S REPUBLIC OF CHINA; Galaxycore Shanghai Limited Corporation, Shanghai, PEOPLE'S REPUBLIC OF CHINA; GRL Platform Solutions, Santa Clara, CA; indie Semiconductor, Inc., Aliso Viejo, CA; JoulWatt Technology Co., Ltd., Hangzhou, PEOPLE'S REPUBLIC OF CHINA; Mercedes-Benz ExTRA LLC, Vance, AL; Realtek Semiconductor Corporation, Hsinchu, REPUBLIC OF CHINA (TAIWAN); TAI-TECH Advanced Electronics Co., Ltd., Taoyuan City, PEOPLE'S REPUBLIC OF CHINA; and Volkswagen AG, Wolfsburg, FEDERAL REPUBLIC OF GERMANY have been added as parties to this venture.

Also, Samsung Electronics, Hwaseong-si, REPUBLIC OF KOREA has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and OpenGMSL intends to file additional written notifications disclosing all changes in membership.

On June 30, 2025, OpenGMSL filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 13, 2025 (90 FR 38998).

The last notification was filed with the Department of Justice on May 18, 2026. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on July 22, 2026 (91 FR 46168).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22913 Filed 11–9–26; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Silicon Integration Initiative, Inc.

Notice is hereby given that, on September 2, 2026, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Silicon Integration Initiative, Inc. (''Si2'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Architect Labs, Palo Alto, CA; DaVinchi Ltd., Beijing, PEOPLE'S REPUBLIC OF CHINA; pSemi Corporation, San Diego, CA; Ramyx Inc., Orinda, CA; Dash Crystal Corporation, San Francisco, CA; Mueon Corporation, Palo Alto, CA; NVIDIA Corporation, Santa Clara, CA; Ramtera Inc., Bangalore, REPUBLIC OF INDIA; Raspberry Pi, Ltd., Cambridge, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; Sillmate, Inc., Mountain View, CA; and Meta Platforms Technologies, LLC, Menlo Park, CA have been added as parties to this venture.

Also, Arizona State University (ASU), Tempe, AZ; Drexel University, Philadelphia, PA; Chinese University of Hong Kong (CUHK), Shatin, HONG KONG SPECIAL ADMINISTRATIVE REGION,; Columbia University, New York, NY; Duke University, Durham, NC; Nanyang Technological University (NTU), Singapore, REPUBLIC OF SINGAPORE; University of California, Santa Cruz (UCSC), Santa Cruz, CA; University of Illinois Chicago (UIC), Chicago, IL; University of Southern Denmark (SDU), Odense, KINGDOM OF DENMARK; New York University (NYU), New York, NY; University of California, San Diego (UCSD), La Jolla, CA; University of Texas at Austin, Austin, TX; and Barcelona Supercomputing Center, Barcelona, KINGDOM OF SPAIN have been added as active academic members to this venture.

Additionally, Tokyo Electron America Inc. (TEL), Austin, TX; Vinci4D.ai, Inc., Palo Alto, CA; Blue Cheetah Analog Design Inc., Sunnyvale, CA; Ansys, Inc., Canonsburg, PA; and Hangzhou Kilby Technology Co., Ltd., Hangzhou, PEOPLE'S REPUBLIC OF CHINA have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Si2 intends to file additional written notifications disclosing all changes in membership.

On December 30, 1988, Si2 filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 13, 1989 (54 FR 10456).

The last notification was filed with the Department on August 22, 2025. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on October 2, 2025 (90 FR 47824).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22914 Filed 11–9–26; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Open Group, L.L.C.

Notice is hereby given that, on August 5, 2026, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Open Group, L.L.C. (''TOG'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, 6th Dimension, Inc., Madison, AL; AIM–USA, LLC, Feasterville-Trevose, PA; Antares Nuclear, Inc., Torrance, CA; Applied Intuition UK Ltd, London, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; Astro Mechanica Federal Corp., San Francisco, CA; Blue Capsule Technology, Aix-en-Provence, FRENCH REPUBLIC; Extreme Engineering Solutions, Verona, WI; Falkor Intelligence Inc., Houston, TX; Henan Qinwei Digital, Technology Co., Ltd., Zhengzhou, PEOPLE'S REPUBLIC OF CHINA; Ironwood Aero South Africa, (Pty) Ltd, Sandton, REPUBLIC OF SOUTH AFRICA; MODEC, Inc., Chuo-ku, JAPAN; National Strategic Research Institute at the University of Nebraska (NSRI), Omaha, NE; Raven Punk LLC, Sacramento, CA; SASU COMPETENSIS, Fontaines St. Martin, FRENCH REPUBLIC; Singe Buoy Moorings Inc., Marly, SWISS CONFEDERATION; Spezi Informática Ltda, Brasília, FEDERATIVE REPUBLIC OF BRAZIL; Starlab Space LLC, Webster, TX; Subsurface Insight, Ltd., Reading, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; SynMax Intelligence, Inc., Houston, TX; Terrestrial Energy Inc., Charlotte, NC; The HDF Group, Champaign, IL; TRAK TECOM Corporation, Tampa, FL; Wairo Ltd, North Shields, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; Worley Group Inc., Houston, TX; X-energy LLC, Rockville, MD; and Yuri Francis Araujo Ferreira Ltda, Brasília, FEDERATIVE REPUBLIC OF BRAZIL, have been added as parties to this venture.

Also, AngloGold Ashanti North America Inc., Greenwood Village, CO; BKO Services, Houston, TX; Defense Standardization, Program Office, Ft. Belvoir, VA; Endress+Hauser Process Solutions, Reinach, SWISS CONFEDERATION; Geophysical Insights, Houston, TX; Icono Digital S.A.C., Lima, REPUBLIC OF PERU; Innoflight, LLC, San Diego, CA; LeanIX GmbH, Bonn, FEDERAL REPUBLIC OF GERMANY; Mastery Matrix, Pretoria, REPUBLIC OF SOUTH AFRICA; MITS Institute (Pty) Ltd, Johannesburg, REPUBLIC OF SOUTH AFRICA; Nanjing Origin Information Technology Co. Ltd., Nanjing, PEOPLE'S REPUBLIC OF CHINA; Nationwide Mutual Insurance Company, Inc., Columbus, OH; Nomazangwa Consulting, Hartbeespoort, REPUBLIC OF SOUTH AFRICA; OSIsoft, LLC, San Leandro, CA; Ovation Data Services Inc., Houston, TX; Shearwater GeoServices, Bergen, KINGDOM OF NORWAY; Shenzhen Tecsoon Information Technology Co. Ltd, Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Singularity Technologies, Inc., Freehold, NJ; Strategic Transformation SAC, Lima, REPUBLIC OF PERU; TAGHANIET AL-TAHWOL, Riyadh, KINGDOM OF SAUDI ARABIA; U.S. Army Project Manager, Positioning, Navigation and Timing (PM PNT), Aberdeen Proving Ground, MD; and Verocel, Inc., Westford, MA, have withdrawn as parties to this venture.

Additionally, the following members have changed their names: LTI Mindtree Limited to LTM Limited, Edison, NJ; and U.S. Army PEO Aviation to U.S. Army Capability Program Executive Aviation (CPE–AVN), Redstone Arsenal, AL.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and TOG intends to file additional written notifications disclosing all changes in membership.

On April 21, 1997, TOG filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 13, 1997 (62 FR 32371).

The last notification was filed with the Department on May 21, 2026. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on July 22, 2026 (91 FR 46162).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22910 Filed 11–9–26; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on August 3, 2026, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. (''PXI Systems'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Bustec, Clare, IRELAND; Apex Technologies, Marcoussis, FRENCH REPUBLIC; Chengdu Huaxing Huiming Technology, Chengdu City, PEOPLE'S REPUBLIC OF CHINA; and RADX Technologies, Palo Alto, CA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on March 3, 2026. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on June 22, 2026 (91 FR 37146).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22906 Filed 11–9–26; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Canton Foundation (F/K/A Global Synchronizer Foundation)

Notice is hereby given that, on August 4, 2026, pursuant to section 6(a) of the National Cooperative Research and

Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Canton Foundation (f/k/a Global Synchronizer Foundation) (''Canton Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, KRO Brokers, SPC, Seattle, WA; BPX Markets Limited, London, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; Tokenovate Ltd., Cambridge, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; Zeppelin Group Ltd., London, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; KPMG LLP, Charlotte, NC; Hecto Finance Limited, Tortola, BRITISH VIRGIN ISLANDS; Texture Capital Holdings Corp., New York, NY; Titan Labs Limited, Tortola, BRITISH VIRGIN ISLANDS; Edge & Node Ventures Inc., San Francisco, CA; Halborn Inc., Miami, FL; 21M Labs Inc., Panama City, REPUBLIC OF PANAMA; The International Securities Lending Association, London, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; Visa Inc., San Francisco, CA; and Transcend Street Solutions Inc., Piscataway, NJ, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Canton Foundation intends to file additional written notifications disclosing all changes in membership.

On September 18, 2024, Canton Foundation filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 11, 2024 (89 FR 82632).

The last notification was filed with the Department on May 20, 2026. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on July 22, 2026 (91 FR 46169).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22909 Filed 11–9–26; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—R Consortium, Inc.

Notice is hereby given that, on July 9, 2026, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), R Consortium, Inc. (''R Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Gilead Sciences, Inc., Foster City, CA, has been added as a party to this venture.

Also, Lander Analytics, New York, NY; and Novo Nordisk A/S, Hovedstaden, KINGDOM OF DENMARK, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and R Consortium intends to file additional written notifications disclosing all changes in membership.

On September 15, 2015, R Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 2, 2015 (80 FR 59815).

The last notification was filed with the Department on April 24, 2026. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on July 22, 2026 (91 FR 46163).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22894 Filed 11–9–26; 8:45 am]

**BILLING CODE;P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Mercury Consortium, Inc.

Notice is hereby given that, on June 24, 2026, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Mercury Consortium, Inc. (''Mercury Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, EN Plus, Kent, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; DEKRA Certification BV, Gelderland, KINGDOM OF THE NETHERLANDS; and SwitchDin, Newcastle West, COMMONWEALTH OF AUSTRALIA have been added as parties to this venture.

Also, GivEnergy Software Ltd., Newcastle-under-Lyme, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND; and Mixergy, Ltd., Cassington, UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and Mercury Consortium intends to file additional written notifications disclosing all changes in membership.

On July 29, 2025, Mercury Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on August 18, 2025 (90 FR 40084).

The last notification was filed with the Department on April 7, 2026. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on July 22, 2026 (91 FR 46164).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22895 Filed 11–9–26; 8:45 am]

**BILLING CODE 4410–11–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Blockchain Security Standards Council, Inc.

Notice is hereby given that, on August 7, 2026, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Blockchain Security Standards Council, Inc. (''BSSC'') has filed written notifications

simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, *P2P.org,* George Town, CAYMAN ISLANDS, has been added as a party to this venture.

Also, Kraken, San Francisco, CA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and BSSC intends to file additional written notifications disclosing all changes in membership.

On July 9, 2024, BSSC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 26, 2024 (89 FR 78902).

The last notification was filed with the Department on February 20, 2026. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on April 20, 2026 (91 FR 21017).

**Suzanne Morris,**

*Deputy Director Civil Enforcement Operations, Antitrust Division.*

[FR Doc. 2026–22912 Filed 11–9–26; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–1568M]**

### Adjustment to the 2026 Aggregate Production Quota for d,l-Amphetamine, d-Amphetamine (for Sale), Hydromorphone and Methylphenidate (for Sale) Pursuant to 21 U.S.C. 826(h)

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Final order.

**SUMMARY:** The Drug Enforcement Administration (DEA) is adjusting the 2026 aggregate production quota for the schedule II controlled substances d,l-amphetamine, d-amphetamine (for sale), hydromorphone, and methylphenidate (for sale). In making this determination, DEA has considered the factors set forth in 21 CFR 1303.13(b) in accordance with 21 U.S.C. 826(a) and is expediting publication of this determination to comply with the timeframes specified in 21 U.S.C. 826(h)(1).

**DATES:** This final order is effective November 10, 2026.

**FOR FURTHER INFORMATION CONTACT:** Heather E. Achbach, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration, Telephone: (571) 776–3882.

**SUPPLEMENTARY INFORMATION:**

#### Legal Authority

Section 306 of the Controlled Substances Act (CSA) (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas (APQ) for each basic class of controlled substance listed in schedule I and II. The Attorney General has delegated this function to the Administrator of DEA pursuant to 28 CFR 0.100.

Under 21 U.S.C. 826(h), when a request for individual manufacturing quota is submitted by a DEA-registered manufacturer pertaining to a schedule II controlled substance on the Food and Drug Administration's (FDA) list of drugs in shortage, DEA must complete review of such request no later than 30 days after receipt of the request. If, after the review is completed, DEA finds that an increase in the aggregate and individual production quotas is necessary to address a shortage of that controlled substance, DEA is to increase the aggregate and individual production quotas of that controlled substance and any ingredient therein to the level requested. 21 U.S.C. 826(h)(1)(B)(i). However, if it is determined that the level requested is not necessary to address the shortage, DEA is to provide a written response detailing the basis for the determination. 21 U.S.C. 826(h)(1)(B)(ii).

#### Background

DEA published the 2026 established APQ for controlled substances in schedules I and II in the **Federal Register** on January 5, 2026. 91 FR 287. The 2026 established APQ represents those quantities of schedule I and II controlled substances that may be manufactured in the United States to provide for the estimated medical, scientific, research, and industrial needs of the United States, for lawful export requirements, and for the establishment and maintenance of reserve stocks. These quotas do not include imports of controlled substances for use in industrial processes. The final order stipulated that all APQ are subject to an adjustment, in accordance with 21 CFR 1303.15.[1]

#### Quotas Applicable to Drugs in Shortage Pursuant to 21 U.S.C. 826(h)

Under 21 U.S.C. 356c, manufacturers of drugs that are life-supporting, life-sustaining, or intended for use in the treatment or prevention of debilitating diseases or conditions must notify FDA of any permanent discontinuation or interruption in manufacturing likely to result in a meaningful disruption of the drug's supply in the United States. Schedule II controlled substances d,l-amphetamine, d-amphetamine (for sale), hydromorphone, and methylphenidate (for sale) are drugs intended for use in the prevention or treatment of a debilitating disease or condition and therefore fall under the notification requirements of 21 U.S.C. 356c. This provision further requires FDA to assess whether the notifications received from manufacturers concern controlled substances that are subject to production quotas in accordance with 21 U.S.C. 826.

In conducting the review under 21 U.S.C. 826(h) in order to determine the necessity of this adjustment, the Administrator has considered the criteria in accordance with 21 CFR 1303.13 (adjustment of APQ for controlled substances). The Administrator is authorized to increase or reduce the APQ at any time. 21 CFR 1303.13(a). DEA regulations state that there are five factors that shall be considered in determining whether to adjust the APQ. 21 CFR 1303.13(b). Accordingly, the Administrator has taken into account the following factors described below for calendar year 2026: (1) changes in the demand for that class, changes in the national rate of net disposal of the class, changes in the rate of net disposal of the class by registrants holding individual manufacturing quotas for that class, and changes in the extent of any diversion in the class; (2) whether any increased demand for that class, the national and/or individual rates of net disposal of that class are temporary, short term, or long term; (3) whether any increased demand for that class can be met through existing inventories, increased individual manufacturing quotas, or increased importation, without increasing the APQ, taking into account production delays and the probability that other individual manufacturing quotas may be suspended pursuant to 21 CFR 1303.24(b); (4) whether any decreased demand for that class will result in excessive inventory accumulation by all persons registered to handle that class

[1] Established Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2026, 91 FR 287 (January 5, 2026).

(including manufacturers, distributors, practitioners, importers, and exporters), notwithstanding the possibility that individual manufacturing quotas may be suspended pursuant to 21 CFR 1303.24(b) or abandoned pursuant to 21 CFR 1303.27; and (5) other factors affecting medical, scientific, research, and industrial needs in the United States and lawful export requirements, as the Administrator finds relevant, including changes in the currently accepted medical use in treatment with the class or the substances which are manufactured from it, the economic and physical availability of raw materials for use in manufacturing and for inventory purposes, yield and stability problems, potential disruptions to production (including possible labor strikes), and recent unforeseen emergencies such as floods and fires. 21 CFR 1303.13(b). Based on that review, DEA is increasing the current d,l-amphetamine, d-amphetamine (for sale), hydromorphone, and methylphenidate (for sale) APQs.

**Analysis for the Adjustment to the 2026 d,l-Amphetamine and d-Amphetamine (for Sale) Aggregate Production Quota**

On August 14 and August 24, 2026, DEA received two requests from two DEA registered manufacturers of the schedule II controlled substance d,l-amphetamine for an increase to their 2026 individual manufacturing quota pertaining to d,l-amphetamine. On August 14, 2026, DEA also received a request from a DEA registered manufacturer of the schedule II controlled substance d-amphetamine for an increase to its 2026 individual manufacturing quota pertaining to d-amphetamine (for sale). DEA reviewed the FDA drug shortage list and found multiple manufacturers reported a domestic shortage of amphetamine mixed salts tablets. Some manufacturers cited ''shortage of an active ingredient'' as the reason identified for the domestic shortages. Pursuant to these requests, DEA began its review under the timeframes specified by 21 U.S.C. 826(h)(1).

DEA reviewed the data provided by FDA in July 2026 on the domestic medical use of d,l-amphetamine and d-amphetamine (for sale), as well as export data and inventory reports from both bulk and dosage manufacturers. FDA predicted the domestic medical need for d,l-amphetamine and d-amphetamine in 2026 will increase by 23.6 percent and 23.7 percent respectively when compared to the 2025 observed domestic medical need. DEA also reviewed the global consumption data from Multi International Data Analysis System (MIDAS). Extrapolation of the global sales of d,l-amphetamine and d-amphetamine predicts an increase of 4.36 percent and 4.07 percent respectively in 2026 when compared to 2025. While sufficient quota was granted to meet legitimate patient needs both domestically and globally, DEA has determined that due to the increase in domestic and global medical needs, an increase to the d,l-amphetamine and d-amphetamine (for sale) is necessary to allow for the adequate manufacturing of reserve stocks to start the next calendar year.

DEA also saw an increase in quota requests for product development activities by bulk and dosage form manufacturers of d,l-amphetamine and d-amphetamine (for sale) to synthesize engineering and validation batches to support the filing of new drug applications for FDA review. Year-to-date amounts approved for product development by bulk and dosage manufacturers have increased 173 percent for d,l-amphetamine and 32 percent for d-amphetamine (for sale) in 2026 when compared to 2025, respectively. DEA has determined that it is necessary to increase the 2026 d,l-amphetamine and d-amphetamine (for sale) APQs to allow for the maintenance of reserve stocks and increased product development needs after considering all estimated consumption data and projected product development needs.

**Analysis for the Adjustment to the 2026 Hydromorphone Aggregate Production Quota**

On July 24, 2026, DEA received a request from a DEA registered manufacturer of the schedule II controlled substance hydromorphone for an increase to its 2026 individual manufacturing quota pertaining to hydromorphone. DEA reviewed the FDA drug shortage list and found multiple manufacturers reported a domestic shortage of hydromorphone hydrochloride injectable products. The manufacturers cited ''demand increase for the drug or delay of manufacturing'' as the reasons identified for the domestic shortages. Pursuant to this request, DEA began its review under the timeframe specified by 21 U.S.C. 826(h)(1).

DEA reviewed the most recent domestic usage data from IQVIA, as well as data provided by the FDA on the domestic medical use of hydromorphone. FDA predicted the domestic medical need for hydromorphone in 2026 will increase by 20.9 percent compared to the 2025 observed medical need. DEA also reviewed export information provided by bulk manufacturers, export data from DEA's internal database, and global consumption data from MIDAS. Export data shows that the 2026 exports of hydromorphone will increase 142 percent when compared to 2025 because one bulk manufacturer is planning to significantly increase its export of hydromorphone in 2026. DEA has determined that an increase to the hydromorphone APQ is necessary to support the estimated increase in domestic medical need and projected new export requirements.

**Analysis for the Adjustment to the 2026 Methylphenidate (for Sale) Aggregate Production Quota**

On July 31, August 1, and August 20, 2026, DEA received requests from DEA registered manufacturers of the schedule II controlled substance methylphenidate for an increase to their 2026 individual manufacturing quota pertaining to methylphenidate (for sale). DEA reviewed the FDA drug shortage list and found multiple manufacturers reported a domestic shortage of methylphenidate tablets and film. The manufacturers cited ''demand increase for the drug'' or ''discontinuation of the manufacture of the drug'' as the reasons identified for their portion of the domestic shortages. Pursuant to these requests, DEA began its review under the timeframes specified by 21 U.S.C. 826(h)(1).

Following a review of domestic and export data, as well as inventory reports from both the bulk and dosage manufacturers, DEA has determined that an increase to the APQ of methylphenidate (for sale) is necessary to address the increasing global medical demand and to allow domestic manufacturers of FDA-approved methylphenidate drug products to replenish their inventories to levels authorized by DEA regulations. FDA predicted the domestic medical need for methylphenidate in 2026 will increase by 23.4 percent compared to the 2025 observed medical need. DEA also reviewed the methylphenidate export data from DEA's internal database, as well as global consumption data from MIDAS. Extrapolation of the sales data from MIDAS predicts global consumption will increase by 8.01 percent for methylphenidate drug products in 2026 when compared to 2025.

DEA also reviewed global production and consumption data of methylphenidate published in the 2025 Psychotropic Technical Report by the International Narcotics Control Board

(INCB).[2] The INCB reported the United States as the leading manufacturer of methylphenidate, and although the total manufacturing of methylphenidate was reported to be at the highest level since INCB began receiving data, the global stocks of methylphenidate decreased by 11 tons, from 91.6 tons in 2023 to 80.6 tons in 2024. After considering all the domestic and global data, DEA has determined that an increase to the 2026 methylphenidate (for sale) APQ is necessary to allow for the adjustment of reserve stocks to support the increasing global medical demand.

After considering the factors set forth in 21 CFR 1303.13(b) in accordance with 21 U.S.C. 826(a) as well as 826(h), DEA determined that it is necessary to increase the established 2026 APQs for the schedule II controlled substances d,l-amphetamine, d-amphetamine (for sale), hydromorphone, and methylphenidate (for sale) to be manufactured in the United States to provide for the estimated legitimate medical needs of the United States and export requirements to meet foreign demand. These adjustments are necessary to ensure that the United States has an adequate and uninterrupted supply of d,l-amphetamine, d-amphetamine (for sale), hydromorphone, and methylphenidate (for sale) to meet legitimate patient needs both domestically and globally.

**Additional Legal Considerations**

The procedures previously adopted by DEA for adjustment of APQ are set forth in DEA regulations in 21 CFR 1303.13. Under that provision, the Administrator, upon determining that an adjustment of the APQ of any basic class of controlled substance is necessary, shall publish in the **Federal Register** a general notice of an adjustment in the APQ for that class. The regulation further directs that DEA will allow any interested person to file comments or objections to the adjusted APQ within the time specified by the Administrator in the notice. Section 1303.13 further provides that, ''[a]fter consideration of any comments or objections . . . the Administrator shall issue and publish in the **Federal Register** his final order determining the APQ for the basic class of controlled substance.''

The statutory timeframe applicable to actions taken under 21 U.S.C. 826(h) was enacted by Congress after DEA established its regulations in 21 CFR 1303.13. DEA has determined that it is not possible to increase the APQ within the Congressionally-mandated 30-day period while also complying with the procedures that DEA previously laid out in 21 CFR 1303.13. Therefore, the Administrator has determined that, in order to comply with the 30-day timeframe in 21 U.S.C. 826(h), this final order must be published without opportunity for comment and made effective immediately.

**Determination of 2026 d,l-Amphetamine, d-Amphetamine (for Sale), Hydromorphone, and Methylphenidate (for Sale) Aggregate Production Quota**

In determining the adjustment of the 2026 d,l-amphetamine, d-amphetamine (for sale), hydromorphone, and methylphenidate (for sale) APQs, DEA has taken into consideration the factors set forth in 21 CFR 1303.13(b) in accordance with 21 U.S.C. 826(a) as well as 826(h). Based on all of the above, the Administrator is adjusting the 2026 APQs for d,l-amphetamine, d-amphetamine (for sale), hydromorphone, and methylphenidate (for sale).

The Administrator hereby adjusts the 2026 APQ for the following schedule II-controlled substances expressed in grams of anhydrous acid or base, as follows:

| Controlled substance | Current APQ (g) | Adjusted APQ (g) |
|---|---|---|
| **Schedule II** | | |
| d,l-amphetamine | 24,234,443 | 31,654,915 |
| d-amphetamine (for sale) | 26,450,000 | 37,108,041 |
| hydromorphone | 1,949,378 | 2,356,798 |
| methylphenidate (for sale) | 58,283,000 | 69,502,651 |

The APQ for all other schedule I and II controlled substances included in the 2026 established APQ remain at this time as previously established.[3]

**Signing Authority**

This document of the Drug Enforcement Administration was signed on November 4, 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. 2026–22842 Filed 11–9–26; 8:45 am]

**BILLING CODE 4410–09–P**

[2] INCB Psychotropics—Technical Report Psychotropic Substances 2025, Statistics for 2024, Assessments of Annual Medical Scientific Requirements for Substances for 2026.

[3] Established Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2026, 91 FR 287 (January 5, 2026).

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–1730P]**

## Proposed Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for the List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2027

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Notice with request for comments.

**SUMMARY:** The Drug Enforcement Administration (DEA) proposes to

establish the 2027 aggregate production quotas for controlled substances in schedules I and II of the Controlled Substances Act (CSA) and the assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine.

**DATES:** Interested persons may file written comments on this notice in accordance with 21 CFR 1303.11(c) and 1315.11(d). Electronic comments must be submitted, and written comments must be postmarked, on or before December 10, 2026. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

Based on comments received in response to this notice, the Administrator may hold a public hearing on one or more issues raised. In the event the Administrator decides in his sole discretion to hold such a hearing, the Administrator will publish a notice of any such hearing in the **Federal Register**. After consideration of any comments or objections, or after a hearing, if one is held, the Administrator will publish in the **Federal Register** a final order establishing the 2027 aggregate production quotas for schedule I and II controlled substances, and an assessment of annual needs for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine.

**ADDRESSES:** To ensure proper handling of comments, please reference ''Docket No. DEA–1730P'' on all correspondence, including any attachments. DEA encourages 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 *www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission, you will receive a Comment Tracking Number for your comment.

Please be aware that submitted comments are not instantaneously available for public view on *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. Paper comments that duplicate electronic submissions are not necessary and are discouraged. Should you wish to mail a paper comment *in lieu* of an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

**FOR FURTHER INFORMATION CONTACT:** Heather E. Achbach, Regulatory Drafting and Policy Support Section, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152, Telephone: (571) 776–3882.

**SUPPLEMENTARY INFORMATION:**

**Posting of Public Comments**

Please note that all comments received in response to this docket are considered part of the public record. They will, unless reasonable cause is given, be made available by the Drug Enforcement Administration (DEA) for public inspection online at *www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

The Freedom of Information Act applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be made publicly available, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment.

Comments containing personal identifying information or confidential business information identified and located as directed above will generally be made available in redacted form. If a comment contains so much confidential business information or personal identifying information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to *www.regulations.gov* may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document is available at *www.regulations.gov* for easy reference.

**Legal Authority**

Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish production quotas for each basic class of controlled substances listed in schedules I and II, and for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine. The Attorney General has delegated this function to the Administrator of DEA pursuant to 28 CFR 0.100.

**Analysis for Proposed 2027 Aggregate Production Quotas and Assessment of Annual Needs**

The proposed 2027 aggregate production quotas (APQ) and assessment of annual needs (AAN) represent those quantities of schedule I and II controlled substances, and the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, to be manufactured in the United States in 2027 to provide for the estimated medical, scientific, research, and industrial needs of the United States, lawful export requirements, and the establishment and maintenance of reserve stocks. These quotas include imports of ephedrine, pseudoephedrine, and phenylpropanolamine, but do not include imports of controlled substances for use in industrial processes.

*Aggregate Production Quotas*

In determining the proposed 2027 APQ, the Administrator has taken into account the criteria of 21 U.S.C. 826(a) and 21 CFR 1303.11, including the following seven factors:

(1) Total net disposal of the class by all manufacturers during the current and two preceding years;

(2) Trends in the national rate of net disposal of the class;

(3) Total actual (or estimated) inventories of the class and of all substances manufactured from the class, and trends in inventory accumulation;

(4) Projected demand for such class as indicated by procurement quotas requested pursuant to [21 CFR] 1303.12;

(5) The extent of any diversion of the controlled substance in the class;

(6) Relevant information obtained from the Department of Health and Human Services (HHS), including from the Food and Drug Administration (FDA), the Centers for Disease Control

and Prevention (CDC), and the Centers for Medicare and Medicaid Services (CMS), and relevant information obtained from the states; and

(7) Other factors affecting medical, scientific, research, and industrial needs in the United States and lawful export requirements, as the Administrator finds relevant, including changes in the currently accepted medical use in treatment with the class or the substances manufactured from it, the economic and physical availability of raw materials for use in manufacturing and for inventory purposes, yield and stability problems, potential disruptions to production (including possible labor strikes), and recent unforeseen emergencies such as floods and fires. 21 CFR 1303.11(b).

DEA formally solicited data from FDA and CDC in March of 2026 and from the states in April 2026, pursuant to 21 CFR part 1303. DEA did not solicit input from CMS for reasons discussed in previous notices.[1] DEA requested information on trends in the legitimate use of select schedule I and II controlled substances from FDA and rates of overdose deaths for covered controlled substances from CDC. DEA's request for information from the states was made directly to the Prescription Drug Monitoring Program (PDMP) Administrators in each state as well as through the National Association of State Controlled Substances Authorities (NASCSA).

*Assessment of Annual Needs*

In similar fashion, in determining the proposed 2027 AAN for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, the Administrator has taken into account the criteria of 21 U.S.C. 826(a) and 21 CFR 1315.11, including the following five factors:

(1) Total net disposal of the chemical by all manufacturers and importers during the current and two preceding years;

(2) Trends in the national rate of net disposal of each chemical;

(3) Total actual (or estimated) inventories of the chemical and of all substances manufactured from the chemical, and trends in inventory accumulation;

(4) Projected demand for each chemical as indicated by procurement and import quotas requested pursuant to [21 CFR] 1315.32; and

(5) Other factors affecting medical, scientific, research, and industrial needs in the United States, lawful export requirements, and the establishment and maintenance of reserve stocks, as the Administrator finds relevant, including changes in the currently accepted medical use in treatment with the chemicals or the substances manufactured from them, the economic and physical availability of raw materials for use in manufacturing and for inventory purposes, yield and stability problems, potential disruptions to production (including possible labor strikes), and recent unforeseen emergencies such as floods and fires. 21 CFR 1315.11(b).

In determining the proposed 2027 AAN, DEA used the calculation methodology previously described in the 2010 and 2011 assessments of annual needs (74 FR 60294 (Nov. 20, 2009) and 75 FR 79407 (Dec. 20, 2010), respectively).

*Projected Trends for Certain Schedule II Controlled Substances*

In accordance with 21 CFR part 1303, 21 U.S.C. 826, and 42 U.S.C. 242, HHS continues to provide DEA with estimates of the quantities of select schedule I and II controlled substances and three list I chemicals that will be required to meet the legitimate medical needs of the United States for a given calendar year. The responsibility to provide these estimates of legitimate domestic medical needs resides with FDA. FDA provides DEA with predicted estimates of domestic medical usage for selected controlled substances based on information available to them at a specific point in time in order to meet statutory requirements. In July 2026, FDA provided DEA with the predicted estimates of domestic medical usage for selected controlled substances for 2027, which DEA considered in developing the proposed 2027 APQ.

FDA predicts that levels of medical usage for schedule II opioids in the United States in calendar year 2027 will decline on average 9.68 percent from calendar year 2026 levels. These declines are expected to occur across a variety of schedule II opioids including fentanyl, hydrocodone, hydromorphone, oxycodone, and oxymorphone. DEA considered the potential for diversion of schedule II opioids, as required by 21 CFR 1303.11(b)(5), in developing the proposed 2027 APQ. Accordingly, the APQs for fentanyl, hydrocodone (for sale), hydromorphone, oxycodone (for sale), and oxymorphone (for sale) are being proposed as reductions from their 2026 proposed revised APQ values.

FDA also provided a predicted 3.93 percent increase on average of domestic medical use of schedule II stimulants in calendar year 2027, including d-amphetamine (for sale), d,l-amphetamine, lisdexamfetamine, and methylphenidate, which are prescribed to treat patients with attention deficit hyperactivity disorder (ADHD), from calendar year 2026 levels. FDA also raised concerns over drug shortages potentially related to the growth in telemedicine, supply chain issues, manufacturing and quality issues, and business decisions of manufacturers, which DEA considered in developing the proposed 2027 APQ. DEA recently proposed to increase the 2026 APQs for both lisdexamfetamine and methylphenidate (for sale) and is proposing the same increased values for 2027 in part to address these concerns.

DEA is proposing the 2027 APQs for the schedule II stimulants d,l-amphetamine and d-amphetamine (for sale) at higher levels than their 2026 proposed revised APQ values to address the growth in prescribing, export requirements, the global market, and to ensure sufficient inventory for domestic manufacturers of FDA-approved drug products. Medications containing one or both of these controlled substances are commonly prescribed to treat patients with ADHD. Over the past few years, dosage form manufacturers have been intermittently reporting shortages of specific ADHD medications containing amphetamine to FDA. The stated reasons for these specific shortages include increases in product demand, supply chain issues, manufacturing and quality issues, lack of active ingredients, and business decisions of manufacturers. FDA estimated a 3.90 percent increase in domestic medical usage individually for d-amphetamine (for sale) and d,l- amphetamine. DEA reviewed the most recently available domestic usage data from IQVIA and export data from DEA's internal database and Multi International Data Analysis System (MIDAS). The projection from this data estimated use for d-amphetamine (for sale) and d,l-amphetamine each increased by 6.98 percent. DEA also considered the manufacturers' reported inventories for amphetamine-based products and their drug shortage concerns when determining the proposed APQs for these substances. DEA believes the inventories, when combined with the proposed 2027 APQs, will be sufficient to support the estimated increases in

[1] Proposed Adjustments to the Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2020, 85 FR 54414 (Sept. 1, 2020) and Proposed Aggregate Production Quotas for Schedule I and II Controlled Substances and Assessment of Annual Needs for List I Chemicals Ephedrine, Pseudoephedrine, and Phenylpropanolamine for 2021, 85 FR 54407 (Sept. 1, 2020).

domestic medical use and export requirements of amphetamine products.

DEA is proposing the pentobarbital APQ at a higher level than the 2026 established APQ to support *Executive Order 14336:* Ensuring American Pharmaceutical Supply Chain Resilience by Filling the Strategic Active Pharmaceutical Ingredients Reserve. The 2027 proposed pentobarbital increase is greater than the 2026 proposed revised APQ to allow for a reserve stockpile of the API for manufacturing established essential medications containing pentobarbital based on the request from Administration for Strategic Preparedness and Response (ASPR).

*DEA Projected Trends for Certain Schedule I Controlled Substances*

On August 12, 2026, DEA published in the **Federal Register** a temporary scheduling order to place O-desmethyltramadol in schedule I of the CSA until August 12, 2028, or until a permanent schedule action of this substance is complete, whichever occurs first.[2] Therefore, DEA is proposing an APQ for this basic class for the first time. DEA is also proposing the 2027 APQs for acetyl fentanyl and heroin at lower levels than their 2026 proposed revised APQ based on the decline in the amount of quota requested to support medical, scientific, research, and industrial needs. These decreases in the APQs will not affect the ability of these manufacturers to meet the estimated medical, scientific, research, and industrial needs of the U.S., lawful export requirements, and the establishment and maintenance of reserve stocks.

DEA is proposing higher APQs than the 2026 proposed revised APQs for the following schedule I controlled substances: 3,4-Methylenedioxymethamphetamine (MDMA) and ibogaine to support manufacturing activities related to the increased level of research and clinical trials being conducted with these substances for potential treatment of conditions including post-traumatic stress disorder (PTSD) and depression. This increase in research and clinical trials aligns with two Presidential Executive Orders (E.O.). First, *E.O. 14379:* Addressing Addiction through the Great American Recovery Initiative,[3] which prioritizes addiction treatment and recovery. Second, *E.O. 14401:* Accelerating Medical Treatments for Serious Mental Illness,[4] which requires a pathway to be established for eligible patients to access psychedelic drugs, including ibogaine compounds, under the Right to Try Act (21 U.S.C. 360bbb–0a). Additionally, DEA is proposing a lower APQ than the 2026 proposed revised APQ for fentanyl-related substances based on the diminished needs of manufacturers who produce reference standards or support research.

*Information Received for Consideration of the Remaining Factors*

For the factors listed in 21 CFR 1303.11(b)(3) and (4), DEA registered manufacturers of controlled substances in schedules I and II provide information such as inventory, distribution, manufacturing, sales forecasts and quota requests to DEA database systems. *See,* 21 CFR 1303.12, 1303.22, and part 1304.

The regulation at 21 CFR 1303.11(b)(5) requires DEA to consider the extent of diversion of controlled substances.[5] Diversion is defined as all distribution, dispensing, or other use of controlled substances for other than legitimate medical purposes. In considering the extent of diversion, DEA analyzed reports of diversion of controlled substances from 2025 submitted to its Theft Loss Report database. This database is comprised of DEA registrant reports documenting diversion from the legitimate distribution chain, including employee thefts, break-ins, armed robberies, and material lost in transit. The data was categorized by basic drug class, and the amount of Active Pharmaceutical Ingredient (API) in the dosage form was delineated with an appropriate metric for use in proposing aggregate production quota values (*i.e.,* weight).

*Estimates of Diversion of Covered Controlled Substances*

In establishing any quota . . . , or any procurement quota established by [DEA] by regulation, for fentanyl, oxycodone, hydrocodone, oxymorphone, or hydromorphone (in this subsection referred to as a ''covered controlled substance''), [DEA] shall estimate the amount of diversion of the covered controlled substance that occurs in the United States.

21 U.S.C. 826(i)(1)(A).

In estimating diversion under that provision, DEA:

(i) shall consider information . . . , in consultation with the Secretary of Health and Human Services, [it] determines reliable on rates of overdose deaths and abuse and overall public health impact related to the covered controlled substance in the United States; and

(ii) may take into consideration whatever other sources of information [it] determines reliable.

21 U.S.C. 826(i)(1)(B).

The statute further mandates that DEA ''make appropriate quota reductions, as determined by [DEA], from the quota [it] would have otherwise established had such diversion not been considered.'' [6]

In estimating the amount of diversion of each covered controlled substance that occurs in the United States, DEA considered information from state PDMP Administrators and from legitimate distribution chain participants.

*Consideration of Information From Certain State PDMPs and From National Sales Data*

Pursuant to 21 CFR 1303.11(b)(6), DEA requested state PDMP data for the purpose of establishing its APQ. DEA believes state PDMPs to be an essential, reliable source of information for use in effectively estimating diversion of the five covered controlled substances. In April 2026, DEA sent a letter to NASCSA requesting its assistance in obtaining aggregated PDMP data for the five covered controlled substances from each state covering the years 2022–2025. The letter indicated that DEA was specifically interested in an analysis of prescription data from each state's PDMP that would assist DEA in estimating diversion and setting appropriate quotas in compliance with 21 U.S.C. 826(i). In its request, DEA provided specific questions, discussed in detail below, based on common indicia of potential diversion known as ''red flags'' by physicians, pharmacists, manufacturers, distributors, and federal and state regulatory and law enforcement agencies.[7] DEA investigators and administrative prosecutors also rely on Agency case law in which these red flags of diversion have been upheld as indicia of potential diversion.[8] Certain state regulations

[2] 91 FR 52013 (August 12, 2026).

[3] Addressing Addiction Through the Great American Recovery Initiative, Executive Order 14379 of January 29, 2026.

[4] Accelerating Medical Treatments for Serious Mental Illness, Executive Order 14401 of April 18, 2026.

[5] The estimates of diversion for five ''covered controlled substances'' as required by 21 U.S.C. 826(i) are discussed later in the document.

[6] 21 U.S.C. 826(i)(1)(C).

[7] National Association of Boards of Pharmacy (NABP) coalition consensus document ''Stakeholders' Challenges and Red Flag Warning Signs Related to Prescribing and Dispensing Controlled Substances'' (2015). www.nabp.pharmacy/resources/reports.

[8] The Medicine Shoppe, 79 FR 59504, 59507, 59512–13 (Oct. 2, 2014); Holiday CVS, L.L.C., d/b/

Continued

now include red flag circumstances as potential indicators of illegitimate prescriptions, and thus of potential abuse and diversion of controlled substances.[9] *See, e.g.,* The Pharmacy Place Order, 86 FR 21008, 21012 (Apr. 21, 2021) (citing 22 Tex. Admin. Code 291.29(c)(4), specifying the geographical distance between the practitioner and the patient or between the pharmacy and the patient as a red flag).

DEA requested responses from state PDMP Administrators by June 15, 2026. NASCSA disseminated DEA's request to its PDMP Administrators and provided them with a report tool to ensure that responses to DEA's questions were extracted consistently across all responsive states. Thirty-six states and two territories provided DEA with summarized PDMP data as of July 2026, utilizing the standardized report developed by NASCSA.[10] *See,* Table 1a below.

TABLE 1a—STATES/TERRITORIES THAT RESPONDED TO DEA'S DATA REQUEST

| State/territory |
|---|
| 1. Alabama |
| 2. Alaska |
| 3. Arkansas |
| 4. Connecticut |
| 5. Delaware |
| 6. Florida |
| 7. Idaho |
| 8. Illinois |
| 9. Indiana |
| 10. Iowa |
| 11. Kansas |
| 12. Louisiana |
| 13. Maine |
| 14. Maryland |
| 15. Massachusetts |
| 16. Michigan |
| 17. Minnesota |
| 18. Mississippi |
| 19. Missouri |
| 20. Montana |
| 21. Nevada |
| 22. New Jersey |
| 23. New Mexico |
| 24. New York |
| 25. North Carolina |
| 26. North Dakota |
| 27. Ohio |
| 28. Oklahoma |
| 29. Oregon |
| 30. Pennsylvania |
| 31. South Carolina |
| 32. South Dakota |
| 33. Texas |
| 34. Utah |
| 35. Vermont |
| 36. Virginia |
| 37. Puerto Rico |
| 38. Northern Mariana Islands |

Pharmacies are required by state law to enter controlled substance dispensing data into the state's PDMP database, including the prescriber's name, registered address and DEA number; prescription information (such as drug name); dispensing date; dosage dispensed; pharmacy registered address; and patient name and address. DEA considers PDMP data to be an accurate representation of dispensing activities in states. DEA received data for the following red-flag metrics:

- The total number of patients who saw three or more prescribers in a 90-day period and were dispensed an opioid following each visit. For this metric, DEA requested and was provided the number of prescriptions for the five covered controlled substances dispensed to these patients, as a percentage of the total prescriptions dispensed for that particular covered controlled substance, as well as the corresponding quantity of the covered controlled substance dispensed. This metric (patients being prescribed covered controlled substances from three or more prescribers in a 90-day period) is used to identify potential doctor shopping, a common technique to obtain a high number of controlled substances, which may lead to abuse or diversion of controlled substances. DEA has long considered doctor shopping to be an indicator of potential diversion.[11]
- The number of patients that were dispensed prescriptions for each of the five covered controlled substances that exceeded 240 morphine milligram equivalents (MME) daily. States provided the raw number of such prescriptions dispensed, the number of prescriptions as a percentage of the total covered controlled substance prescriptions dispensed, and the corresponding quantity of the covered controlled substance dispensed. DEA believes that accounting for quantities in excess of 240 MME daily allows for consideration of oncology patients with legitimate medical needs for covered controlled substance prescriptions with high MME. Higher dosages place individuals at higher risk of overdose and death. Prescriptions involving dosages exceeding 240 MME daily may indicate diversion, such as illegal distribution of controlled substances or prescribing outside the usual course of professional practice.
- The number of patients that paid cash for covered controlled substance prescriptions, without submitting for insurance reimbursement.[12] States also provided the number of prescriptions paid entirely with cash as a percentage of the total prescriptions for the five covered controlled substances dispensed, as well as the corresponding quantity of the covered controlled substances dispensed. When investigating potential diversion, cash payments are one element considered in identifying prescriptions filled for nonmedical purposes. Unusually high percentages of cash payments made to a prescriber or pharmacy for controlled substances may indicate diversion.[13]

DEA received PDMP data from the states in a standardized format that allowed DEA to aggregate the data. The PDMP data sample represents a population of approximately 213.76 million people, which is approximately 62 percent of the U.S. population. DEA believes this sample is sufficient to derive a reasonable nationwide estimate.

While PDMP data is useful in estimating diversion, it is not conclusive. Further investigation would be required before concluding that any of the subject prescriptions were actually diverted. DEA continues to evaluate its methodologies in estimating diversion in an effort to set quotas more efficiently. State participation is crucial to accurate data analysis, and DEA anticipates working closely with states, as well as other federal and state entities, in future quota determinations.

To calculate a national diversion estimate for each of the covered controlled substances from the responses received from state PDMP Administrators, DEA relied upon the number of individuals who received a prescription for a covered controlled substance that met any of the three red-flag metrics for each of calendar years 2022–2025. Using the population of the states responding to DEA's request, DEA

a CVS Pharmacy Nos. 219 and 5195, 77 FR 62316 (Oct. 12, 2012).

[9] The mere indicia of red flags alone is not proof of violation of 21 U.S.C. 824 or any other provision of the CSA. This rule discusses only their use by DEA as an analytical tool to estimate diversion.

[10] NASCSA formatted DEA's request into an analytics model developed by one of its associates, Appriss Inc.

[11] Frank's Corner Pharmacy, 60 FR 17574 (Apr. 6, 1995); Holiday CVS, L.L.C., d/b/a CVS Pharmacy Nos. 219 and 5195, 77 FR 62316 (Oct. 12, 2012).

[12] This total does not include insurance co-payments made with cash.

[13] Suntree Pharmacy and Suntree Medical Equipment, LLC, 85 FR 73753 (Nov. 19, 2020) (finding that the pharmacy filled prescriptions despite the presence of multiple unresolved red flags, including cash payments); Pharmacy Doctors Enterprises d/b/a Zion Clinic Pharmacy, 83 FR 10876 (Mar. 13, 2018) (revoking pharmacy's registration for filling prescriptions that raised the red flag of customers paying cash for their prescriptions, among other red flags).

then calculated the percentage of the population issued a prescription with a red flag. Using this estimated percentage for 2022–2025, DEA analyzed trends in the data to predict the estimated percentage of patients who would be expected to be included in these red-flag metrics for 2027.

DEA also reviewed aggregate sales data for each of the covered controlled substances, which it extracted from IQVIA's National Sales Perspective.[14] IQVIA sales data was selected to help quantify diversion at the national level because it reflects the best national estimate for all prescriptions written and filled, including the total quantity available for diversion or misuse. To predict the estimated national sales for 2027, DEA analyzed trends in IQVIA sales data from January 2021–April 2026.

To estimate diversion for each of the covered controlled substances, DEA multiplied the forecasted percentage of patients likely to receive a prescription for a covered controlled substance that meet any of the three red-flag metrics in 2027 by the forecasted sales data from IQVIA for 2027. The resulting estimate of diversion from data submitted by state PDMP Administrators is summarized below in Table 1b. This data contributed to the final diversion estimate set forth in Table 3.

TABLE 1b—DIVERSION ESTIMATES FOR 2027 BASED ON STATE PDMP DATA FOR COVERED CONTROLLED SUBSTANCES FOR 2025

| Controlled substance | (g) |
|---|---|
| Fentanyl | 46 |
| Hydrocodone | 126,636 |
| Hydromorphone | 595 |
| Oxycodone | 380,276 |
| Oxymorphone | 0 |

*Consideration of Registrant Reported Diversion in the Legitimate Distribution Chain*

DEA extracted data from its Theft Loss Report database and categorized it by each basic drug class. DEA calculated the estimated amount of diversion by multiplying the quantity of API in each finished dosage form by the total amount of units reported stolen or lost to estimate the metric weight in grams of the controlled substance being diverted. This estimate of diversion from the legitimate supply chain for each of the covered controlled substances is displayed in Table 2. This data contributed to the final diversion estimates set forth in Table 3.

TABLE 2—DIVERSION ESTIMATES BASED ON SUPPLY CHAIN DIVERSION DATA FOR COVERED CONTROLLED SUBSTANCES

| Controlled substance | (g) |
|---|---|
| Fentanyl | 162 |
| Hydrocodone | 9,213 |
| Hydromorphone | 582 |
| Oxycodone | 27,441 |
| Oxymorphone | 97 |

In accordance with 21 U.S.C. 826(i), DEA's estimate of diversion for the five controlled substances was calculated by combining the values in Tables 1b and 2.

TABLE 3—TOTAL ESTIMATES OF DIVERSION FOR COVERED CONTROLLED SUBSTANCES TO BE CONSIDERED IN THE 2027 APQS

| Controlled substance | (g) |
|---|---|
| Fentanyl | 208 |
| Hydrocodone | 135,849 |
| Hydromorphone | 1,177 |
| Oxycodone | 407,717 |
| Oxymorphone | 97 |

*Continuing Efforts to Anticipate and Prevent Drug Shortages*

DEA remains committed to monitoring drug shortages, limiting their impact, and resolving them as quickly as possible. DEA continues to seek additional information that will assist in accurately forecasting domestic medical usage and export requirements of schedule I or II substances. As documented in the 2026 established APQ **Federal Register** notice DEA began utilizing IQVIA's foreign (non-U.S.) sales tracking data module in February 2024, MIDAS, which provides valuable insight into the growing export markets for schedule II stimulants. In March 2025, DEA sent a letter requesting DEA-registered manufacturers and distributors to voluntarily switch their DEA ARCOS database reporting from a quarterly to monthly basis. As of July 14, 2026, 47% of all ARCOS reporting DEA-registered manufacturers, distributors and reverse distributors report to ARCOS monthly. DEA remains committed to ensuring that all patients with legitimate medical need can access appropriately prescribed medications.

*Quota Requirements for Controlled Substances in Schedule III of the Controlled Substances Act*

On April 28, 2026, the Acting Attorney General issued *Schedules of Controlled Substances: Rescheduling of Food and Drug Administration Approved Products Containing Marijuana From Schedule I to Schedule III; Corresponding Change to Permit Requirements* as a final rule which became effective on April 28, 2026.[15] This final rule places in schedule III drug products containing marijuana that have been approved by the FDA and drug products subject to a state medical marijuana license. The final rule assigned separate drug codes for schedule III marijuana in an FDA-approved product or subject to a state medical marijuana license, schedule III marijuana extract in an FDA-approved product or subject to a state medical marijuana license, and schedule III naturally-derived delta-9-tetrahydrocannabinols in an FDA-approved product or subject to a state medical marijuana license (drug codes 7362, 7353, 7386).

The final rule outlines several control measures required to satisfy the United States obligations under the Single Convention on Narcotic Drugs, 1961, as well as the CSA. Two related control measures of the Single Convention require: (1) manufacturers and distributors of drugs listed in Schedule I of the Convention, including marijuana, to be licensed (Articles 29 & 30); and (2) licensed manufacturers of drugs listed in Schedule I of the Convention obtain quotas specifying the amounts of such drugs they may manufacture to prevent excessive production and accumulation beyond that necessary to satisfy legitimate needs. (Articles 21 & 29). DEA is currently in the process of registering the manufacturers and distributors who will be handling the substances that have been moved to schedule III under the CSA as outlined in the final rule. Concurrently, DEA is assessing data sources and methodologies to determine the most reliable and relevant datasets for the estimation of the United States' legitimate need and production requirements for these 3 substances. Therefore, the APQ table below continues to reflect the APQs for the schedule I marijuana, marijuana extract, and delta-9-tetrahydrocananbinol (drug codes 7360, 7350, 7370) only. A separate notice will be published in the **Federal Register** once the proposed APQs for the schedule III substances

[14] DEA has purchased this data from IQVIA for decades and routinely uses this information to administer several regulatory functions, including the administration of DEA's quota program.

[15] 91 FR 22714 (April 28, 2026).

(drug codes 7362, 7353, 7386) are determined.

The Administrator, therefore, proposes to establish the 2027 APQ for certain schedule I and II controlled substances and AAN for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, expressed in grams of anhydrous acid or base, as follows:

| Basic class | Established 2027 quotas (g) |
|---|---|
| **Temporary Schedule I** | |
| 2-Fluorodeschloroketamine | 30 |
| 5-Methyl Etodesnitazene | 30 |
| Bromazolam | 30 |
| Ethyleneoxynitazene | 30 |
| Methylenedioxynitazene | 30 |
| N,N-Dimethylamino Etonitazene | 30 |
| N-Desethyl Etonitazene | 30 |
| N-Desethyl Protonitazene | 30 |
| N-Pyrrolidino Isotonitazene | 30 |
| O-Desmethyltramadol | 30 |
| **Schedule I** | |
| 1-[1-(2-Thienyl)cyclohexyl]pyrrolidine | 20 |
| 1-(1-Phenylcyclohexyl)pyrrolidine | 30 |
| 1-(2-Phenylethyl)-4-phenyl-4-acetoxypiperidine | 10 |
| 1-(4-Methoxyphenyl)-N-methylpropan-2-amine (Para-methoxymethamphetamine) | 30 |
| 1-(5-Fluoropentyl)-3-(1-naphthoyl) indole (AM2201) | 30 |
| 1-Benzylpiperazine | 25 |
| 1-Methyl-4-phenyl-4-propionoxypiperidine | 10 |
| 1-[1-(2-Thienyl)cyclohexyl]piperidine | 15 |
| 2'-Fluoro 2-fluorofentanyl | 30 |
| 2,5-Dimethoxy-4-Ethylamphetamine (DOET) | 25 |
| 2,5-Dimethoxy-4-(n)-Propylthiophenethylamine | 25 |
| 2,5-Dimethoxyamphetamine | 25 |
| 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (2C–P) | 30 |
| 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine (2C–E) | 30 |
| 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (2C–D) | 30 |
| 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (2C–N) | 30 |
| 2-(2,5-Dimethoxyphenyl)ethanamine (2C–H) | 100 |
| 2-(4-Bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B–NBOMe; 2C–B–NBOMe; 25B; Cimbi-36) | 30 |
| 2-(4-Chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C–NBOMe; 2C–C–NBOMe; 25C; Cimbi-82) | 25 |
| 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (2C–C) | 30 |
| 2-(4-Ethoxybenzyl)-5-Nitro-1-(2-(Piperidin-1-yl)Ethyl)-1H-Benzimidazole (N-Piperidinyl Etonitazene) | 30 |
| 2-(4-Iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I–NBOMe; 2C–I–NBOMe; 25I; Cimbi-5) | 30 |
| 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine (2C–I) | 30 |
| 2-(Ethylamino)-2-(3-Methoxyphenyl)Cyclohexan-1-One (Methoxetamine) | 30 |
| 2-Methyl AP–237 | 30 |
| 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–2) | 30 |
| 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (2C–T–4) | 30 |
| 3,4,5-Trimethoxyamphetamine | 30 |
| 3,4-Methylenedioxyamphetamine (MDA) | 12,000 |
| 3,4-Methylenedioxy-N-ethylamphetamine (MDEA) | 40 |
| 3,4-Methylenedioxy-N-methylcathinone (methylone) | 42,500 |
| 3,4-Methylenedioxymethamphetamine (MDMA) | 33,296 |
| 3,4-Methylenedioxypyrovalerone (MDPV) | 35 |
| 3–FMC; 3-Fluoro-N-methylcathinone | 25 |
| 3-Methoxyphencyclidine (1-(1-(3-Methoxyphenyl)cyclohexyl)piperidine) | 30 |
| 3-Methylfentanyl | 30 |
| 3-Methylthiofentanyl | 30 |
| 3-Methylmethcathinone | 30 |
| 4′-Methyl acetyl fentanyl | 30 |
| 4'-Methyl-alpha-pyrrolidinohexiophenone (MPHP) | 25 |
| 4,4′-Dimethylaminorex | 30 |
| 4-Bromo-2,5-dimethoxyamphetamine (DOB) | 30 |
| 4-Bromo-2,5-dimethoxyphenethylamine (2–CB) | 5,100 |
| 4-Chloro-alpha-pyrrolidinovalerophenone (4-chloro-alpha-PVP) | 25 |
| 4-Chloromethcathinone | 30 |
| 4–CN-Cumyl-Butinaca | 25 |
| 4-Fluoroamphetamine | 30 |
| 4-Fluoroisobutyryl fentanyl | 30 |
| 4–FMC; Flephedrone | 25 |
| 4–MEC; 4-Methyl-N-ethylcathinone | 25 |
| 4-Methoxyamphetamine | 150 |

| Basic class | Established 2027 quotas (g) |
|---|---|
| 4-Methyl-2,5-dimethoxyamphetamine (DOM) | 25 |
| 4-Methyl-alpha-ethylaminopentiophenone (4–MEAP) | 25 |
| 4-Methyl-alpha-pyrrolidinopropiophenone (4-MePPP) | 25 |
| 4-Methyl-N-methylcathinone (mephedrone) | 45 |
| 4-Methylaminorex | 25 |
| 4F–MDMB–BUTICA | 30 |
| 5-Fluoro-PB–22; 5F–PB–22 | 25 |
| 5-Fluoro-UR144, XLR11 ([1-(5-fluoro-pentyl)-1Hindol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone | 25 |
| 5-Methoxy-3,4-methylenedioxyamphetamine | 25 |
| 5-Methoxy-N,N-diisopropyltryptamine | 25 |
| 5-Methoxy-N,N-dimethyltryptamine | 30,000 |
| 5F–AB–PINACA ; (1-Amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide | 25 |
| 5F–ADB; 5F–MDMB–PINACA (methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate) | 25 |
| 5F–AMB (methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate) | 25 |
| 5F–APINACA; 5F–AKB48 (N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide) | 25 |
| 5F–CUMYL–P7AICA; 1-(5-Fluoropentyl)-N-(2-phenylpropan-2-yl)-1H-pyrrolo[2,3-b]pyridine-3carboximide | 25 |
| 5F–CUMYL–PINACA | 25 |
| 5F–EDMB–PICA | 30 |
| 5F–EDMB–PINACA | 25 |
| 5F–MDMB–PICA | 25 |
| A–PIHP; 4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one (alpha-PiHP) | 30 |
| AB–CHMINACA | 30 |
| AB–FUBINACA | 50 |
| AB–PINACA | 30 |
| Acetorphine | 25 |
| Acetyl Fentanyl | 30 |
| Acetyl-alpha-methylfentanyl | 30 |
| Acetyldihydrocodeine | 30 |
| Acetylmethadol | 25 |
| Acryl Fentanyl | 25 |
| ADB–4en–PINACA | 30 |
| ADB–BUTINACA | 30 |
| ADB–FUBINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide) | 30 |
| ADB–PINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide) | 50 |
| AH–7921 | 30 |
| All other tetrahydrocannabinol | 1,166,130 |
| Allylprodine | 25 |
| alpha-Ethyltryptamine | 25 |
| alpha-Methylfentanyl | 30 |
| alpha-Methylthiofentanyl | 30 |
| alpha-Methyltryptamine (AMT) | 25 |
| alpha-Pyrrolidinobutiophenone (α-PBP) | 25 |
| alpha-pyrrolidinoheptaphenone (PV8) | 25 |
| alpha-pyrrolidinohexabophenone (alpha-PHP) | 25 |
| alpha-Pyrrolidinopentiophenone (α-PVP) | 25 |
| Alphacetylmethadol | 25 |
| Alphameprodine | 25 |
| Alphamethadol | 25 |
| Amineptine | 30 |
| Aminorex | 25 |
| Anileridine | 20 |
| APINCA, AKB48 (N-(1-adamantyl)-1-pentyl-1H-indazole-3-carboxamide) | 25 |
| Benzethidine | 25 |
| Benzylmorphine | 30 |
| beta-Hydroxy-3-methylfentanyl | 30 |
| beta-Hydroxyfentanyl | 30 |
| beta-Hydroxythiofentanyl | 30 |
| beta-Methyl fentanyl | 30 |
| beta-Methylacetyl fentanyl | 30 |
| beta′-Phenyl fentanyl | 30 |
| Betacetylmethadol | 25 |
| Betameprodine | 25 |
| Betamethadol | 25 |
| Betaprodine | 25 |
| Brorphine | 30 |
| Bufotenine | 15 |
| Butonitazene | 30 |
| Butylone | 25 |
| Butyryl fentanyl | 30 |
| Cathinone | 40 |
| Cannabimimetic Agents | 620 |

| Basic class | Established 2027 quotas (g) |
|---|---|
| Clonazolam | 30 |
| Clonitazene | 25 |
| Codeine methylbromide | 30 |
| Codeine-N-oxide | 192 |
| Crotonyl Fentanyl | 25 |
| CUMYL–PEGACLONE | 30 |
| Cyclopentyl Fentanyl | 30 |
| Cyclopropyl Fentanyl | 20 |
| Cyprenorphine | 25 |
| delta-9-Tetrahydrocannabinol | 1,523,040 |
| Desomorphine | 25 |
| Dextromoramide | 25 |
| Diapromide | 20 |
| Diclazepam | 30 |
| Diethylthiambutene | 20 |
| Diethyltryptamine | 25 |
| Difenoxin | 9,300 |
| Dihydromorphine | 639,954 |
| Dimenoxadol | 25 |
| Dimepheptanol | 25 |
| Dimethylthiambutene | 20 |
| Dimethyltryptamine | 25,000 |
| Dioxyaphetyl butyrate | 25 |
| Dipentylone | 30 |
| Dipipanone | 25 |
| Drotebanol | 25 |
| Ethylmethylthiambutene | 25 |
| Ethylone | 25 |
| Ethylphenidate | 30 |
| Etizolam | 30 |
| Etodesnitazene | 30 |
| Etonitazene | 25 |
| Etorphine | 30 |
| Etoxeridine | 25 |
| Eutylone | 30 |
| Fenethylline | 30 |
| Fentanyl carbamate | 30 |
| Fentanyl related substances | 300 |
| Flualprazolam | 30 |
| Flubromazolam | 30 |
| Flunitazene | 30 |
| FUB–144 | 25 |
| FUB–AKB48 | 25 |
| FUB–AMB, MMB-Fubinaca, AMB-Fubinaca | 25 |
| Furanyl fentanyl | 30 |
| Furethidine | 25 |
| gamma-Hydroxybutyric acid | 49,675,266 |
| Heroin | 100 |
| Hexahydrocannabinol | 30 |
| Hydromorphinol | 40 |
| Hydroxypethidine | 25 |
| Ibogaine | 12,002 |
| Isobutyryl Fentanyl | 25 |
| Isotonitazine | 25 |
| JWH–018 and AM678 (1-Pentyl-3-(1-naphthoyl)indole) | 35 |
| Ketobemidone | 30 |
| Levomoramide | 25 |
| Levophenyacylmorphan | 25 |
| Lysergic acid diethylamide (LSD) | 1,200 |
| MAB–CHMINACA; ADB–CHMINACA (N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide) | 30 |
| Marijuana | 6,675,000 |
| Marijuana extract | 1,000,000 |
| MDMB–4EN–PINACA | 30 |
| MDMB–CHMICA; MMB–CHMINACA(methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate) | 30 |
| MDMB–FUBINACA (methyl 2-(1-(4-fluorobenzyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate) | 30 |
| Mecloqualone | 30 |
| Mescaline | 1,200 |
| Mesocarb | 30 |
| meta-Fluorofuranyl fentanyl | 30 |
| Methaqualone | 60 |

| Basic class | Established 2027 quotas (g) |
|---|---|
| Methcathinone | 25 |
| Methiopropamine | 30 |
| Methoxyacetyl fentanyl | 30 |
| Methyl 2-(1-(4-fluorobutyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (4F–MDMB–BINACA) | 30 |
| Methyldesorphine | 5 |
| Methyldihydromorphine | 25 |
| Metodesnitazene | 30 |
| Metonitazene | 30 |
| MMB–CHMICA; (AMB–CHIMCA); Methyl-2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3-methylbutanoate | 25 |
| MMB–FUBICA | 30 |
| Morpheridine | 25 |
| Morphine methylbromide | 5 |
| Morphine methylsulfonate | 5 |
| Morphine-N-oxide | 150 |
| MT–45 | 30 |
| Myrophine | 25 |
| N,N-Dimethylamphetamine | 25 |
| N-Ethyl-1-phenylcyclohexylamine | 25 |
| N-Desethyl Isotonitazene (N-Ethyl-2-(2-(4-isopropoxybenzyl)-5-nitro-1H- benzimidazol-1-yl)ethan-1-amine) | 30 |
| N-Ethyl-3-piperidyl benzilate | 10 |
| N-Ethylamphetamine | 24 |
| N-Ethylhexedrone | 25 |
| N-Ethylpentylone, ephylone | 30 |
| N-Hydroxy-3,4-methylenedioxyamphetamine | 24 |
| N-Methyl-3-piperidyl benzilate | 30 |
| N-Pyrrolidino Etonitazene | 30 |
| N-pyrrolidino metonitazene | 30 |
| N-pyrrolidino protonitazene | 30 |
| Naphyrone | 25 |
| Nicocodeine | 25 |
| Nicomorphine | 25 |
| NM2201: Naphthalen-1-yl 1-(5-fluorpentyl)-1H-indole-3-carboxylate | 25 |
| Noracymethadol | 25 |
| Norlevorphanol | 2,550 |
| Normethadone | 25 |
| Normorphine | 40 |
| Norpipanone | 25 |
| Ocfentanil | 25 |
| ortho-Chlorofentanyl | 30 |
| ortho-Fluoroacryl fentanyl | 30 |
| ortho-Fluorobutyryl fentanyl | 30 |
| ortho-Fluorofentanyl,2-Fluorofentanyl | 30 |
| ortho-Fluoroisobutyryl fentanyl | 30 |
| ortho-Methyl acetylfentanyl | 30 |
| ortho -Methylcyclopropylfentanyll | 30 |
| ortho-Methyl methoxyacetyl fentanyl | 30 |
| para-Chlorofentanyl | 30 |
| para-Chloroisobutyrl fentanyl | 30 |
| para-Flourobutyryl fentanyl | 25 |
| para-Fluorofentanyl | 25 |
| para-Fluoro furanyl fentanyl | 30 |
| para-Fluoro valeryl fentanyl | 30 |
| para-Methoxybutyrl fentanyl | 30 |
| para-Methylfentanyl | 30 |
| Parahexyl | 5 |
| PB–22; QUPIC | 20 |
| Pentedrone | 25 |
| Pentylone | 25 |
| Phenadoxone | 25 |
| Phenampromide | 25 |
| Phenomorphan | 25 |
| Phenoperidine | 25 |
| Phenyl fentanyl | 30 |
| Pholcodine | 5 |
| Piritramide | 25 |
| Proheptazine | 25 |
| Properidine | 25 |
| Propiram | 25 |
| Protonitazene | 30 |
| Psilocybin | 60,000 |
| Psilocyn | 93,600 |

| Basic class | Established 2027 quotas (g) |
|---|---|
| Racemoramide | 25 |
| Tetrahydrofuranyl fentanyl | 15 |
| Tetrahydrothiofuranyl fentanyl | 30 |
| Thebacon | 25 |
| Thiafentanil | 25 |
| Thiofentanyl | 25 |
| Thiofuranyl fentanyl | 30 |
| THJ–2201 ( [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl)methanone) | 30 |
| Tilidine | 25 |
| Trimeperidine | 25 |
| U–47700 | 30 |
| UR–144 (1-pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone | 25 |
| Valeryl fentanyl | 25 |
| Zipeprol | 30 |
| **Schedule II** | |
| 1-Phenylcyclohexylamine | 15 |
| 1-Piperidinocyclohexanecarbonitrile | 25 |
| 4-Anilino-N-phenethyl-4-piperidine (ANPP) | 937,874 |
| Alfentanil | 5,000 |
| Alphaprodine | 25 |
| Amobarbital | 20,100 |
| Bezitramide | 25 |
| Carfentanil | 20 |
| Cocaine | 60,492 |
| Codeine (for conversion) | 942,452 |
| Codeine (for sale) | 19,262,516 |
| d-Amphetamine (for conversion) | 41,392,071 |
| d-Amphetamine (for sale) | 38,486,179 |
| d-Methamphetamine (for conversion) | 485,020 |
| d-Methamphetamine (for sale) | 47,000 |
| d,l-Amphetamine | 32,902,638 |
| d,l-Methamphetamine | 150 |
| Dexmethylphenidate (for conversion) | 5,374,683 |
| Dexmethylphenidate (for sale) | 6,200,000 |
| Dextropropoxyphene | 35 |
| Dihydrocodeine | 115,227 |
| Dihydroetorphine | 25 |
| Diphenoxylate (for conversion) | 14,100 |
| Diphenoxylate (for sale) | 770,800 |
| Ecgonine | 60,492 |
| Ethylmorphine | 30 |
| Etorphine hydrochloride | 32 |
| Fentanyl | 731,028 |
| Glutethimide | 25 |
| Hydrocodone (for conversion) | 1,250 |
| Hydrocodone (for sale) | 26,842,228 |
| Hydromorphone | 2,355,621 |
| Isomethadone | 30 |
| l-Amphetamine | 30 |
| l-Methamphetamine | 587,229 |
| Levo-alphacetylmethadol (LAAM) | 25 |
| Levomethorphan | 30 |
| Levorphanol | 20,000 |
| Lisdexamfetamine | 62,832,521 |
| Meperidine | 681,184 |
| Meperidine Intermediate-A | 30 |
| Meperidine Intermediate-B | 30 |
| Meperidine Intermediate-C | 30 |
| Metazocine | 15 |
| Methadone (for sale) | 25,619,700 |
| Methadone Intermediate | 27,673,600 |
| Methylphenidate (for conversion) | 19,975,468 |
| Methylphenidate (for sale) | 69,502,651 |
| Metopon | 25 |
| Moramide-intermediate | 25 |
| Morphine (for conversion) | 2,393,200 |
| Morphine (for sale) | 23,000,000 |
| Nabilone | 62,000 |
| Norfentanyl | 25 |

| Basic class | Established 2027 quotas (g) |
|---|---|
| Noroxymorphone (for conversion) | 24,756,979 |
| Noroxymorphone (for sale) | 2,500 |
| Oliceridine | 25,100 |
| Opium (powder) | 250,000 |
| Opium (tincture) | 530,837 |
| Oripavine | 45,721.950 |
| Oxycodone (for conversion) | 437,827 |
| Oxycodone (for sale) | 49,829,934 |
| Oxymorphone (for conversion) | 31,773,105 |
| Oxymorphone (for sale) | 464,270 |
| Pentobarbital | 55,216,002 |
| Phenazocine | 25 |
| Phencyclidine | 35 |
| Phenmetrazine | 25 |
| Phenylacetone | 100 |
| Piminodine | 25 |
| Racemethorphan | 5 |
| Racemorphan | 5 |
| Remifentanil | 6,152 |
| Secobarbital | 172,100 |
| Sufentanil | 4,000 |
| Tapentadol | 10,390,226 |
| Thebaine | 57,137,944 |
| **List I Chemicals** | |
| Ephedrine (for conversion) | 41,100 |
| Ephedrine (for sale) | 3,933,336 |
| Phenylpropanolamine (for conversion) | 15,500,000 |
| Phenylpropanolamine (for sale) | 7,990,000 |
| Pseudoephedrine (for conversion) | 1,000 |
| Pseudoephedrine (for sale) | 186,617,466 |

The Administrator further proposes that the APQ for all other schedule I and II controlled substances included in 21 CFR 1308.11 and 1308.12 remain at zero.

These proposed 2027 quotas reflect the quantities that DEA believes are necessary to meet the estimated medical, scientific, research, and industrial needs of the United States, lawful export requirements; and the establishment and maintenance of reserve stocks.

In accordance with 21 CFR 1303.13 and 1315.13, upon consideration of the relevant factors, the Administrator may adjust the 2027 APQ and AAN as needed.

## Conclusion

After consideration of any comments or objections, or after a hearing, if one is held, the Administrator will issue and publish in the **Federal Register** a final order establishing the 2027 APQ for controlled substances in schedules I and II and establishing an AAN for the list I chemicals ephedrine, pseudoephedrine, and phenylpropanolamine, as directed by 21 CFR 1303.11(c) and 1315.11(f).

## Signing Authority

This document of the Drug Enforcement Administration was signed on November 3, 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. 2026–22843 Filed 11–9–26; 8:45 am]

**BILLING CODE P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–616 and 50–617; NRC–2026–0265]**

## SMR, LLC; Palisades SMR, LLC; Pioneer Units 1 and 2; Receipt of Construction Permit Application

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice; receipt.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is providing public notice of receipt and availability each week, for four consecutive weeks, beginning November 10, 2026, of the second part of a phased construction permit application, from SMR, LLC, on behalf of Palisades SMR, LLC, a wholly-owned subsidiary of Holtec International, for a dual-unit SMR–300 plant located at the Palisades Energy Center (PEC) in Covert, Michigan. The units are individually named Pioneer Unit 1 and Pioneer Unit 2. This is the first of four consecutive weekly notifications. The application for the construction permits was received on September 30, 2026.

**DATES:** November 10, 2026.

**ADDRESSES:** Please refer to Docket ID NRC–2026–0265 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–0265. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* Part 2 of the Pioneer Units 1 and 2 construction permit application is available in ADAMS under package Accession No. ML26273A416.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Michael Orenak, telephone: 301–415–3229; email: *Michael.Orenak@nrc.gov,* Victoria Huckabay, telephone: 301–415-5183; email: *Victoria.Huckabay@nrc.gov,* and Jason Lising, telephone 301–415–1119; email: *Jason.Lising@nrc.gov.* All are staff of the Office of Advanced Reactors at the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

## I. Discussion

On September 30, 2026, SMR, LLC, on behalf of Palisades SMR, LLC (Palisades SMR), a wholly-owned subsidiary of Holtec International, filed with the NRC, the second part (Part 2) of a phased construction permit application (CPA) for a utilization facility pursuant to Section 103 of the Atomic Energy Act and part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Production and Utilization Facilities.'' Part 2 of the application consists of a complete preliminary safety analysis report. Palisades SMR also provided an updated version of the Quality Assurance Topical Report that was previously approved by the NRC and is seeking review of these revisions. Part 2 also contains a set of exemption requests which address aspects of the CPA that require exemption from the existing rules. The general and financial information submitted with the Part 1 of the application is incorporated by reference into the Part 2 CPA.

Part 1 of the application was submitted on December 31, 2025, and consisted of a limited work authorization request pursuant to 10 CFR 50.10(d), ''Request for limited work authorization,'' three exemption requests, and a comprehensive environmental report. In Part 1, Palisade SMR was seeking NRC approval to conduct certain early construction activities of a dual-unit SMR–300 plant at the PEC in Covert, Michigan. In Part 2, Palisades SMR is seeking NRC approval to complete construction activities of the dual-unit SMR–300 plant site.

Palisades SMR submitted Part 2 of its application as part of a phased application approach for a construction permit for a utilization facility, as described in 10 CFR 2.101(a)(9) and 10 CFR 2.600(d).

The NRC staff is currently undertaking its acceptance review of the application. If the application is accepted for docketing, subsequent **Federal Register** notices will be issued that address the acceptability of the tendered construction permit application for docketing and provisions for participation of the public in the permitting process. These weekly notices of receipt and availability of the application are being provided in accordance with the requirements in 10 CFR 50.43(a)(3).

*Authority:* 42 U.S.C. 2011 *et seq.*

Dated: November 5, 2026.

For the Nuclear Regulatory Commission.

**Michelle Hayes, Chief,**

*Advanced Reactor Licensing Branch 2, Division of Advanced Reactor Licensing, Office of Advanced Reactors.*

[FR Doc. 2026–22884 Filed 11–9–26; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2026–0001]**

### Sunshine Act Meetings

**TIME AND DATE:** Weeks of November 9, 16, 23, 30, and December 7, 14, 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.

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 November 9, 2026**

*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.*

**Week of November 30, 2026—Tentative**

*There are no meetings scheduled for the week of November 30, 2026.*

**Week of December 7, 2026—Tentative**

*There are no meetings scheduled for the week of December 7, 2026.*

**Week of December 14, 2026—Tentative**

*Tuesday, December 15, 2026*

10:00 a.m. Briefing on Equal Employment Opportunity, Affirmative Employment, and Small Business (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/.*

**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: November 5, 2026.

For the Nuclear Regulatory Commission.

**Wesley W. Held,**

*Policy Coordinator,Office of the Secretary.*

[FR Doc. 2026–22858 Filed 11–6–26; 11:15 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2026–5281]**

## Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Biweekly notice.

**SUMMARY:** Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding the pendency before the Commission of a request for a hearing from any person.

**DATES:** Comments must be filed by December 10, 2026. A request for a hearing or petitions for leave to intervene must be filed by January 11, 2027. This biweekly notice includes all amendments issued, or proposed to be issued, from October 13, 2026, to October 26, 2026. The last biweekly notice was published on October 27, 2026.

**ADDRESSES:** You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- Federal rulemaking website: Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–5281. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Nuclear Material Safety and Safeguards, Mail Stop: TWFN–5–A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Guidance and Publications Branch.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2242; email: *Paula.Blechman@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2026–5281, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–5281.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- NRC's PDR: The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

*B. Submitting Comments*

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2026–5281, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

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

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

### II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown in this notice, the Commission finds that the licensees' analyses provided, consistent with section 50.91 of title 10 of *the Code of Federal Regulations* (10 CFR) ''Notice for public comment; State consultation,'' are sufficient to support the proposed determinations that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on these proposed

determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take action on any amendment before 60 days have elapsed will occur very infrequently.

*A. Opportunity To Request a Hearing and Petition for Leave To Intervene*

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration, which will serve to establish when the hearing is held. If the final determination is that the license amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the license amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and the NRC's public website(*https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate*).

*B. Electronic Submissions (E-Filing)*

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056), and on the NRC's public website (*https://www.nrc.gov/site-help/e-submittals.html*).

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to: (1) request a digital identification (ID) certificate, which allows the participant (or their counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or their counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website (*https://www.nrc.gov/site-help/e-submittals/getting-started.html*). After a digital ID certificate is obtained and a docket is created, the participant must submit adjudicatory documents in the Portable Document Format. Guidance on submissions is available on the NRC's public website (*https://www.nrc.gov/site-help/electronic-sub-ref-mat.html*). A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed in order to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website (*https://www.nrc.gov/site-help/e-submittals.html*), by email to

*MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available on the NRC's public website (*https://ehd.nrc.gov*), unless otherwise excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The following table provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensees' proposed NSHC determinations. For further details with respect to these license amendment applications, see the applications for amendment, which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT REQUEST(S)

| | |
|---|---|
| **Constellation Energy Generation, LLC; Limerick Generating Station, Unit 2; Montgomery County, PA** | |
| Docket No | 50–353. |
| Application date | July 24, 2026, as supplemented by letter dated September 4, 2026. |
| ADAMS Accession No | ML26205A107, ML26247A213. |
| Location in Application of NSHC | Pages 16–18 of Attachment 1. |
| Brief Description of Amendment | The proposed amendment would revise the operating license and technical specifications to allow a one-time extension to the due date for local leakage rate testing requirements for certain valves. |
| Proposed Determination | NSHC. |
| Name of Attorney for Licensee, Mailing Address | Jason Zorn, Associate General Counsel, Constellation Energy Generation, LLC, 101 Constitution Ave. NW, Suite 400 East, Washington, DC 20001. |
| NRC Project Manager, Telephone Number | Audrey Klett, 301–415–0489. |
| **Duke Energy Progress, LLC; Shearon Harris Nuclear Power Plant, Unit 1; Wake and Chatham Counties, NC** | |
| Docket No | 50–400. |
| Application date | August 14, 2026. |
| ADAMS Accession No | ML26225A421. |
| Location in Application of NSHC | Pages 7–9 of the Enclosure. |
| Brief Description of Amendment | The proposed amendment would modify the technical specifications (TSs) for the Shearon Harris Nuclear Power Plant, Unit 1, to provide an alternative monitoring option for a condition in which one digital rod position indicator per bank is inoperable. The alternative monitoring option would allow rod position verification to be performed based on the occurrence of rod movement or power level change, consistent with a proposed change within Technical Specification Task Force (TSTF) Traveler TSTF–547, Revision 1. |
| Proposed Determination | NSHC. |
| Name of Attorney for Licensee, Mailing Address | Tracey Mitchell LeRoy, Deputy General Counsel, Duke Energy Corporation, 525 S Tryon Street, Charlotte, NC 28202. |
| NRC Project Manager, Telephone Number | Robert Fisher, 301–415–6328. |
| **Northern States Power Company; Monticello Nuclear Generating Plant; Wright County, MN** | |
| Docket No | 50–263. |
| Application date | August 17, 2026. |
| ADAMS Accession No | ML26238A216. |
| Location in Application of NSHC | Pages 6–8 of the Enclosure. |

LICENSE AMENDMENT REQUEST(S)—Continued

| | |
|---|---|
| Brief Description of Amendment | The proposed amendment would adopt Technical Specifications Task Force (TSTF) Traveler TSTF–596, ''Expand the Applicability of the Surveillance Frequency Control Program (SFCP).'' TSTF–596 expands the applicability of the SFCP to include other periodic testing frequencies in technical specifications. The proposed change would also revise the SFCP to reference additional regulatory mechanisms that may be used to control surveillance frequencies, such as 10 CFR 50.55a and 10 CFR 50.69. The proposed change revises surveillance requirements that reference the Inservice Testing Program to instead reference the SFCP. |
| Proposed Determination | NSHC. |
| Name of Attorney for Licensee, Mailing Address | Andrew Van Duzer, Assistant General Counsel, Xcel Energy, 701 Pennsylvania Ave. NW, Suite 250, Washington, DC 20004. |
| NRC Project Manager, Telephone Number | Ramon Gascot Lozada, 301–415–2004. |

**Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2; San Luis Obispo County, CA**

| | |
|---|---|
| Docket Nos | 50–275, 50–323. |
| Application date | September 22, 2026. |
| ADAMS Accession No | ML26266A129. |
| Location in Application of NSHC | Pages 1–3 of the Enclosure. |
| Brief Description of Amendments | The proposed amendments would revise the Ventilation Filter Testing Program technical specifications to permit the use of alternate challenge agents when testing filters and charcoal adsorber beds, based on Technical Specifications Task Force (TSTF) Traveler TSTF–602, Revision 0, ''Revise the Ventilation Filter Testing Program to Permit Alternate Challenge Agents.'' |
| Proposed Determination | NSHC. |
| Name of Attorney for Licensee, Mailing Address | Kavita Vaidyanathan, Esq., Pacific Gas and Electric Co., 555 12th Street NW, Suite 1225, Washington, DC 20004. |
| NRC Project Manager, Telephone Number | Samson Lee, 301–415–3168. |

**Southern Nuclear Operating Company, Inc.; Joseph M. Farley Nuclear Plant, Units 1 and 2; Houston County, AL; Southern Nuclear Operating Company, Inc.; Vogtle Electric Generating Plant, Units 1 and 2; Burke County, GA**

| | |
|---|---|
| Docket Nos | 50–348, 50–364, 50–424, 50–425. |
| Application date | September 11, 2026. |
| ADAMS Accession No | ML26254A331. |
| Location in Application of NSHC | Pages E35–E37 of the Enclosure. |
| Brief Description of Amendments | The proposed amendments would modify the Joseph M. Farley Nuclear Plant, Units 1 and 2, (Farley) and Vogtle Electric Generating Plant, Units 1 and 2 (Vogtle), Renewed Facility Operating Licenses and technical specifications (TSs). Specifically, the proposed license amendments would revise the Risk Informed Completion Time (RICT) Program descriptions in the Farley and Vogtle TSs to align with Technical Specifications Task Force (TSTF) Travelers TSTF–505, Revision 2, ''Provide Risk-Informed Extended Completion Times—RITSTF Initiative 4b'' and TSTF–591, ''Revise Risk Informed Completion Time (RICT) Program.'' In addition to revising the RICT Program descriptions, the proposed license amendments include related changes to select TSs that address conditions representing a loss of function as defined by the TSs. These changes include conforming revisions that align affected TSs with the Standard TSs and applicable TSTF traveler provisions, as well as revisions to certain TS required actions that remove embedded shutdown logic and explicitly direct entry into Limiting Condition for Operation 3.0.3. The proposed amendments also removes RICT-related license conditions associated with the original approval and implementation of the RICT Programs at Farley and Vogtle. |
| Proposed Determination | NSHC. |
| Name of Attorney for Licensee, Mailing Address | Leslie G. Allen, Vice President and General Counsel, Southern Nuclear Operating Co., Inc., P.O. Box 1295, Birmingham, AL 35201–1295. |
| NRC Project Manager, Telephone Number | Zachary Turner, 415–6303. |

**Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 1, 2, and 3; Limestone County, AL; Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Hamilton County, TN; Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN**

| | |
|---|---|
| Docket Nos | 50–259, 50–260, 50–296, 50–327, 50–328, 50–390 50–391. |
| Application date | September 24, 2026. |
| ADAMS Accession No | ML26271A052. |
| Location in Application of NSHC | Pages E1–4—E1–6 of Enclosure 1. |

LICENSE AMENDMENT REQUEST(S)—Continued

| | |
|---|---|
| Brief Description of Amendments | The proposed amendments would revise the emergency plans for Browns Ferry Nuclear Plant, Units 1, 2, and 3, and its generally licensed independent spent fuel storage installation (ISFSI); Sequoyah Nuclear Plant, Units 1 and 2, and its generally licensed ISFSI; and Watts Bar Nuclear Plant, Units 1 and 2, and its generally licensed ISFSI, to adopt the Nuclear Energy Institute's (NEI's) revised Emergency Action Level schemes described in NEI 99–01, ''Development of Emergency Action Levels for Non-Passive Reactors,'' Revision 7. |
| Proposed Determination | NSHC. |
| Name of Attorney for Licensee, Mailing Address | Edward C. Meade, (Interim) Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A, Knoxville, TN 37902. |
| NRC Project Manager, Telephone Number | Kimberly Green, 301–415–1627. |

**Union Electric Company; Callaway Plant, Unit No. 1; Callaway County, MO**

| | |
|---|---|
| Docket No | 50–483. |
| Application date | September 15, 2026. |
| ADAMS Accession No | ML26258A308 (package). |
| Location in Application of NSHC | Pages 4–6 of the Enclosure. |
| Brief Description of Amendment | The proposed amendment would revise the Callaway Plant, Unit No. 1 (Callaway) technical specifications (TSs) to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–547, ''Clarification of Rod Position Requirements,'' which is an approved change to the Standard Technical Specifications, into the Callaway TSs. The TSs related to rod position requirements are revised based on operating history. The amendment would revise the requirements on control and shutdown rods, as well as rod and bank position indication. |
| Proposed Determination | NSHC. |
| Name of Attorney for Licensee, Mailing Address | Jay E. Silberg, Pillsbury Winthrop Shaw Pittman, LLP, 1200 17th St. NW, Washington, DC 20036. |
| NRC Project Manager, Telephone Number | Mahesh Chawla, 301–415–8371. |

## III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, were published in the **Federal Register** as indicated in the safety evaluation for each amendment.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to each action, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the following table. The safety evaluation will provide the ADAMS accession numbers for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT ISSUANCE(S)

**Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3; Oconee County, SC; Duke Energy Progress, LLC; Shearon Harris Nuclear Power Plant, Unit 1; Wake and Chatham Counties, NC**

| | |
|---|---|
| Docket Nos | 50–269, 50–270, 50–287, 50–400. |
| Amendment Date | October 16, 2026. |
| ADAMS Accession No | ML26274A022. |
| Amendment Nos | Shearon Harris Unit 1–205; Oconee Units 1, 2, and 3–436, 438, and 437. |

LICENSE AMENDMENT ISSUANCE(S)—Continued

| | |
|---|---|
| Brief Description of Amendments | The amendments modified the Shearon Harris Nuclear Power Plant, Unit 1, and Oconee Nuclear Station, Units 1, 2, and 3 technical specifications (TSs) to allow the use of online monitoring (OLM) methodology for determining the calibration frequency of pressure, level, and flow transmitters. The amendments revised the TS definitions related to channel calibration and added a new administrative program for OLM, thereby transitioning from time-based to condition-based calibration frequencies for affected transmitters. These changes also clarified the scope of transmitters subject to OLM and the associated programmatic controls for calibration activities and dynamic response assessments using noise analysis techniques. |
| Public Comments Received as to Proposed NSHC (Yes/No) | No. |

**Entergy Louisiana, LLC, and Entergy Operations, Inc.; River Bend Station, Unit 1; West Feliciana Parish, LA; Entergy Operations, Inc., System Energy Resources, Inc., Cooperative Energy, A Mississippi Electric Cooperative, and Entergy Mississippi, LLC; Grand Gulf Nuclear Station, Unit 1; Claiborne County, MS; Entergy Operations, Inc.; Arkansas Nuclear One, Unit 2; Pope County, AR; Entergy Operations, Inc.; Waterford Steam Electric Station, Unit 3; St. Charles Parish, LA**

| | |
|---|---|
| Docket Nos | 50–368, 50–382, 50–416, 50–458. |
| Amendment Date | October 15, 2026. |
| ADAMS Accession No | ML26233A078. |
| Amendment Nos | 342 (Arkansas, Unit 2), 243 (Grand Gulf), 223 (River Bend), and 281 (Waterford 3). |
| Brief Description of Amendments | The amendments revised the technical specifications for Arkansas Nuclear One, Unit 2; Grand Gulf Nuclear Station, Unit 1; River Bend Station, Unit 1; and Waterford Steam Electric Station, Unit 3, based on Technical Specifications Task Force (TSTF) Traveler TSTF–599, Revision 1, ''Eliminate Periodic Surveillance Test of Simultaneous Start of Redundant Diesel Generators'' (ML25093A204), and the associated NRC staff final safety evaluation of Traveler TSTF–599 (ML25119A288). |
| Public Comments Received as to Proposed NSHC (Yes/No) | No. |

**Florida Power & Light Company; St. Lucie Plant, Unit No. 1; St. Lucie County, FL**

| | |
|---|---|
| Docket No | 50–335. |
| Amendment Date | October 6, 2026. |
| ADAMS Accession No | ML26266A218. |
| Amendment No | 260. |
| Brief Description of Amendment | The amendment revised the St. Lucie Plant, Unit No. 1, Technical Specification 5.6.3, ''Core Operating Limits Report,'' to update the listing of NRC-approved analytical methods used to determine the core operating limits. Specifically, the amendment requested changes to the fuel thermal-mechanics, core thermal-hydraulics, emergency core cooling, nuclear design, and select design basis event analyses using NRC-approved advanced codes and methods in support of a St. Lucie Plant, Unit No. 1, transition to 24-month fuel cycles. |
| Public Comments Received as to Proposed NSHC (Yes/No) | No. |

**Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2; San Luis Obispo County, CA**

| | |
|---|---|
| Docket No(s) | 50–275, 50–323. |
| Amendment Date | October 15, 2026. |
| ADAMS Accession No | ML26279A207. |
| Amendment No(s) | 264 (Unit 1) and 266 (Unit 2). |
| Brief Description of Amendment(s) | The amendments revised the license condition associated with the adoption of 10 CFR 50.69, ''Risk-informed categorization and treatment of structures, systems and components for nuclear power reactors,'' that was added to the operating licenses upon issuance of Amendments 247 and 249. Specifically, the revision incorporated use of the Electric Power Research Institute Technical Report No. 3002033536, ''Enhanced Risk-Informed Categorization Methodology for Pressure Boundary Components (Revision 1–A).'' |
| Public Comments Received as to Proposed NSHC (Yes/No) | No. |

**PSEG Nuclear LLC; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Salem County, NJ**

| | |
|---|---|
| Docket Nos | 50–272, 50–311. |
| Amendment Date | October 19, 2026. |
| ADAMS Accession No | ML26273A335. |
| Amendment Nos | 358 (Unit 1) and 340 (Unit 2). |

LICENSE AMENDMENT ISSUANCE(S)—Continued

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|---|---|
| Brief Description of Amendments | The amendments allowed the licensee to use a data validation and reconciliation methodology as the primary means of measurement uncertainty recapture at Salem Nuclear Generating Station (Salem), Unit Nos. 1 and 2. The amendments also removed a methodology from the technical specifications for Salem, Unit Nos. 1 and 2. |
| Public Comments Received as to Proposed NSHC (Yes/No) | No. |
| **STP Nuclear Operating Company; South Texas Project, Units 1 and 2; Matagorda County, TX** | |
| Docket Nos | 50–498, 50–499. |
| Amendment Date | October 15, 2026. |
| ADAMS Accession No | ML26264A276. |
| Amendment Nos | 229 (Unit 1) and 213 (Unit 2). |
| Brief Description of Amendments | The amendments revised Technical Specification (TS) 3.0.3, ''Limiting Condition for Operation 3.0.3,'' to require a risk assessment and risk management actions whenever the specification was entered. The amendments changed the shutdown timing framework so that, if continuing operation was acceptable and the required actions were met, shutdown could be initiated within 24 hours; otherwise, shutdown was required immediately or within shorter mode-change time limits. The amendments also revised selected required actions in TS 3.7.1.5, ''Main Steam Line Isolation Valves,'' and TS 3.8.2.1, ''DC Sources—Operating,'' to direct plant shutdown actions instead of entry into TS 3.0.3. |
| Public Comments Received as to Proposed NSHC (Yes/No) | No. |
| **Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX** | |
| Docket Nos | 50–445 (Unit 1) and 50–446 (Unit 2). |
| Amendment Date | September 29, 2026. |
| ADAMS Accession No | ML26255A070. |
| Amendment Nos | 200 (Unit 1) and 200 (Unit 2). |
| Brief Description of Amendments | The amendments revised the technical specifications (TSs) to adopt NRC-approved Technical Specifications Task Force (TSTF) Traveler TSTF–602, Revision 0, ''Revise the Ventilation Filter Testing Program to Permit Alternate Challenge Agents,'' which was approved by the NRC by letter dated December 11, 2025 (ML25343A362 (package)). The amendments revised the Ventilation Filter Testing Program TS to permit the use of alternate challenge agents when testing filters and charcoal adsorber beds. |
| Public Comments Received as to Proposed NSHC (Yes/No) | No. |
| **Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Coffey County, KS** | |
| Docket No | 50–482. |
| Amendment Date | October 19, 2026. |
| ADAMS Accession No. | ML26251A034. |
| Amendment No. | 250. |
| Brief Description of Amendment | The amendment revised technical specification requirements for unavailable barriers by adding Limiting Condition for Operation 3.0.9. The changes are consistent with NRC-approved Technical Specifications Task Force (TSTF) Standard Technical Specification Change Traveler, TSTF–427–A, Revision 2, ''Allowance for Non Technical Specification Barrier Degradation on Supported System OPERABILITY.'' |
| Public Comments Received as to Proposed NSHC (Yes/No) | No. |

## IV. Notice of Issuance of Amendment to Facility Operating Licenses and Combined Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Circumstances or Emergency Situation)

Since publication of the last biweekly notice, the Commission has issued the following amendment. The Commission has determined for this amendment that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

Because of exigent circumstances or emergency situation associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual notice of consideration of issuance of amendment, proposed NSHC determination, and opportunity for a hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of NSHC. The Commission has provided a reasonable opportunity for the public

to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level (an emergency situation), the Commission may not have had an opportunity to provide for public comment on its NSHC determination. In such case, the license amendment has been issued without opportunity for comment prior to issuance. Nonetheless, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that NSHC is involved. The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendments involve NSHC. The basis for this determination is contained in the NRC staff safety evaluation related to each action. Accordingly, the amendment has been issued and made effective as indicated.

For those amendments that have not been previously noticed in the **Federal Register**, within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the guidance concerning the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2 as discussed in section II.A of this document.

Unless otherwise indicated, the Commission has determined that the amendment satisfies the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for this amendment. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to these actions, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the following table. The safety evaluation will provide the ADAMS accession number for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT ISSUANCE—EXIGENT CIRCUMSTANCES

| Constellation Energy Generation, LLC; Peach Bottom Atomic Power Station, Unit 2; York County, PA | |
|---|---|
| Docket No | 50–277. |
| Amendment Date | October 09, 2026. |
| ADAMS Accession No | ML26275A169. |
| Amendment No | 349. |
| Brief Description of Amendment | The amendment revised the definition of ''Drain Time'' in section 1.1 of the technical specifications by deleting the phrase, ''(e.g., seismic event, loss of normal power, single human error)'' from item b in the definition. The amendment also replaced the phrase ''locked, sealed, or otherwise secured'' with ''closed and administratively controlled'' in item b of the drain time definition. |
| Local Media Notice (Yes/No) | Yes. |
| Public Comments Requested as to Proposed NSHC (Yes/No) | Yes. |

*Authority:* 42 U.S.C. 2011 *et seq.*

Dated: November 4, 2026.

For the Nuclear Regulatory Commission.

**Ilka Berrios,**

*Chief, Operating Reactor Licensing Branch 3, Division of Licensing Projects I, Office of Nuclear Reactor Regulation.*

[FR Doc. 2026–22882 Filed 11–9–26; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2026–0001]**

### Sunshine Act Meetings

**TIME AND DATE:** Week of November 2, 2026.

**PLACE:** Via Teleconference.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

**Week of November 2, 2026**

*Friday, November 6, 2026*

1:30 p.m. Affirmation Session (Public Meeting) (Tentative) Long Mott Energy, LLC (Long Mott Generating Station); Appeal of Board Decisions Resulting in Termination of Proceeding (Tentative) (Contact: Wesley Held: 301–287–3591)

**ADDITIONAL INFORMATION:** By a vote of 5–0 on November 5, 2026, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and 10 CFR 9.107 this item be affirmed with less than one week notice to the public. This item will be affirmed in the meeting being held on November 6, 2026. The public is invited to attend the Commission's meeting live; via teleconference. Details for joining the teleconference in listen only mode can be found at *https://www.nrc.gov/pmns/mtg.*

**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 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.*

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.

Members of the public may request to receive this information 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.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: November 6, 2026.

For the Nuclear Regulatory Commission.

**Wesley W. Held,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2026–22869 Filed 11–6–26; 11:15 am]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

### Deregistration Under Section 8(f) of the Investment Company Act of 1940; Correction

**AGENCY:** Securities and Exchange Commission (''Commission'' or ''SEC'').

**ACTION:** Notice; correction.

**SUMMARY:** The SEC published a document in the **Federal Register** on November 4, 2026, concerning notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of October 2026. The document contained an incorrect address for Polen Credit Opportunities Fund.

**FOR FURTHER INFORMATION CONTACT:** Adam Large, Senior Special Counsel at (202) 551–6720 or *IMOCC@sec.gov* (Division of Investment Management, Chief Counsel's Office), 100 F Street NE, Washington, DC 20549–8010.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** on November 4, 2026, in FR Doc. 2026–22449, on page 69606, in the second column, correct the Polen Credit Opportunities Fund [File Number 811–23860] ''Applicant's Address'' caption to read:

*Applicant's Address:* 103 Bellevue Parkway, Wilmington, Delaware 19809.

Dated: November 6, 2026.

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2026–22885 Filed 11–9–26; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–106829; File No. SR–CboeBYX–2026–014]**

### Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Rule 11.25 To Introduce an Optional, Contingent Instruction Applicable to Periodic Auction Only Orders, Introduce a Time-in-Force of Auction or Cancel, and Make Conforming Changes to Its Periodic Auction Processing Behavior To Support the Proposed Contingent Instruction

November 5, 2026.

On April 28, 2026, Cboe BYX Exchange, Inc. (''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change to introduce an optional, Contingent Instruction applicable to Periodic Auction Only Orders, introduce a time-in-force of Auction or Cancel, and make conforming changes to its Periodic Auction processing behavior to support the proposed Contingent Instruction. The proposed rule change was published for comment in the **Federal Register** on May 14, 2026.[4] On June 18, 2026, pursuant to Section 19(b)(2)(A)(ii)(I) of the Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change.[6] The Commission has not received any comments on the proposal. On August 6, 2026, the Exchange filed Amendment No. 1 to the proposed rule change, which replaced and superseded the original filing in its entirety. On August 11, 2026 the Commission published Amendment No. 1 for comment and instituted proceedings under Section 19(b)(2)(B) of the Act [7] to determine whether to approve or disapprove the proposed rule change, as modified and superseded by Amendment No. 1.[8]

Section 19(b)(2) of the Act [9] provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on May 14, 2026.[10] November 10, 2026 is 180 days from that date, and January 9, 2027 is 240 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[11] designates January 9, 2027 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR–CboeBYX–2026–014).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2026–22847 Filed 11–9–26; 8:45 am]

**BILLING CODE 8011–01–P**

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 105436 (May 11, 2026), 91 FR 27406 (''Notice'').

[5] *See* 15 U.S.C. 78s(b)(2)(A)(ii)(I).

[6] *See* Securities Exchange Act Release No. 105727, 91 FR 38043 (June 24, 2026).

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities Exchange Act Release No. 106071, 91 FR 52735 (Aug. 14, 2026).

[9] 15 U.S.C. 78s(b)(2).

[10] *See* Notice, *supra* note 4.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(57).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–106835; File No. SR–24X–2026–29]**

## Self-Regulatory Organizations; 24X National Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Transaction Fees Applicable to Members of the Exchange

November 5, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 29, 2026, 24X National Exchange LLC (''24X'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the transaction fees applicable to Members [3] of the Exchange pursuant to Exchange Rule 15.1(a) and (c). The Exchange proposes to implement the rule change on November 2, 2026. 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 Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend the transaction fees applicable to Members of the Exchange. Specifically, the Exchange proposes to increase the fee for executions of non-retail [4] and retail [5] orders that remove liquidity from the 24X Book [6] in all securities traded on the Exchange priced below $1.00 per share (''Removed Sub-Dollar Volume'') from 0.09% of the total dollar value of the transaction to 0.28% of the total dollar value of the transaction. The Exchange proposes to implement the rule change on November 2, 2026.

The proposed increased fee for Removed Sub-Dollar Volume transactions are consistent with or lower than the fees charged by other exchanges for similar executions,[7] and are intended to incentivize Members to increase the liquidity-providing orders they submit to the Exchange, which would support price discovery on the Exchange and provide additional liquidity for incoming orders.

The proposed rule change does not include different fees depending on the number of orders submitted to, or transactions executed on or through, the Exchange. Accordingly, the fees described above are applicable to all Members, regardless of the overall volume of a Member's trading activities on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [8] of the Act in general, and furthers the objectives of Section 6(b)(4) [9] of the Act in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities. Additionally, the Exchange believes that the proposed amended fees are consistent with the objectives of Section 6(b)(5) [10] of the Act in that they are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest, and, particularly, are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange believes that the proposed amended fees reflect a simple and competitive pricing structure designed to incentivize market participants to add aggressively priced displayed liquidity and direct their order flow to the Exchange, which the Exchange believes would promote price discovery and price formation and deepen liquidity that is subject to the Exchange's transparency, regulation, and oversight as an exchange, thereby enhancing market quality to the benefit of all Members and investors.

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 self-regulatory organization 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]

As illustrated in the following table, the Exchange notes that the proposed amended fees are comparable to or lower than those in place on other exchanges:

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* 24X Rule 1.5(u).

[4] Such executions correspond to fee codes ''2'' and ''61'' in the Exchange's fee schedule.

[5] Such executions correspond to fee codes ''102,'' ''160,'' and ''161'' in the Exchange's fee schedule.

[6] ''24X Book'' refers to the Exchange system's electronic file of orders. *See* 24X Rule 1.5(a).

[7] *See* Cboe EDGX Exchange, Inc. (''Cboe EDGX'') fee schedule, available at: *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/;* MIAX PEARL, LLC (''MIAX Pearl'') fee schedule, available at: *https://www.miaxglobal.com/sites/default/files/fee_schedule-files/MIAX_Pearl_Equities_Fee_Schedule_05012026_0.pdf;* and MEMX LLC (''MEMX'') fee schedule, available at: *https://info.memxtrading.com/equities-trading-resources/us-equities-fee-schedule/.*

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

[11] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

| Exchange | Fee for removed volume <$1.00 (non-retail) | Fee for removed volume <$1.00 (retail) |
|---|---|---|
| 24X | 0.28% of total dollar value | 0.28% of total dollar value. |
| Cboe EDGX | 0.30% of total dollar value | 0.30% of total dollar value. |
| MIAX Pearl | 0.20% of total dollar value | 0.20% of total dollar value. |
| MEMX | 0.28% of total dollar value | 0.28% of total dollar value. |

The Exchange believes that it is appropriate, reasonable, and consistent with the Act to charge a fee of 0.28% of the total dollar value of Removed Sub-Dollar Volume non-retail and retail transactions because it is comparable to or lower than the fees charged by other exchanges for similar transactions.[12] The Exchange further believes that this fee is equitably allocated and not unfairly discriminatory because it applies equally to all Members, and is designed to facilitate increased activity on the Exchange to the benefit of all Members by providing more trading opportunities and promoting price discovery.

In conclusion, the Exchange submits that its proposed amended fee structure satisfies the requirements of Sections 6(b)(4) [13] and 6(b)(5) [14] of the Act for the reasons discussed above in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities, does not permit unfair discrimination between customers, issuers, brokers, or dealers, and is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general to protect investors and the public interest, particularly as the proposal neither targets nor will it have a disparate impact on any particular category of market participant. As described more fully below in the Exchange's statement regarding the burden on competition, the Exchange is subject to significant competitive forces, and believes that its proposed amended fee structure is an appropriate effort to address such forces.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed changes would encourage the submission of order flow to a public exchange, thereby promoting market depth, execution incentives, and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [15]

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed amended pricing structure will increase competition and is intended to draw volume to the Exchange. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or reduce use of certain categories of products in response to new or different pricing structures being introduced into the market. Accordingly, competitive forces constrain the Exchange's transaction fees and rebates, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. As a new exchange, the Exchange faces intense competition from existing exchanges and other non-exchange venues that provide markets for equities trading.

Although these pricing incentives are intended to attract liquidity to the Exchange, most other exchanges in operation today already offer multiple incentives to their participants, including tiered pricing that provides higher rebates or discounted executions, and other exchanges will be able to modify such incentives in order to compete with the Exchange. As discussed above, the Exchange notes that the proposed amended fees are comparable to or lower than those in place on other exchanges. Accordingly, with respect to a market participant deciding to submit an order to remove liquidity, there are multiple exchanges that will continue to be competitively priced for such orders when compared to the Exchange's pricing. Further, while pricing incentives do cause shifts of liquidity between trading centers, market participants make determinations on where to provide liquidity or route orders to take liquidity based on factors other than pricing, including technology, functionality, and other considerations. Consequently, the Exchange believes that the degree to which its proposed amended fees could impose any burden on competition is extremely limited, and does not believe that such pricing structure would burden competition of Members or competing venues in a manner that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed amended fees apply equally to all Members. The proposed pricing structure is intended to encourage market participants to add liquidity on the Exchange by charging fees that are comparable to or lower than those offered by other exchanges, which the Exchange believes will help to encourage Members to send orders to the Exchange to the benefit of all Exchange participants. As the proposed rates are equally applicable to all Members, regardless of the overall volume of a Member's trading activities on the Exchange, the Exchange does not believe there is any burden on intramarket competition.

*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) [16] of the Act and

[12] *See supra* note 7.

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78f(b)(5).

[15] Regulation NMS Adopting Release at 37499.

[16] 15 U.S.C. 78s(b)(3)(A).

subparagraph (f)(2) of Rule 19b–4 thereunder,[17] 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)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–24X–2026–29 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–2026–29. 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–2026–29 and should be submitted on or before December 1, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2026–22852 Filed 11–9–26; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–106828; File No. SR–BOX–2026–22]**

## Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make Various Clean Up Changes and a Number of Technical, Non-Substantiative Changes to Its Rulebook

November 5, 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 23, 2026, BOX Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, 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 various clean up changes and a number of technical, non-substantiative changes to its Rulebook. 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 self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend IM–3120–3, IM–3120–4, Rule 5050 (Series of Options Contracts Open for Trading), IM–5050–7 (Mini-Nasdaq-100 Index Strike Prices), IM–5050–10 (Mini Option Contracts), IM–6010–1, Rule 6040 (Position Limits for Broad-Based Index Options), Rule 6090 (Terms of Index Options), Rule 7040 (Meaning of Premium Quotes and Orders), Rule 7110 (Order Entry), and Rule 7240 (Complex Orders) to remove references to Mini Options[3] and Jumbo SPY Options.[4] Additionally, the Exchange is proposing to make certain clean up changes to update outdated internal cross references, as well as various technical numbering updates to conform with the changes proposed herein. Additionally, the Exchange is proposing to make certain clean up changes to update outdated internal cross references, as well as various technical numbering updates to conform with the changes proposed herein.

Mini Options and Jumbo SPY Options

The Exchange does not list Mini Options and Jumbo SPY Options, and is now proposing to mark the listing rules and other ancillary trading rules related to the listing of Mini Options and Jumbo SPY Options as ''Reserved.'' Specifically, the proposed rule change removes the contents of the following rules or subsections and mark them as reserved for future use IM–3120–3, IM–3120–4, Rule 5050(e), IM–5050–7 (Mini-Nasdaq-100 Index Strike Prices), IM–5050–10 (Mini Option Contracts), Rule 6090(c)(5), Rule 7040(c), and Rule 7240(b)(5) and (b)(6). As stated above these rules are obsolete because these products are no longer, or were never, listed on the Exchange.[5] The Exchange will also amend the following rules to remove language related to Mini Options IM–6010–1, Rule 6040(c), Rule 6090(a)(4) and (5), and Rule 7110(c)(6). As stated above the rule language within these rules are obsolete because the

[17] 17 CFR 240.19b–4(f)(2).

[18] 15 U.S.C. 78s(b)(2)(B).

[19] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68771 (January 30, 2013), 78 FR 8208 (February 5, 2013) (Notice of Filing and Immediate Effectiveness of SR–BOX–2013–07).

[4] *See* Securities Exchange Act Release No. 69511 (May 3, 2013) 78 FR 27271 (May 9, 2013) (Order Granting Approval of SR–BOX–2013–06).

[5] The Exchange previously listed for trading both Mini Options and Jumbo SPY Options but has since ceased listing both for trading.

products the rules refer to no longer, or never, traded on the Exchange.

The Exchange notes that it has no open interest in Mini Options and Jumbo SPY Options respectively. In the event that the Exchange desires to list Mini Options or Jumbo SPY Options in the future, it would file a rule change with the Commission to adopt rules to list Mini Options or Jumbo SPY Options.

Technical Changes

The Exchange is also proposing to make a number of technical, non-substantive changes to the Exchange's Rulebook. The Exchange believes these changes are necessary to provide greater accuracy and clarity to the Rulebook.

The Exchange proposes to update several internal cross-references. The Exchange proposes to update internal cross-references contained in Rule 5030 (Withdrawal of Approval of Underlying). Specifically, the proposed change corrects two internal cross-references within Rule 5030(h)(1) from Rule 5020(h)(1)(i) to Rule 5020(h)(1) and the internal cross-reference from subparagraphs (b)(1),(2),(3) and (4) of Rule 5030 to subparagraphs (b)(1),(2),(3) of Rule 5030 because Rule 5020(h)(1) increases the scope of the outdated rule reference and 5030(b)(4) is currently marked as reserved.[6]

The Exchange proposes to update internal cross-references contained in Rule 7130 (Execution and Price/Time Priority). Specifically, the proposed change updates the internal cross-reference within Rule 7130(b)(1) from Rule 8040(b) and (c) to Rule 8040 (c) and (d). A previous filing amended 8040(b) to be reserved, making the cross-reference in Rule 7130(b)(1) outdated and this proposed rule change would now update it.[7] Next, the proposed change updates the internal cross-references in Rules 7130(b)(2)(i) and 7130(b)(2)(ii) from subparagraph (b)(4) to (b)(3). A previous filing updated subparagraph (b)(4) to (b)(3) and the internal cross reference in 7130(b)(2)(i) and 7130(b)(2)(ii) is currently outdated.[8] The Exchange now proposes to update the aforementioned internal cross-references by updating them both to subparagraph (b)(3). The proposed change corrects another outdated internal cross-reference in Rules 7130(b)(3)(ii)(A) and 7130(b)(3)(ii)(B) from subparagraph (b)(4)(ii)(C) to (b)(3)(ii)(C). A previous filing updated subparagraph (b)(4) to (b)(3) and this proposed change will update the cross-reference in both Rules 7130(b)(3)(ii)(A) and 7130(b)(3)(ii)(B) from subparagraph (b)(4)(ii)(C) to (b)(3)(ii)(C).[9]

The Exchange also proposes to update an internal cross reference contained in Rule 7620 (Complex Orders). Specifically, the proposed change updates the internal cross-reference within Rule 7620(e) from Rule 7040(a) through (c) to Rule 7040(a) and (b). This update is being made as a consequential result of marking Rule 7040(c) as reserved as previously discussed in this filing. This change will improve the accuracy of the proposed changes and rulebook.

The Exchange proposes to amend IM–15030–1(e) to update an internal rule cite. Specifically, the proposed change updates the outdated internal cross-reference within IM–15030–1 from IM–5030–1 to IM–15030–1.

The proposed technical changes are not intended to make any changes to the operation or meaning of the rules and merely seek to correct outdated internal cross references to provide greater accuracy within the Rulebook.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[10] in general, and Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

Mini Options and Jumbo SPY Options

The Exchange's proposal to remove references to the listing and handling of Mini Options and Jumbo SPY Options is consistent with the Act because the Exchange does not list, or has never listed, Mini Options or Jumbo SPY Options and removing the references to such products within the rules would render the Rulebook more accurate and reduce potential investor confusion. The Exchange notes that it has no open interest in Mini Options and Jumbo SPY Options. In the event that the Exchange desires to list Mini Options or Jumbo SPY Options in the future, it would file a rule change with the Commission to adopt rules to list Mini Options or Jumbo Spy Options.

Technical Changes

Additionally, the Exchange believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, will protect investors and the public interest by correcting outdated references within the rules. Specifically, by correcting inaccurate cross-references, the proposed rule change is designed to protect investors by making the rulebook more accurate thereby mitigating any potential investor confusion.

The proposed technical changes are not intended to make any changes to the operation or meaning of the rules and merely seek to correct outdated internal cross-references and make certain numbering changes to provide greater accuracy within the Rulebook.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to remove references to the listing and handling of Mini Options and Jumbo SPY Options does not impose an undue burden on competition. The Exchange does not list Mini Options or Jumbo SPY Options. Also, the Exchange notes that it has no open interest in Mini Options and Jumbo SPY Options. The Exchange's proposal to correct technical changes by updating outdated internal cross-references is not intended to address competitive issues but is concerned solely with updating certain outdated references.

The proposed rule change will have no impact on trading on the Exchange, as all the rule changes are non-substantive in nature. As such, 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.

[6] Current Rule 5030(h)(1) provides a circumstance when the Exchange can suspend the opening of any series of options classes covering Exchange-Traded Fund Shares for not meeting the continued listing standards for Exchange-Traded Fund Shares as set forth in Rule 5020(h)(1)(i) and in accordance with the Exchange's requirements set forth in Rule 5030(b)(1),(2),(3) and (4). Rule 5020(h)(1)(i) is not the correct cross-reference; the correct cross-reference is Rule 5020(h)(1). Rule 5030(b)(1),(2),(3) and (4) is not the correct cross-reference because Rule 5030(b)(4) is currently Reserved; the reference to (b)(4) should therefore be removed.

[7] *See* Securities Exchange Act Release No. 103671 (August 15, 2025) 90 FR 39246 (August 14, 2025) (Notice of Filing and Immediate Effectiveness of SR–BOX–2025–20).

[8] *See* Securities Exchange Act Release No. 71374 (January 23, 2014), 79 FR 4783 (January 29, 2014) (Notice of Filing and Immediate Effectiveness of SR–BOX–2014–05).

[9] *Id.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received comments on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [14] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay because the proposed rule change merely removes obsolete rules and rule references related to Mini Options and Jumbo SPY Options, corrects outdated cross-references, and otherwise provides additional clarity in the rulebook, and does not affect the operation of any Exchange rule. The Exchange explains that therefore waiver of the 30-day operative delay would allow the changes to become promptly effective and avoid any potential confusion by providing investors with a clearer, more accurate Exchange rulebook. For this reason, and because the proposed rule change raises no new or novel legal or regulatory issues, the Commission believes that waiver of the operative delay would be consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[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 necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2026–22 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–2026–22. 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–2026–22 and should be submitted on or before December 1, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2026–22846 Filed 11–9–26; 8:45 am]

**BILLING CODE 8011–01–P**

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 240.19b–4(f)(6).

[15] 17 CFR 240.19b–4(f)(6)(iii).

[16] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–106834; File No. SR–FICC–2026–008]**

## Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Partial Amendment No. 1, To Establish a Guaranty Fund at the Government Securities Division

November 5, 2026.

**I. Introduction**

On July 24, 2026, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–FICC–2026–008 pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 [2] thereunder to modify FICC's Government Securities Division (''GSD'') Rulebook (''GSD Rules'') [3] to establish a guaranty fund designed to cover losses that may arise due to a Member default or non-default loss event.[4] On August 4, 2026, FICC filed Partial Amendment No. 1 to make clarifications and corrections to the proposed rule change (the proposed rule change, as modified by Partial Amendment No. 1, is hereinafter referred to as the ''Proposed Rule Change'').[5] The Proposed Rule Change was published for public comment in the **Federal Register** on August 11, 2026.[6] The Commission has received

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Terms not defined herein are defined in the GSD Rules, *available at www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_gov_rules.pdf.*

[4] *See* Notice of Filing, *infra* note 6.

[5] Partial Amendment No. 1 made certain changes the description of the proposed rule changes that were incorporated, as appropriate, into the description of the proposed rule change in the Notice of Filing, *infra* note 6.

[6] Securities Exchange Act Release No. 106053 (Aug. 6, 2026), 91 FR 51762 (Aug. 11, 2026) (File No. SR–FICC–2026–008) (''Notice of Filing''). FICC also filed a related advance notice (SR–FICC–2026–802) with the Commission pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act

comments regarding the substance of the changes proposed in the Proposed Rule Change.[7]

On September 15, 2026, pursuant to Section 19(b)(2) of the Exchange Act,[8] the Commission designated a longer period within which to approve, disapprove, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.[9] The Commission is instituting proceedings, pursuant to Section 19(b)(2)(B) of the Exchange Act,[10] to determine whether to approve or disapprove the Proposed Rule Change.

## II. Summary of the Proposed Rule Change

### *A. Background*

FICC, through GSD, serves as a central counterparty (''CCP'') and provider of clearance and settlement services for transactions in U.S. government securities, including repurchase and reverse repurchase transactions involving U.S. government securities.[11] FICC manages its credit exposures to its Netting Members through the collection of margin to mitigate potential losses from arising from a Member default. FICC maintains financial resources in the form of its Clearing Fund, which is designed to enable FICC to cover potential losses resulting from the failure of the Member or Member family to which FICC has the largest credit exposure. FICC collects Clearing Fund deposits (*i.e.,* Required Fund Deposits) from its Members using a risk-based margin methodology. Required Fund Deposits operate, individually, as each Member's initial margin, and the aggregate of all such Members' deposits is referred to collectively as the Clearing Fund, which currently operates as GSD's default fund. FICC states that this risk-based methodology enables FICC to identify the risks posed by a Member's unsettled portfolio and to quickly adjust and collect additional deposits as needed to cover those risks.[12]

### *B. Proposed Rule Change*

FICC proposes to establish a Guaranty Fund for GSD, designed to cover losses that may arise due to a Member default or a non-default loss event and enable FICC to support bankruptcy remote treatment for its Clearing Fund deposits. The Proposed Rule Change includes, among other things:

- Adopting new GSD Rule 4A (Guaranty Fund) to set forth requirements for the Guaranty Fund, including, among other things, that: (i) FICC performs daily stress testing using historical and hypothetical scenarios for purposes of sizing the Guaranty Fund; (ii) FICC sizes the Guaranty Fund at an amount sufficient to cover the stress test deficiency (*i.e.,* losses observed in daily stress testing over required Clearing Fund deposits) that may arise as a result of the default of the two Netting Member Affiliated Families [13] that would potentially cause the largest aggregate credit exposure for FICC in extreme but plausible market conditions (a ''Cover 2 Standard'' or ''Cover 2 Requirement''); (iii) all deposits to the Guaranty Fund must be made in cash; and (iv) FICC has the authority to resize the Guaranty Fund on an intramonth basis if stress test deficiencies breach certain thresholds.
- Modifying GSD Rule 4 and the Margin Component Schedule to: (i) support bankruptcy remote treatment for Clearing Fund deposits; (ii) exclude the Clearing Fund from loss mutualization; (iii) provide FICC with the authority to require additional margin deposits from Netting Members if their stress test deficiencies exceed predetermined thresholds in relation to the total Required Fund Deposits of all other Members (excluding such Member or Affiliated Family) or would cause the Guaranty Fund to exceed upper bound parameters established for limiting the resizing of the Guaranty Fund; (iv) clarify that FICC would no longer have the authority to ''borrow'' Clearing Fund deposits of non-defaulting Members to provide liquidity to FICC to meet its settlement obligations; (v) provide FICC with the authority to exchange a Netting Member's Clearing Fund deposit in the form of cash for U.S. Treasury securities to provide liquidity to FICC to meet its settlement obligations; and (vi) eliminate fixed minimum Required Fund Deposit amounts and adjust the associated minimum cash composition requirements accordingly.
- Relocating the loss allocation rules in Section 7 of GSD Rule 4 to a new GSD Rule 4C (Loss Allocation) and modifying the rules to: (i) incorporate the proposed Guaranty Fund into the loss allocation rules and exclude the Clearing Fund from loss mutualization; (ii) eliminate the concept of Tier One Netting Members and Tier Two Members and exclude CCIT Members and Registered Investment Company Netting Members from loss allocation; (iii) adopt a new five-day ''cooling off period'' for Defaulting Member Events and Declared Non-Default Loss Events (also referred to as an ''Event Period''); and (iv) impose an assessment cap on loss allocation during each cooling-off period equal to two times (or 200 percent of) the Member's Guaranty Fund requirement for each Event Period in lieu of the existing loss allocation rounds system.
- Make other conforming changes throughout the GSD Rules to reflect the adoption of the Guaranty Fund, as described more fully in the Notice of Filing.[14]

## III. Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Change and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act to determine whether the Proposed Rule Change should be approved or disapproved.[15] Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the Proposed Rule Change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the Proposed Rule Change, which would provide the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the Proposed Rule Change.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,[16] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings

of 2010 (''Clearing Supervision Act'') and Rule 19b–4 under the Act, 17 CFR 240.19b–4. On August 4, 2026, FICC filed Partial Amendment No. 1 to the advance notice to make the same clarifications and corrections to the advance notice as Partial Amendment No. 1 to the proposed rule change. The advance notice, as modified by Partial Amendment No. 1, was published in the **Federal Register** on August 11, 2026. Securities Exchange Act Release No. 106054 (Aug. 6. 2026), 91 FR 51787 (Aug. 11, 2026) (File No. SR–FICC–2026–802).

[7] Comments on the Proposed Rule Change are available at *https://www.sec.gov/rules-regulations/public-comments/sr-ficc-2026-008.*

[8] 15 U.S.C. 78s(b)(2).

[9] Securities Exchange Act Release No. 106318 (Sept. 10, 2026), 91 FR 58513 (Sept. 15, 2026) (File No. SR–FICC–2026–008).

[10] 15 U.S.C. 78s(b)(2)(B).

[11] GSD also clears and settles certain transactions on securities issued or guaranteed by U.S. government agencies and government sponsored enterprises.

[12] *See* Notice of Filing at 51763, *supra* note 6.

[13] ''Affiliated Family'' is defined in the GSD Rules as a group of Members, excluding from the group any Member that is a securities clearinghouse, depository, exchange or other market infrastructure, in which each Member in the group is an Affiliate of at least one other Member in the group. *See* Section 1 of GSD Rule 1 (Definitions), *supra* note 3.

[14] *See* Notice of Filing at 51765–79, *supra* note 6.

[15] 15 U.S.C. 78s(b)(2)(B).

[16] *Id.*

to allow for additional analysis of, and input from commenters with respect to, the Proposed Rule Change's consistency with Section 17A of the Exchange Act [17] and the rules thereunder, including the following provisions:

- Section 17A(b)(3)(F) of the Exchange Act,[18] which requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions; to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible; and, in general, to protect investors and the public interest;
- Section 17A(b)(3)(I) of the Exchange Act,[19] which requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act;
- Rule 17ad–22(e)(4) under the Exchange Act,[20] which requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes;
- Rule 17ad–22(e)(6)(iii) under the Exchange Act,[21] which requires that a covered clearing agency establish written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, calculates margin sufficient to cover its potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default;
- Rule 17ad–22(e)(7)(i) under the Exchange Act,[22] which requires that a covered clearing agency effectively measure, monitor, and manage the liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, maintaining sufficient liquid resources at the minimum in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions;
- Rule 17ad–22(e)(7)(ix) under the Exchange Act,[23] which requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to describe its process to replenish any liquid resources that it may employ during a stress event;
- Rule 17ad–22(e)(18)(i) under the Exchange Act,[24] which requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to establish objective, risk-based, and publicly disclosed criteria for participation, which, permit fair and open access by direct, and where relevant, indirect participants and other financial market utilities;
- Rule 17Ad–22(e)(23) under the Exchange Act,[25] which requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to, among other things, publicly disclose all relevant rules and material procedures, including key aspects of its default rules and procedures, and provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency.

## IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the Proposed Rule Change. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Rule Change is consistent with Sections 17A(b)(3)(F) and 17A(b)(3)(I) [26] of the Exchange Act, and Rules 17ad–22(e)(4), (e)(6)(iii), (e)(7)(i), (e)(7)(ix), (e)(18)(i), and (e)(23) [27] of the Exchange Act, or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4(g) under the Exchange Act,[28] any request for an opportunity to make an oral presentation.[29]

Interested persons are invited to submit written data, views, and arguments regarding whether the Proposed Rule Change should be approved or disapproved by December 1, 2026. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 15, 2026.

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–FICC–2026–008 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to file number SR–FICC–2026–008. 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 FICC and on DTCC's website (*www.dtcc.com/legal/sec-rule-filings*). 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–FICC–2026–008 and should be submitted on or before December 1, 2026.

[17] 15 U.S.C. 78q–1.
[18] 15 U.S.C. 78q–1(b)(3)(F).
[19] 15 U.S.C. 78q–1(b)(3)(I).
[20] 17 CFR 240.17ad–22(e)(4).
[21] 17 CFR 240.17ad–22(e)(6)(iii).
[22] 17 CFR 240.17ad–22(e)(7)(i).
[23] 17 CFR 240.17ad–22(e)(7)(ix).
[24] 17 CFR 240.17ad–22(e)(18)(i).
[25] 17 CFR 240.17ad–22(e)(23).
[26] 15 U.S.C. 78q–1(b)(3)(F) and (b)(3)(I).
[27] 17 CFR 240.17ad–22(e)(4), (e)(6)(iii), (e)(7)(i), (e)(7)(iii), (e)(18)(i), and (e)(23).
[28] 17 CFR 240.19b–4(g).
[29] Section 19(b)(2) of the Exchange Act grants to the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2026–22851 Filed 11–9–26; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–106832; File No. SR–TXSE–2026–043]**

## Self-Regulatory Organizations; Texas Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 17.180 To Permit an Issuer To Elect a Higher Listing Tier for an Exchange Traded Product During a Calendar Year and To Provide for the Related Incremental Listing Fee

November 5, 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 27, 2026, Texas Stock Exchange LLC (''Exchange'' or ''TXSE'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposal to amend Rule 17.180 to permit an issuer to elect a higher listing tier for an exchange traded product at any time during a calendar year and to provide for the related incremental listing fee. The text of the proposed rule change is available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*) at the Exchange's website (*https://www.txse.com/regulations/rules-filings*), 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 parts 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 Rule 17.180 to allow an issuer to move an exchange traded product (''ETP'') to a higher listing tier during a calendar year.[3] The proposal would enable an issuer to elect the liquidity support associated with a higher tier without waiting until the following year. The proposed rule change would not alter the annual fee for any tier or require any issuer to upgrade an ETP.

Background

Rule 17.180 establishes three annual listing fee tiers for ETPs: the Signature Tier at $100,000, the Premier Tier at $55,000, and the Core Tier at $10,000. Each tier has corresponding Minimum Performance Standards[4] and daily stipends under the Exchange's Lead Market Maker (''LMM'') Program, as set forth in the Exchange's Fee Schedule.[5]

Under the existing framework, an issuer selects the tier it considers appropriate for an ETP for the current year and may select a different tier for the following year. Rule 17.180 does not expressly address a change of listing tier during the calendar year. The Exchange proposes to add paragraph (b) to permit an issuer to elect a higher tier during the year and to specify the resulting additional fee.

Election of a Higher Listing Tier

Proposed Rule 17.180(b) would permit an issuer to elect to move an ETP to a higher listing tier during a calendar year. Accordingly, an issuer could move an ETP from the Core Tier to either the Premier Tier or the Signature Tier, or from the Premier Tier to the Signature Tier. An issuer that moves an ETP from the Core Tier to the Premier Tier could subsequently elect to move that ETP to the Signature Tier during the same year.

The proposed election would be available only for a move to a higher tier. An issuer could not use this provision to move an ETP to a lower tier during the calendar year, including to reverse an earlier change. Following a change, the higher tier would apply for the remainder of the calendar year unless the issuer elects a further change to a higher tier. The existing annual election framework would continue to permit an issuer to select any available tier, including a lower tier, for the following calendar year.

Any change would take effect on a trading day specified in the issuer's written notice to the Exchange and confirmed by the Exchange. The Exchange would coordinate the effective date with the issuer and the assigned LMM so that the applicable tier, performance standards, and stipend treatment change together. Any change would apply prospectively beginning on that date.

Incremental Listing Fee

For an ETP that moves to a higher tier during a calendar year, the issuer would pay an additional listing fee equal to the difference between the annual fee for the higher tier and the annual fee for the tier immediately preceding the change, prorated based on the number of trading days remaining in that year, including the effective date of the change, divided by the total number of trading days in that year.

For example, if an issuer moves an ETP from the Core Tier to the Premier Tier with 125 trading days remaining in the year, including the effective date, in a calendar year with 250 trading days, the additional fee would be $22,500 (($55,000 − $10,000) × 125/250). A direct move from the Core Tier to the Signature Tier on the same date would result in an additional fee of $45,000 (($100,000 − $10,000) × 125/250). If an ETP is upgraded more than once during the calendar year, each additional fee would be calculated using the annual fee for the tier immediately preceding that upgrade.

[30] 17 CFR 200.30–3(a)(12) and (a)(57).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed rule change on October 19, 2026, as SR–TXSE–2026–042. On October 27, 2026, the Exchange withdrew that filing and refiled the proposed rule change as SR–TXSE–2026–043.

[4] As provided in Section F of the Exchange's Fee Schedule, the term ''Minimum Performance Standards'' means a set of standards applicable to an LMM that may be determined from time to time by the Exchange. Such standards will vary between TXSE-listed securities depending on the price, liquidity, and volatility of the designated asset class of the security in which the LMM is registered and the applicable listing tier. Minimum Performance Standards shall be the following measurements: Maximum LMM Spread, Size Near the Inside, Layered Depth, Time at NBBO, Opening Auction Depth, Closing Auction Depth, Opening Auction Reference Price, and Closing Auction Reference Price.

[5] *See* Rule 17.180 and the Fee Schedule of the Exchange. *See also* Securities Exchange Act Release No. 106505 (September 28, 2026), 91 FR 62572 (October 1, 2026) (SR–TXSE–2026–030).

Application of the LMM Program

Beginning on the effective date of an upgrade, the Minimum Performance Standards and daily stipends applicable to the higher tier and the ETP's asset class would apply under the Fee Schedule. The upgrade would not change the standards or stipend amounts specified for any tier or create a separate stipend. An LMM would remain eligible for a daily stipend only to the extent it satisfies the applicable performance conditions.

For an ETP upgraded to the Signature Tier, the listing fee credit under Rule 17.180(a)(1)(A) would apply to qualifying instances beginning on the effective date of the upgrade. Such credits would be available for the issuer's listing fees in the following year and would expire if not used during that year. The upgrade would not create Signature Tier credits for periods before its effective date.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5)[7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as well as Section 6(b)(4)[9] as it is designed to 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 incremental fee is reasonable because it uses the existing annual fee difference between the two tiers and charges that difference only for the portion of the year during which the ETP participates in the higher tier. An issuer would not be required to pay the higher tier's full annual fee in addition to the fee already applicable to the ETP. The same calculation would apply to every issuer making the same upgrade within a calendar year, and an issuer could elect whether the additional liquidity support associated with the higher tier warrants the additional charge.

The proposal is equitably allocated and not unfairly discriminatory because each issuer would have the same opportunity to elect a higher tier for an ETP on the same terms. Differences in the additional fee would reflect the selected tiers and the remaining period of participation. The proposal would also preserve the relationship between the listing tier selected by the issuer and the corresponding LMM performance standards and stipend eligibility.

Allowing an issuer to increase liquidity support during the year would enable it to respond to changes in an ETP's trading characteristics or liquidity needs without waiting for the next year to change tiers. Applying the higher tier's standards and stipend eligibility prospectively from a common effective date would provide a clear basis for evaluating LMM performance and assessing the additional listing fee. The Exchange believes this flexibility is designed to promote liquidity and market quality for the benefit of investors, although electing a higher tier would not guarantee any particular trading outcome.

Limiting changes within a calendar year to upgrades would preserve the annual nature of an issuer's existing tier commitment while permitting the issuer to elect additional support. It would also provide greater continuity in the level of liquidity support selected for an ETP during the year. The limitation would apply equally to all issuers, and issuers would retain the ability to select a lower tier for the following year. The Exchange believes this balances additional flexibility with a predictable annual framework for issuers and LMMs.

*(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. Rather, the Exchange believes the proposed rule change will enhance competition among exchanges for ETP listings and among liquidity providers to participate as Lead Market Makers on the Exchange.

With respect to intramarket competition, the proposal would apply equally to all issuers. No issuer would be required to change tiers, and issuers could continue to select the tier they consider appropriate for the following year. The proposal would not change the performance standards or stipend amounts for any tier, and the existing performance conditions would continue to apply to LMMs assigned to ETPs in that tier.

With respect to intermarket competition, the proposal would provide issuers with additional flexibility to increase liquidity support for an ETP while maintaining its listing on the Exchange. Other listing exchanges could compete through their own listing fees and liquidity programs. The Exchange believes that permitting a prospective tier change at a prorated incremental fee may enhance competition for ETP listings without imposing an unnecessary or inappropriate burden on competing venues.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange neither solicited nor received written comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(2)[11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## 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–TXSE–2026–043 on the subject line.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

*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–TXSE–2026–043. 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 TXSE and on its internet website at *https://www.txse.com/regulations/rules-filings.* 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–TXSE–2026–043 and should be submitted on or before December 1, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2026–22849 Filed 11–9–26; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–106827; File No. SR–IEX–2026–43]**

## Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend IEX Rule 3.291 (Influencing or Rewarding Employees of Others; Gratuities), To Conform to the Rules of FINRA for Purposes of an Agreement Between the Exchange and FINRA Pursuant To Rule 17d–2 Under the Act

November 5, 2026.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on October 29, 2026, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] and Rule 19b–4 thereunder,[5] the Exchange is filing with the Commission a proposed rule change to amend IEX Rule 3.291 (Influencing or Rewarding Employees of Others; Gratuities), to conform to the rules of the Financial Industry Regulatory Authority, Inc. (''FINRA'') for purposes of an agreement between the Exchange and FINRA pursuant to Rule 17d–2 under the Act.

The Exchange has designated this proposed rule change as ''non-controversial'' under Section 19(b)(3)(A) of the Act[6] and provided the Commission with the notice required by Rule 19b–4(f)(6) thereunder.[7]

The text of the proposed rule change is available at the Exchange's website at *https://www.iexexchange.io/resources/regulation/rule-filings* and at the principal office of the Exchange.

### II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend IEX Rule 3.291 (Influencing or Rewarding Employees of Others; Gratuities), to make conforming changes to the Rule such that it remains substantially similar to FINRA Rule 3220. The Exchange notes that this filing is based on a rule change proposal recently submitted by FINRA and approved by the Commission, which amended FINRA Rule 3220 (Influencing or Rewarding Employees of Others).[8]

Pursuant to Rule 17d–2 under the Act,[9] the Exchange and FINRA entered into an agreement to allocate regulatory responsibility for common rules (the ''17d–2 Agreement'').[10] The 17d–2 Agreement covers common members of the Exchange and FINRA and allocates to FINRA regulatory responsibility, with respect to common members, for the following: (i) examination of common members of the Exchange and FINRA for compliance with certain federal securities laws, rules and regulations and rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules; (ii) investigation of common members of the Exchange and FINRA for violations of certain federal securities laws, rules or regulations, or Exchange rules that the Exchange has certified as identical or substantially similar to a FINRA rule; and (iii) enforcement of compliance by common members with certain federal securities laws, rules and regulations, and the rules of the Exchange that the Exchange has certified as identical or substantially similar to FINRA rules.[11]

The 17d–2 Agreement includes a certification by the Exchange that states that the requirements contained in certain IEX Rules are identical to, or substantially similar to, certain FINRA rules that have been identified as comparable. Included among those rules is Rule 3.291, which IEX previously certified to be identical to, or substantially similar to, FINRA Rule 3220.

Currently, Rule 3.291 would not be covered under the 17d–2 Agreement because the FINRA 3220 Filing changed FINRA Rule 3220 such that the FINRA rule is no longer identical, or substantially similar to, FINRA Rule 3220. Rule 3.291 prohibits a Member[12] or person associated with a Member from, directly or indirectly, giving or permitting to be given anything of value, including gratuities, in excess of one

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4.

[8] *See* Securities Exchange Act Release No. 104830 (February 12, 2026), 91 FR 7570 (February 18, 2026) (Order Approving File No. SR–FINRA–2025–003) (''FINRA 3220 Filing'').

[9] 17 CFR 240.17d–2.

[10] *See* Securities Exchange Act Release No. 105332 (April 28, 2026), 91 FR 23506 (May 1, 2026) (File No. 4–700) (Notice of Filing and Order Approving and Declaring Effective an Amended Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc. and Investors Exchange LLC).

[11] *See supra,* note 10.

[12] *See* Rule 1.160(s).

hundred dollars per individual per year to any person, principal, proprietor, employee, agent, or representative of another person where such payment or gratuity is in relation to the business of the employer of the recipient of the payment or gratuity. By contrast, the recently amended FINRA Rule 3220 prohibits gifts in excess of $300.00, where the gift or gratuity is in relation to the business of the employer of the recipient. The FINRA 3220 Filing also introduced provisions covering: supervision and recordkeeping requirements; gifts incidental to business entertainment; valuation of gifts; aggregation of gifts; personal gifts; bereavement gifts; de minimis gifts and promotional or commemorative items; donations due to federally declared major disasters; or gifts to a Member's associated persons or individual retail customers. Because of the above-described differences between Rule 3.291 and FINRA Rule 3220, Rule 3.291 currently will not be considered a common rule pursuant to the 17d–2 Agreement. To again harmonize its rules with those of FINRA, the Exchange now proposes to conform the text of Rule 3.291 to FINRA Rule 3220, so that it may be incorporated into the 17d–2 Agreement in its entirety.

The Exchange believes that these changes will help to avoid confusion among Members of the Exchange that are also members of FINRA by harmonizing Rule 3.291 with FINRA Rule 3220. The proposed changes to Rule 3.291 are designed to enable the Exchange to incorporate Rule 3.291 into the 17d–2 Agreement, further reducing duplicative regulation of Members that are also members of FINRA. For the avoidance of doubt, Rule 3.291 would apply equally to Exchange-only Members as the Exchange believes it appropriately protects against improprieties, such as conflicts of interest, that might arise when a Member or person associated with a Member gives items of value to an employee of another person, such as an institutional customer, vendor or counterparty with the hope of strengthening the relationship with the customer.

First, the Exchange proposes to amend Rule 3.291 to increase the gift limit from $100 to $300 per individual per year. FINRA stated that the current gift limit of $100 has been in place since 1992.[13] FINRA increased the gift limit from $100 to $300 to account for past inflation since 1992 and to account for expected future inflation for approximately ten years, thereby reducing the frequency of future upwards adjustments to account for inflation.[14] Consistent with FINRA's determination, the Exchange believes that a $300 gift limit would continue to permit the exchange of business courtesies while helping to guard against excessiveness, and reasonably reflects changes to purchasing power due to inflation since the gift limit was last raised in 1992 as well as approximately ten years of expected future inflation.

Second, the Exchange proposes to add a new paragraph (d) to Rule 3.291 that would authorize FINRA, acting on behalf of the Exchange, to conditionally or unconditionally grant an exemption from any provision of 3.291 for good cause shown, provided that such exemption is consistent with the purpose of the Rule, the protection of investors, and the public interest. Specifically, the Exchange proposes that pursuant to Rule Series 9.600, FINRA staff, for good cause shown after taking into consideration all relevant factors, may conditionally or unconditionally grant an exemption from any provision of this Rule to the extent that such exemption is consistent with the purpose of the Rule, the protection of investors, and the public interest. This proposed provision mirrors the exemptive relief authority added by FINRA in new FINRA Rule 3220(d). Given the scope of Rule 3.291, which applies to gifts given to a wide range of recipients where the payment is in relation to the business of the employer of the recipient, and given the diversity of Member sizes, structures, businesses, and distribution models, the Exchange believes it would be useful and appropriate to have the ability to provide relief from a particular provision of the Rule under specific factual circumstances.

Third, FINRA Rule 3220 incorporated published guidance interpreting FINRA Rule 3220, including NASD Notice to Members 06–69,[15] FINRA's Frequently Asked Questions on Gifts, Business Entertainment, and Non-Cash Compensation,[16] as well as an interpretive letter regarding bereavement gifts (the ''Aly Letter'').[17] To maintain substantive alignment with FINRA Rule 3220, the Exchange proposes to adopt corresponding Supplementary Material .01 through .09 to Rule 3.291. Each proposed Supplementary Material section is described below.

Proposed Supplementary Material .01 (Gifts Incidental to Business Entertainment) would state that a gift given during the course of a business entertainment event is subject to Rule 3.291 unless it is consistent with the requirements of proposed Supplementary Material .04 (Personal Gifts) or .06 (De Minimis Gifts and Promotional or Commemorative Items) which is substantially similar to FINRA Rule 3220 Supplementary Material .04 and .06. For the purpose of the $300 limit, the cost of the business entertainment event itself would not be included in the value of the gift.

Proposed Supplementary Material .02 (Valuation of Gifts) would require Members to value gifts (other than tickets for sporting or other events) at cost, exclusive of tax and delivery charges, and would require Members to value tickets for sporting or other events at the higher of cost or face value. If gifts are given to multiple recipients, Members must record the names of each recipient and calculate and record the value of the gift on a pro rata, per-recipient basis, for purposes of ensuring compliance with the $300 limit in Rule 3.291. Supplementary Material .02 to FINRA Rule 3220 requires Members to value gifts (other than tickets for sporting or other events) at cost rather than at the higher of cost or market value, which reduces complexity and subjectivity because market value can be difficult and burdensome to determine, while distinguishing tickets for sporting or other events accounts for the fact that such tickets are commonly purchased on secondary markets at costs that differ from face value. This proposed revision is substantially similar to Supplementary Material .02 to FINRA Rule 3220.

Proposed Supplementary Material .03 (Aggregation of Gifts) would require Members to aggregate all gifts given by the Member and each associated person of the Member to a particular recipient over the course of the year for purposes of ensuring compliance with the $300 limit in Rule 3.291(a), and would require each Member to state in its procedures whether it is aggregating all gifts given by the Member and its associated persons on a calendar year, fiscal year, or on a rolling basis beginning with the first gift to any particular recipient. The aggregation requirement would not apply to personal gifts under proposed

[13] *See supra,* note 8.

[14] *Id.*

[15] *See* NASD Notice to Members 06–69 (Dec. 2006) (''NTM 06–69'').

[16] *See* Gifts/Business Entertainment/Non-Cash Compensation FAQs, *https://www.finra.org/rules-guidance/keytopics/gifts-gratuities-and-non-cash-compensation/faqs* (''FAQs'').

[17] *See* Letter from Gary L. Goldsholle, Vice President & Associate General Counsel, FINRA, to Amal Aly, Managing Director & Associate General Counsel, SIFMA, dated December 17, 2007 (''Aly Letter'').

Supplementary Material .04 or to gifts of de minimis value or promotional or commemorative items under proposed Supplementary Material .06 as they are already not subject to the gift limit. This proposed provision, which is substantially similar to Supplementary Material .03 to FINRA Rule 3220, would help ensure that persons who give multiple gifts in a year to the same recipient do not circumvent the gift limit.

Proposed Supplementary Material .04 (Personal Gifts) would state that gifts that are given for infrequent life events (*e.g.,* a wedding gift or a congratulatory gift for the birth of a child) are not subject to the restrictions in Rule 3.291(a) or the recordkeeping requirements in Rule 3.291(c), provided the gifts are customary and reasonable, personal in nature, and not in relation to the business of the employer of the recipient. In determining whether a gift is ''personal in nature and not in relation to the business of the employer of the recipient,'' Members should consider a number of factors, including the nature of any pre-existing personal or family relationship between the person giving the gift and the recipient and whether the associated person paid for the gift. When the Member bears the cost of the gift, either directly or by reimbursing an associated person, FINRA will presume that such gift is not personal in nature and instead is in relation to the business of the employer of the recipient. This provision is substantially similar to Supplementary Material .04 to FINRA Rule 3220.

Consistent with Supplementary Material .05 to FINRA Rule 3220 (Bereavement Gifts), proposed Supplementary Material .05 to Rule 3.291 separates bereavement gifts from personal gifts. Proposed Supplementary Material .05 to Rule 3.291 would state that bereavement gifts that are customary and reasonable are not considered to be in relation to the business of the employer of the recipient and, therefore, are not subject to the restrictions in Rule 3.291(a) or the recordkeeping requirements in Rule 3.291(c). This provision is substantially similar to Supplementary Material .05 to FINRA Rule 3220.

Proposed Supplementary Material .06 (De Minimis Gifts and Promotional or Commemorative Items), at paragraph (a), would state that gifts of a de minimis value (*e.g.,* pens, notepads, or modest desk ornaments) or promotional items of nominal value that display the Member's logo (*e.g.,* umbrellas, tote bags, or shirts) are not subject to the restrictions in Rule 3.291(a) or the recordkeeping requirements in Rule 3.291(c), provided that the value of the gift or promotional item is substantially below the $300 limit. Proposed Supplementary Material .06(b) would state that customary and reasonable solely decorative items commemorating a business transaction are not subject to the restrictions in Rule 3.291(a) or the recordkeeping requirements in Rule 3.291(c). These provisions are substantially similar to Supplementary Material .06 to FINRA Rule 3220.

Proposed Supplementary Material .07 (Donations Due to Federally Declared Major Disasters) would state that donations by a Member or an associated person to any person, principal, proprietor, employee, agent or representative of another person to provide assistance to the individual for losses sustained in a natural event that the President of the United States has declared to be a major disaster, such as a wildfire, hurricane, tornado, earthquake, or flood, are not considered ''in relation to the business of the employer of the recipient'' for purposes of Rule 3.291(a) and are not subject to the restrictions in Rule 3.291(a) or the recordkeeping requirements of Rule 3.291(c). This provision is substantially similar to Supplementary Material .07 to FINRA Rule 3220 which recognizes that the nature of such disasters is unpredictable and catastrophic.

Proposed Supplementary Material .08 (Supervision and Recordkeeping) would state that the Exchange's supervision rules in Rule 5.110 require a Member to have a supervisory system reasonably designed to achieve compliance with Rule 3.291. To meet these standards, Members would be required to have systems and procedures reasonably designed to ensure that payments and gratuities in relation to the business of the employer of the recipient given by the Member and its associated persons to employees of another person are (a) reported to the Member; (b) reviewed for compliance with Rule 3.291; and (c) maintained in the Member's records. Such procedures must be reasonably designed to ensure that an associated person who is giving a payment or gratuity is not responsible for determining whether such payment or gratuity is in relation to the business of the recipient's employer. Members are not required to maintain records of gifts that are consistent with the requirements of proposed Supplementary Material .04 through .07. Requiring a person other than the associated person giving the gift to assess the nature of the gift is intended to encourage objectivity in making such determinations. This proposed revision is substantially similar to Supplementary Material .08 to FINRA Rule 3220.

Proposed Supplementary Material .09 (Gifts to a Member's Associated Persons or Individual Retail Customers) would state that Rule 3.291 does not apply to gifts from a Member to its own associated persons, or to gifts from a Member or an associated person to individual retail customers. The Exchange believes that proposed Supplementary Material .09 would clarify, and improve awareness and understanding of, the scope of Rule 3.291. This proposed revision is substantially similar to Supplementary Material .09 to FINRA Rule 3220.

The Exchange believes the proposed rule change would improve transparency, awareness, and understanding of the requirements of Rule 3.291 and FINRA Rule 3220, without reducing protection for investors and the public interest. Thus, the Exchange believes these proposed changes would help facilitate compliance with Rule 3.291 and would provide regulatory certainty to Members. Because the Exchange proposes to make conforming amendments that are substantially similar to FINRA's amendments to FINRA Rule 3220, Members that are also FINRA members would continue to be subject to a substantially similar rule when conducting business on the Exchange. In addition, Members that are not FINRA members would continue to be subject to Rule 3.291 to the extent that such Members conduct business with the public.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions of Section 6(b) [18] of the Act in general, and furthers the objectives of Section 6(b)(5) of the Act [19] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

As noted above, the proposed rule change conforms Rule 3.291 to FINRA Rule 3220 so that it is substantially similar to FINRA's rule, thereby promoting uniform standards across the securities industry. The Exchange also notes the changes proposed herein align

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

Rule 3.291 with a recent filing submitted by FINRA and approved by the Commission.[20] The Exchange further believes that these changes will help to reduce and avoid potential confusion among Members of the Exchange that are also members of FINRA by harmonizing Rule 3.291 with FINRA Rule 3220. The proposed rule change is designed to enable the Exchange to incorporate Rule 3.291 into the 17d–2 Agreement, further reducing duplicative regulation of Members that are also members of FINRA. For the avoidance of doubt, Rule 3.291 would equally apply to an Exchange-only Member as the Exchange believes it appropriately protects against improprieties that might arise when substantial gifts or monetary payments are given to certain persons.

The Exchange believes the proposed rule change would promote efficiency without reducing protection for investors and the public interest. The proposed changes to Rule 3.291 to conform to the rules of FINRA will improve transparency, awareness, and understanding of the Rule's requirements. The Exchange believes these proposed changes would also help facilitate compliance with Rule 3.291.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue but to align the Exchange's rules with those of FINRA. Aligning Rule 3.291 with FINRA Rule 3220 would avoid potentially different outcomes for members of both FINRA and IEX with respect to gifts and gratuities. This change would provide greater harmonization among IEX and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance for common members and facilitating FINRA's performance of its regulatory functions under the 17d–2 Agreement. As such, 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.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated this rule filing as non-controversial under Section 19(b)(3)(A)[21] of the Act and Rule 19b–4(f)(6)[22] thereunder. Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

The proposal does not significantly affect the protection of investors or the public interest. Further, the proposal does not impose any significant burden on competition. As discussed above, the Exchange believes that the proposed change is consistent with the protection of investors and the public interest because the proposed rule change will promote greater harmonization between the Exchange and FINRA rules of similar purpose, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. Additionally, the proposed rule change does not raise any new policy issues not previously considered by the Commission nor impose any significant burden on competition because it would result in less burdensome and more efficient regulatory compliance for common members and facilitating FINRA's performance of its regulatory functions under the 17d–2 Agreement. As described above, the Exchange notes that the proposed change is directly based on proposed a rule change submitted by FINRA that was approved by the Commission.[23]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[24] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–IEX–2026–43 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–IEX–2026–43. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–IEX–2026–43 and should be submitted on or before December 1, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2026–22845 Filed 11–9–26; 8:45 am]

**BILLING CODE 8011–01–P**

[20] *See supra,* note 8.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6).

[23] *See supra,* note 8.

[24] 15 U.S.C. 78s(b)(2)(B).

[25] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–106833; File No. SR–ICC–2026–014]**

## Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing of Proposed Rule Change Relating to the Procedures for Monitoring Compliance With the Eligible Secondary Market Transaction Submission Requirements

November 5, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Securities Exchange Act'' or the ''Act''), 15 U.S.C. 78s(b)(1) and Rule 19b–4 thereunder, 17 CFR 240.19b–4, notice is hereby given that on November 02, 2026, ICE Clear Credit LLC (''ICC'' or ''ICE Clear Credit'') filed with the Securities and Exchange Commission (''SEC'' or the ''Commission'') the proposed rule change, as described in Items I, II and III below, which Items have been prepared primarily by ICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed rule change is to adopt the ICC Procedures for Monitoring Compliance with the Eligible Secondary Market Transaction Submission Requirements (the ''ESMT Procedures''). The ESMT Procedures supplement existing provisions of the ICC U.S. Treasury (''UST'' or ''Treasury'') Clearing Rules [1] (the ''Treasury Rules'').

### II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC included statements concerning the purpose of and basis for the proposed rule change, security-based swap submission, or advance notice and discussed any comments it received on the proposed rule change, security-based swap submission, or advance notice. The text of these statements may be examined at the places specified in Item IV below. ICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

[1] ICC's Treasury Clearing Rules are available on ICC's public website: *https://www.ice.com/publicdocs/clear_credit/ICE_Clear_Credit_Treasury_Clearing_Rules.pdf.*

*(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

(a) Purpose

ICC proposes to adopt the ESMT Procedures, which formalize ICC's procedures for monitoring compliance by Treasury Participants (''TPs'') with the requirement to submit Eligible Secondary Market Transactions [2] for clearing, consistent with Securities and Exchange Commission (''SEC'' or the ''Commission'') Rule 17ad–22(e)(18)(iv)(A) and (B).[3] The ESMT Procedures supplement existing provisions of the Treasury Rules, including Chapter 2—Membership, Chapter 3—Clearing of Contracts and Chapter 7—Disciplinary Rules. The ESMT Procedures establish how ICC will monitor, review and enforce TP compliance with Treasury Rule 303. ICC intends to adopt these ESMT Procedures to support the clearing of UST securities through its new Treasury clearing service.[4] ICC proposes to make such changes effective following Commission approval of the proposed rule change.

The ESMT Procedures consist of three sections. Section 1 specifies that capitalized terms used but not defined in the ESMT Procedures have the meanings specified in the Treasury Rules, unless otherwise indicated.

Section 2 sets out the requirement to submit trades for clearing. As specified in Section 2.1, Treasury Rule 303 requires each TP to submit to ICC or another SEC-registered covered clearing agency for clearing, promptly after execution, all trades in contracts that are eligible for clearing at ICC and are Eligible Secondary Market Transactions to which it is a counterparty. ICC will publish on its website all trades in contracts that are eligible for clearing at ICC pursuant to Chapter 30 of the Treasury Rules. A TP may satisfy this requirement by submitting the trade to ICC or to another SEC-registered covered clearing agency. ICC believes the ESMT Procedures that describe how compliance will be monitored provide TPs with transparency and give ICC a clear, documented process for carrying out its monitoring responsibility.

Pursuant to Section 2.2, the ESMT Procedures require TPs to promptly notify ICC in writing within 30 calendar days from the date on which the TP learns that it is no longer in compliance with Treasury Rule 303. The notice must include all relevant facts known at the time, such as the approximate duration of the non-compliance, the time at which the non-compliance was remediated or the anticipated remediation steps and expected timing, and the name and contact information of the TP staff member overseeing the matter.

In addition, Section 2.2 of the ESMT Procedures require each TP to annually attest to compliance with Treasury Rule 303 (''Annual Attestation''). ICC will announce the due date to TPs, with the due date being no less than 30 calendar days after the announcement. A senior officer authorized to sign for the TP must sign the Annual Attestation and confirm the TP has effective controls in place to ensure compliance with Treasury Rule 303. In the Annual Attestation, the attesting officer must state that they have read and understand the trade submission requirements set forth in the Treasury Rules and in the ESMT Procedures. The attesting officer must also state that the TP has established, maintains and enforces policies, procedures or other controls reasonably designed to ensure ongoing compliance with Treasury Rule 303, and that those controls are reasonably designed to promptly identify and remediate any non-compliance. Finally, the attesting officer must state that the TP complied with Treasury Rule 303 during the 12 months before the date of the attestation.

In Section 2.2, the ESMT Procedures further reserve ICC's right to conduct periodic reviews of a TP's submission of trades that are eligible for clearing and are Eligible Secondary Market Transactions. These reviews may cover transactions submitted to ICC as well as submissions to other covered clearing agencies, including rejected submissions and attempts to re-submit transactions. ICC may ask a TP for information and supporting documentation showing how it resolved any rejections or re-submissions in order to comply with Treasury Rule 303. ICC may also ask for information about

[2] Eligible Secondary Market Transaction has the meaning specified in SEC Rule 17ad–22(a) (as interpreted by the SEC and its staff) from time to time. *See* Treasury Rule 303(a).

[3] 17 CFR 240.17ad–22(e)(18)(iv)(A) and (B).

[4] ICC filed an application on Form CA–1 (''Application'') under Section 17A of the Securities Exchange Act of 1934 (the ''Act'') (15 U.S.C. 78q-1) with the Commission to register as a clearing agency to provide central counterparty services for transactions involving UST securities on August 1, 2025. Notice of ICC's application was published in the **Federal Register** on August 21, 2025. *See* Securities Exchange Act Release No. 103727 (August 18, 2025), 90 FR 40879 (August 21, 2025) (File No. 600–45). The Commission issued an order granting ICC's Application for registration as a clearing agency to provide central counterparty services for transactions involving Treasury securities on January 30, 2026. *See* Securities Exchange Act Release No. 104762 (January 30, 2026), 91 FR 5528 (February 6, 2026) (File No. 600–45).

timeliness of submission for clearing following execution of the transaction.

Finally, the ESMT Procedures describe how ICC will address possible violations of Treasury Rule 303 in Section 3. Under its authority in Treasury Rule 701(a), ICC may initiate and conduct investigations into alleged violations of a TP's obligation to comply with Treasury Rule 303, and ICC staff will conduct those investigations in accordance with Treasury Rule 702. If ICC staff believes a violation may have occurred, staff will consider a non-exclusive list of mitigating factors when exercising discretion to issue a warning letter, to negotiate the terms of a written settlement agreement (including the amount of fines) or to make penalty recommendations to the ICC Business Conduct Committee or Review Subcommittee of the Business Conduct Committee.[5] Those factors include whether the TP self-reported the non-compliance, any history of the TP violating Treasury Rule 303, remediation efforts by the TP, the extent of the TP's cooperation with an ICC investigation, whether the possible violation involved single or multiple transactions, and the period over which any multiple violations occurred.

(b) Statutory Basis

ICC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[6] and the regulations thereunder applicable to it, including the applicable standards under Rule 17ad–22.[7] In particular, Section 17A(b)(3)(F) of the Act[8] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds in the custody or control of ICC or for which it is responsible, and, in general, to protect investors and the public interest. As described above, the proposed ESMT Procedures are designed to support the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act,[9] by supporting TP compliance with the Eligible Secondary Market Transaction submission requirements. As described above, ICC believes the ESMT Procedures that describe how compliance will be monitored provide TPs with transparency and give ICC a clear, documented process for carrying out its monitoring responsibility. ICC further believes that having written policies and procedures that clearly document how it will monitor compliance with the Eligible Secondary Market Transaction submission requirements supports the prompt and accurate clearance and settlement of securities transactions, and protects investors and the public interest, consistent with Section 17A(b)(3)(F) of the Act.[10]

In addition, Section 17A(b)(3)(G) of the Act[11] requires that the rules of the clearing agency provide that its participants shall be appropriately disciplined for violation of any provision of the rules of the clearing agency, including by fine or other fitting sanction. The proposed changes are designed to ensure that TPs are appropriately disciplined for violations of Treasury Rule 303. As described above, under its authority in Treasury Rule 701(a), ICC may initiate and conduct investigations into alleged violations of a TP's obligation to comply with Treasury Rule 303, and ICC staff will conduct those investigations in accordance with Treasury Rule 702. If ICC staff believes a violation may have occurred, staff will consider a non-exclusive list of mitigating factors when exercising discretion to issue a warning letter, to negotiate the terms of a written settlement agreement (including the amount of fines) or to make recommendations to the ICC Business Conduct Committee or Review Subcommittee of the Business Conduct Committee.[12] The proposed ESMT Procedures are thus consistent with the requirements of Section 17A(b)(3)(G) of the Act.[13]

Rule 17ad–22(e)(18)(iv)(A)[14] requires a covered clearing agency that provides central counterparty services for U.S. Treasury securities to establish, implement, maintain and enforce written policies and procedures reasonably designed to have objective, risk-based and publicly disclosed criteria for participation that require each direct participant to submit for clearance and settlement all eligible secondary market transactions to which it is a counterparty. As described above, the proposed ESMT Procedures require each TP to submit to ICC (or another SEC registered covered clearing agency) for clearing all trades in contracts that are eligible for clearing at ICC and are Eligible Secondary Market Transactions to which it is a counterparty, consistent with Treasury Rule 303, and to confirm annually that it has complied with that requirement and maintains policies, procedures, or controls reasonably designed to ensure continued compliance. ICC therefore believes the proposed ESMT Procedures are consistent with Rule 17ad–22(e)(18)(iv)(A).[15]

Rule 17ad–22(e)(18)(iv)(B)[16] requires a covered clearing agency that provides central counterparty services for U.S. Treasury securities to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify and monitor its direct participants' submission of those transactions for clearing, including how the covered clearing agency would address a failure to submit transactions in accordance with the relevant requirements. As described above, the proposed ESMT Procedures establish how ICC will identify and monitor TP compliance with Treasury Rule 303. Under the proposed ESMT Procedures, TPs must notify ICC in writing within 30 calendar days of learning that it is no longer in compliance, TPs must provide an Annual Attestation signed by a senior officer, and ICC may conduct periodic reviews of TP submissions, including rejected submissions, re-submissions and timeliness of submission following execution. The proposed ESMT Procedures also describe how ICC will address a failure to submit transactions in accordance with Treasury Rule 303. ICC may investigate possible violations pursuant to Treasury Rules 701(a) and 702, and ICC staff will consider identified mitigating factors in determining whether to issue a warning letter, negotiate a written settlement agreement or make penalty recommendations. ICC therefore believes the proposed ESMT Procedures are consistent with Rule 17ad–22(e)(18)(iv)(B).[17]

*(B) Clearing Agency's Statement on Burden on Competition*

ICC does not believe the proposed rule change will have any impact, or impose any burden, on competition not necessary or appropriate in furtherance

[5] The Business Conduct Committee is responsible for responding to, and overseeing the investigation of suspected Treasury Rule violations. The Business Conduct Committee will, from time to time as it deems appropriate, assign a subcommittee of three members (the ''Review Subcommittee''), to receive and review written investigation reports concerning possible violations and written settlement agreements. *See* Treasury Rule 703.

[6] 15 U.S.C. 78q–1.

[7] 17 CFR 240.17ad–22.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] *Id.*

[10] *Id.*

[11] 15 U.S.C. 78q–1(b)(3)(G).

[12] *See* supra note 5.

[13] *See* supra note 11.

[14] 17 CFR 240.17ad–22(e)(18)(iv)(A).

[15] *Id.*

[16] 17 CFR 240.17ad–22(e)(18)(iv)(B).

[17] *Id.*

of the purposes of the Act. The proposed ESMT Procedures will apply uniformly across all market participants. ICC does not believe the proposed rule change would adversely affect the costs of clearing or the ability of market participants to access clearing. Therefore, ICC does not believe the proposed rule change will impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

*(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments relating to the proposed rule change have not been solicited received. ICC will notify the Commission of any written comments received by ICC.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

**(IV) Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICC–2026–014 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–ICC–2026–014. 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 such filings will be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's website at *https://www.ice.com/clear-credit/regulation.*

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–ICC–2026–014 and should be submitted on or before December 1, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2026–22850 Filed 11–9–26; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 36383; File No. 812–16073]**

## Horizon Investments, LLC and Horizon Funds

November 5, 2026.

**AGENCY:** Securities and Exchange Commission (''Commission'' or ''SEC'').

**ACTION:** Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 18(f)(1), 18(i), 22(d) and 22(e) of the Act and rule 22c–1 under the Act and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

*Summary of Application:* Applicants request an order (''Order'') that would permit a registered open-end management investment company to offer one class of exchange-traded shares that operates as an exchange-traded fund (an ''ETF Class,'' and such shares, ''ETF Shares'') and one or more classes of shares that are not exchange-traded (each such class, a ''Mutual Fund Class,'' and such shares, ''Mutual Fund Shares,'' and each such fund, a ''Multi-Class ETF Fund''). The Order would provide Multi-Class ETF Funds with two broad categories of relief: (i) the relief necessary to permit standard exchange-traded fund (''ETF'') operations consistent with Rule 6c–11 under the Act (''ETF Operational Relief'') and (ii) the relief necessary for a fund to offer an ETF Class and one or more Mutual Fund Classes (''ETF Class Relief'').

*Applicants:* Horizon Investments, LLC and Horizon Funds.

*Filing Dates:* The application was filed on August 18, 2026, and amended on September 30, 2026.

*Hearing or Notification of Hearing:* An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern Time, on November 30, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

**ADDRESSES:** The Commission: *Secretarys-Office@sec.gov.* Applicants: Katherine A. McCurry, Esq., *KMcCurry@ktslaw.com,* and Jeffrey T. Skinner, Esq., *JSkinner@ktslaw.com,* Kilpatrick Townsend & Stockton LLP, 1001 West Fourth Street, Winston-Salem, NC 27101.

**FOR FURTHER INFORMATION CONTACT:** Thomas Ahmadifar, Branch Chief, or Wiley Cole, Senior Counsel, at (202) 551–6720 or *IMOCC@sec.gov* (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, filed September 30, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You

[18] 17 CFR 200.30–3(a)(12).

may also call the SEC's Office of Investor Education and Assistance at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2026–22853 Filed 11–9–26; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Investment Company Act Release No. 36382; 812–16092]**

### Bluerock ETF Trust and Bluerock ETF Advisor, LLC

November 5, 2026.

**AGENCY:** Securities and Exchange Commission (''Commission'' or ''SEC'').

**ACTION:** Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements'').

*Summary of Application:* The requested exemption would permit Applicants to enter into and materially amend subadvisory agreements with subadvisers without shareholder approval and would grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers.

*Applicants:* Bluerock ETF Trust and Bluerock ETF Advisor, LLC.

*Filing Dates:* The application was filed on September 25, 2026.

*Hearing or Notification of Hearing:* An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern Time, on November 30, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

**ADDRESSES:** The Commission: *Secretarys-Office@sec.gov.* Applicants: Joel D. Corriero, Nicole Simon, Stradley Ronon Stevens & Young, LLP, *JCorriero@stradley.com, NSimon@stradley.com,* with a copy to Jason Emala, Bluerock ETF Advisor, LLC, *JEmala@bluerock.com.*

**FOR FURTHER INFORMATION CONTACT:** Rachel Loko, Senior Special Counsel, at (202) 551–6720 or *IMOCC@sec.gov* (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated September 25, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.*

You may also call the SEC's Office of Investor Education and Assistance at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

**Sherry R. Haywood,**

*Assistant Secretary.*

[FR Doc. 2026–22854 Filed 11–9–26; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–106831]**

### Order Cancelling Registrations of Certain Municipal Advisors Pursuant to Section 15B(c)(3) of the Securities Exchange Act of 1934

November 5, 2026.

The municipal advisors whose names appear in Appendix A (hereinafter referred to as the ''Registrants'') are registered with the Securities and Exchange Commission (the ''Commission'') as municipal advisors pursuant to Sections 15B(a)(1)(B) and 15B(a)(2) of the Securities Exchange Act of 1934 (the ''Act'').

On September 29, 2026, a Notice of Intention to Cancel Registration of Certain Municipal Advisors Pursuant to Section 15b(c)(3) of the Securities Exchange Act of 1934, including Registrants, was published in the **Federal Register** (Securities and Exchange Commission Release No. 34–106484). The notice gave interested persons an opportunity to request a hearing and stated that an order or orders cancelling the registration of the Registrants listed in Appendix A would be issued unless a hearing was ordered. No request for a hearing has been filed by any person (including any Registrant), and the Commission has not ordered a hearing.

Pursuant to Section 15B(c)(3) of the Act, the Commission has found that each Registrant listed in Appendix A is no longer in existence or has ceased to do business as a municipal advisor.

Accordingly,

*It is ordered,* pursuant to Section 15B(c)(3) of the Act, that the registration of each Registrant listed in Appendix A be, and hereby is, cancelled.

For the Commission, by the Office of Municipal Securities, pursuant to delegated authority.[1]

**Sherry R. Haywood,**

*Assistant Secretary.*

### Appendix A

| Registrant name | SEC ID No. |
|---|---|
| ESTRADA HINOJOSA & COMPANY, INC | 867–00459 |
| KANE, MCKENNA CAPITAL, INC | 867–00718 |
| Torain Group | 867–02137 |

[1] 17 CFR 200.30–3a(a)(1)(ii).

[FR Doc. 2026–22848 Filed 11–9–26; 8:45 am]
BILLING CODE 8011–01–P

## DEPARTMENT OF STATE

**[Public Notice: 13149]**

## 30-Day Notice of Proposed Information Collection: Improving Customer Experience (OMB Circular A–11, Section 280 Implementation)

**ACTION:** Notice of request for public comment and submission to OMB of proposed collection of information.

**SUMMARY:** The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

**DATES:** Submit comments up to December 10, 2026.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

Under the PRA, (44 U.S.C. 3501–3520) Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Department of State is publishing notice of the proposed collection of information set forth in this document.

Whether seeking a loan, Social Security benefits, veteran's benefits, or other services provided by the Federal Government, individuals and businesses expect Government customer services to be efficient and intuitive, just like services from leading private-sector organizations. Yet the 2016 American Consumer Satisfaction Index and the 2017 Forrester Federal Customer Experience Index show that, on average, Government services lag nine percentage points behind the private sector.

A modern, streamlined and responsive customer experience means: raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership. To support this, OMB Circular A–11 Section 280 established government-wide standards for mature customer experience organizations in government and measurement. To enable Federal programs to deliver the experience taxpayers deserve, they must undertake three general categories of activities: conduct ongoing customer research, gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.,* in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. The Department of State will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps will be taken to ensure anonymity of respondents in each activity covered by this request.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps, and reports and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on *performance.gov* to help build transparency and accountability of Federal programs to the customers they serve.

*Method of Collection*

The Department of State will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. The Department of State may also utilize observational techniques to collect this information.

*Data:*
*Form Number(s):* DS–4318.
*Type of Review:* Extension.

### B. Annual Reporting Burden

*Affected Public:* Collections will be targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future. For the purposes of this request, ''customers'' are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a Federal contractor. This could include individuals or households; businesses or other for-profit organizations; not-for-profit institutions; State, local or tribal governments; Federal government; and Universities.

- *Estimated Number of Respondents:* 1,101,550.
- *Estimated Time per Response:* Varied, dependent upon the data collection method used. The possible response time to complete a questionnaire or survey may be 3 minutes or up to 1.5 hours to participate in an interview.
- *Estimated Total Annual Burden Hours:* 100,800.
- *Estimated Total Annual Cost to Public:* $0.

### C. Public Comments

The Department of State published a 60-day notice for this collection on August 20, 2026. 91 FR 53925. There was one public comment, which stated that data collection is limited to ''non-sensitive opinions'' and feedback regarding government service, and asked if this collection satisfies those legal requirements. The Department believes that it does, and by this notice invites further comment on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (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 through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the

request for OMB approval of this information collection; they also will become a matter of public record.

**Alden F. Fahy,**

*Acting Director, Office of Privacy and Organizational Policy, Department of State.*

[FR Doc. 2026–22875 Filed 11–9–26; 8:45 am]

**BILLING CODE 4710–05–P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Minor Modification Approval

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** This notice lists the minor modifications approved for previously approved projects by the Susquehanna River Basin Commission during the period set forth in **DATES**.

**DATES:** October 1–31, 2026.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax (717) 238–2436; email: *joyler@srbc.gov.* Regular mail inquiries may be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists previously approved projects, receiving approval of minor modification or a corrective modification, described below, pursuant to 18 CFR 806.18 or to Commission Resolution Nos. 2013–11 and 2015–06, for the time period specified above.

1. Seneca Resources Company, LLC—Marsh Creek Docket No. 20260916, Delmar Township, Tioga County, Pa.; modification approval to change the monitoring conditions; Approval Date: October 9, 2026.

*Authority:* Public Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806 and 808.

Dated: November 6, 2026.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2026–22932 Filed 11–9–26; 8:45 am]

**BILLING CODE 7040–01–P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Commission Meeting

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** The Susquehanna River Basin Commission will conduct its regular business meeting on December 10, 2026 in Harrisburg, Pennsylvania. Details concerning the matters to be addressed at the business meeting are contained in the Supplementary Information section of this notice. Also, the Commission published a document in the **Federal Register** October 5, 2026 concerning its public hearing on October 28th, in Harrisburg, Pennsylvania.

**DATES:** The meeting will be held on Thursday, December 10, 2026 at 9 a.m.

**ADDRESSES:** This public meeting will be conducted in person and digitally from the Susquehanna River Basin Commission at 4423 North Front Street, Harrisburg, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: 717–238–0423; fax: 717–238–2436.

**SUPPLEMENTARY INFORMATION:** The business meeting will include actions or presentations on the following items: (1) Adoption of the Access to Records Policy; (2) Adoption of the 2027 Regulatory Program Fee Schedule; (3) Approval of contract and grants; and (4) 19 actions on 11 regulatory program projects.

This agenda is complete at the time of issuance, but other items may be added, and some stricken without further notice. The listing of an item on the agenda does not necessarily mean that the Commission will take final action on it at this meeting. When the Commission does take final action, notice of these actions will be published in the **Federal Register** after the meeting. Any actions specific to projects will also be provided in writing directly to project sponsors.

The meeting will be conducted both in person and digitally at the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania. The public is invited to attend the Commission's business meeting. The public may access the Business Meeting remotely via TEAMS: *https://teams.microsoft.com/meet/24332537930182?p=jurKh2mlnwH1bS3k7r;* Meeting ID: 243 325 379 301 82; Passcode: G5EM2V9d or via telephone: #1–929–777–2488, Phone Conf ID: 517 701 386#.

A public hearing and written comment period was provided for the actions on the 11 projects, the Proposed Access to Records Policy and the Proposed 2027 Regulatory Program Fee Schedule and the comment period on those proposed actions is closed. Written comments pertaining to all other items on the agenda at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110, or submitted electronically at the link Business Meeting Comments. Comments are due to the Commission for all items on the business meeting agenda on or before December 7, 2026. Comments will not be accepted at the business meeting noticed herein.

*Authority:* Pubic Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 801, 806, and 808.

Dated: November 6, 2026.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2026–22930 Filed 11–9–26; 8:45 am]

**BILLING CODE 7040–01–P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Projects Approved for Consumptive Uses of Water

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** This notice lists Approvals by Rule for projects by the Susquehanna River Basin Commission during the period set forth in **DATES**.

**DATES:** October 1–31, 2026.

**ADDRESSES:** Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.gov.* Regular mail inquiries may be sent to the above address.

**SUPPLEMENTARY INFORMATION:** This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and (f) for the time period specified above.

**Approvals by Rule—Issued Under 18 CFR 806.22(e)**

1. Carlisle Construction Materials, LLC; ABR–202610002; Carlisle Borough, Cumberland County, Pa.; Consumptive Use of Up to 0.0990 mgd; Approval Date: October 27, 2026.

**Approvals by Rule—Issued Under 18 CFR 806.22(f)**

1. Pennsylvania General Energy Company, L.L.C.; Pad ID: COP Tract 723

Pad C; ABR–202610001; Gamble Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 18, 2026.

2. *RENEWAL*—BKV Operating, LLC; Pad ID: Bush Pad; ABR–201109028.R3; Forest Lake and Bridgewater Townships, Susquehanna County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: October 18, 2026.

3. *RENEWAL*—Blackhill Energy LLC; Pad ID: STAHL 1H Pad; ABR–201107021.R3; Smithfield Township, Bradford County, Pa.; Consumptive Use of Up to 4.9900 mgd; Approval Date: October 18, 2026.

4. *RENEWAL*—EQT ARO LLC; Pad ID: COP Tr 285 Pad H; ABR–201008018.R3; Chapman Township, Clinton County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 18, 2026.

5. *RENEWAL*—Expand Operating LLC; Pad ID: BAUMUNK NORTH A UNIT PAD; ABR–202109001.R1; Fox Township, Sullivan County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 18, 2026.

6. *RENEWAL*—Expand Operating LLC; Pad ID: Brule; ABR–201110005.R3; Elkland Township, Sullivan County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 18, 2026.

7. *RENEWAL*—Expand Operating LLC; Pad ID: Circle H; ABR–201109033.R3; Wilmot Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 18, 2026.

8. *RENEWAL*—Expand Operating LLC; Pad ID: Folger Pad; ABR–201108022.R3; New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 18, 2026.

9. *RENEWAL*—Expand Operating LLC; Pad ID: Smurkoski; ABR–201109032.R3; Meshoppen Township, Wyoming County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 18, 2026.

10. *RENEWAL*—Expand Operating LLC; Pad ID: Stone; ABR–201109035.R3; Tuscarora Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 18, 2026.

11. *RENEWAL*—Expand Operating LLC; Pad ID: Yonkin Drilling Pad #1; ABR–201109020.R3; Cherry Township, Sullivan County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 18, 2026.

12. *RENEWAL*—Coterra Energy Inc.; Pad ID: Westholme Energy LLC P1; ABR–202110001.R1; Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.5000 mgd; Approval Date: October 26, 2026.

13. *RENEWAL*—EQT ARO LLC; Pad ID: Mac Pad A; ABR–201508001.R2; Cascade Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 26, 2026.

14. *RENEWAL*—EXCO Resources (PA), LLC; Pad ID: Poor Shot East Unit Drilling Pad #1; ABR–20091002.R3; Anthony Township, Lycoming County, Pa.; Consumptive Use of Up to 5.0000 mgd; Approval Date: October 26, 2026.

15. *RENEWAL*—Expand Operating LLC; Pad ID: Grizzanti Pad; ABR–201108023.R3; New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 26, 2026.

16. *RENEWAL*—Repsol Oil & Gas USA, LLC; Pad ID: NOBLE (03 029) S; ABR–201007011.R3; Wells Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: October 26, 2026.

17. *RENEWAL*—Repsol Oil & Gas USA, LLC; Pad ID: THORP (03 049) D; ABR–201007082.R3; Wells Township, Bradford County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: October 26, 2026.

18. *RENEWAL*—Seneca Resources Company, LLC; Pad ID: C09–Q; ABR–202109002.R1; Shippen Township, Cameron County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 26, 2026.

19. *RENEWAL*—Seneca Resources Company, LLC; Pad ID: DCNR Tract 595 Pad F; ABR–201008044.R3; Bloss Township, Tioga County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 26, 2026.

20. *RENEWAL*—EQT ARO LLC; Pad ID: Elbow Pad A; ABR–201008055.R3; Cogan House Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 27, 2026.

21. *RENEWAL*—Expand Operating LLC; Pad ID: Carty-Wisemen Well Pad; ABR–201109006.R3; Liberty Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 27, 2026.

22. *RENEWAL*—Expand Operating LLC; Pad ID: Kass North Well Pad; ABR–201109007.R3; Liberty Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 27, 2026.

23. *RENEWAL*—Expand Operating LLC; Pad ID: Robinson Well Pad; ABR–201109009.R3; Liberty Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 27, 2026.

24. *RENEWAL*—Expand Operating LLC; Pad ID: Roman Pad; ABR–201108020.R3; New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 27, 2026.

25. *RENEWAL*—Expand Operating LLC; Pad ID: Scott Pad; ABR–201108030.R3; New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 27, 2026.

26. *RENEWAL*—Expand Operating LLC; Pad ID: Zeffer Pad; ABR–201108029.R3; New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 27, 2026.

27. *RENEWAL*—Blackhill Energy LLC; Pad ID: FAY 1H Pad; ABR–201107019.R3; Ridgebury Township, Bradford County, Pa.; Consumptive Use of Up to 4.9990 mgd; Approval Date: October 29, 2026.

28. *RENEWAL*—Coterra Energy Inc.; Pad ID: GuitonP P1; ABR–202110003.R1; Middletown Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.5000 mgd; Approval Date: October 29, 2026.

29. *RENEWAL*—EQT ARO LLC; Pad ID: COP Tract 356 Pad G; ABR–201108017.R3; Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 29, 2026.

30. *RENEWAL*—EQT ARO LLC; Pad ID: COP Tract 728 Pad B; ABR–201106027.R3; Watson Township, Lycoming County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 29, 2026.

31. *RENEWAL*—Expand Operating LLC; Pad ID: Cramer Pad; ABR–201108007.R3; New Milford Township, Susquehanna County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: October 29, 2026.

32. *RENEWAL*—JKLM Energy, LLC; Pad ID: Headwaters 143; ABR–201604002.R2; Ulysses Township, Potter County, Pa.; Consumptive Use of Up to 7.0000 mgd; Approval Date: October 29, 2026.

33. *RENEWAL*—Repsol Oil & Gas USA, LLC; Pad ID: DCNR 587 (02 011); ABR–201106029.R3; Ward Township, Tioga County, Pa.; Consumptive Use of Up to 6.0000 mgd; Approval Date: October 29, 2026.

34. *RENEWAL*—Seneca Resources Company, LLC; Pad ID: D16–PHC–J; ABR–201509002.R2; Lawrence Township, Clearfield County, Pa.; Consumptive Use of Up to 4.0000 mgd; Approval Date: October 29, 2026.

35. *RENEWAL*—JKLM Energy, LLC; Pad ID: Headwaters 145; ABR–201608001.R2; Ulysses Township, Potter County, Pa.; Consumptive Use of Up to 3.1250 mgd; Approval Date: October 30, 2026.

(Authority: Public Law 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806 and 808.)

Dated: November 6, 2026.

**Jason E. Oyler,**

*General Counsel and Secretary to the Commission.*

[FR Doc. 2026–22931 Filed 11–9–26; 8:45 am]

**BILLING CODE 7040–01–P**

## TENNESSEE VALLEY AUTHORITY

### Sunshine Act Meetings

**TIME AND DATE:** 1:00 p.m. ET on November 10, 2026.

**PLACE:** Knoxville Office Complex, Knoxville, Tennessee.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

**Meeting No. 26–04**

The TVA Board of Directors will hold a public meeting on November 10 at the Knoxville Office Complex, 400 West Summit Hill Drive, in Knoxville, Tennessee. The meeting will be called to order at 1:00 p.m. ET to consider the agenda items listed below.

On November 10, at the Knoxville Office Complex, the public may comment on any agenda item or subject at a Board-hosted public listening session which begins at 9:00 a.m. ET and will last until 11:00 a.m. Preregistration is required to address the Board.

**Agenda**

1. Approval of Minutes of the August 20, 2026, Board Meeting
2. Report of the Finance, Rates, and Portfolio Committee
3. Report of the People and Governance Committee
   A. Performance and Compensation
4. Report of the Audit, Risk, and Cybersecurity Committee
5. Report of the Operations and Nuclear Oversight Committee
   A. Watts Bar Nuclear License Renewal
6. Report of the External Stakeholders and Regulation Committee
   A. Load Greater than 100 MW
7. Report from President and CEO
8. Information Item
   A. Confidential Legal Authorization

**CONTACT PERSON FOR MORE INFORMATION:** For more information: Please contact Melissa Greene, TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: November 3, 2026.

**Edward C. Meade,**

*Agency Liaison.*

[FR Doc. 2026–22900 Filed 11–6–26; 11:15 am]

**BILLING CODE 8120–08–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Notice of Modification of Section 301 Action: China's Targeting of the Maritime, Logistics, and Shipbuilding Sectors for Dominance

**AGENCY:** Office of the United States Trade Representative (USTR).

**ACTION:** Notice.

**SUMMARY:** To allow for further discussion with China regarding the acts, policies, and practices at issue in this investigation, the U.S. Trade Representative (Trade Representative) is modifying the action taken in this investigation to further suspend that action for two months, until January 10, 2027.

**DATES:** *November 9, 2026:* The actions taken in this investigation are further suspended through 11:59 p.m. Eastern Time on January 9, 2027.

**FOR FURTHER INFORMATION CONTACT:** Philip Butler, Deputy Assistant U.S. Trade Representative for Monitoring and Enforcement; Thomas Au, Senior Counsel for Industrial Policy; or David Salkeld, Associate General Counsel at (202) 395–5725.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

For background on the proceedings in this investigation, please see the prior notices issued in this investigation, including 89 FR 29424 (April 22, 2024), 90 FR 8089 (January 23, 2025), 90 FR 10843 (February 27, 2025), 90 FR 17114 (April 23, 2025) (April 23, 2025 FRN), 90 FR 24856 (June 12, 2025), 90 FR 48320 (October 16, 2025) (October 16, 2025 FRN); 90 FR 50762 (November 10, 2025) (November 10, 2025 FRN), 90 FR 50947 (November 13, 2025) (November 13, 2025 FRN), and 91 FR 67388 (October 26, 2026) (October 26, 2026 FRN).

On April 17, 2025, pursuant to sections 301(b), 301(c), and 304(a) of the Trade Act of 1974, as amended (Trade Act) (19 U.S.C. 2411(b), 2411(c), and 2414(a)), and subsequently on October 16, 2025, pursuant to section 307(a) (19 U.S.C. 2417(a)), following consideration of public comments, as well as consultations with advisory committees and the Section 301 Committee, the Trade Representative determined to take action in this investigation, including fees on certain maritime transport services and duties on ship-to-shore (STS) cranes and other cargo handling equipment of China. *See* April 23, 2025 FRN; October 16, 2025 FRN (modifying certain aspects of the actions in the investigation).

On November 1, 2025, the White House announced a historic trade and economic deal reached between President Trump and President Xi of China. The White House, Fact Sheet: President Donald J. Trump Strikes Deal on Economic and Trade Relations with China (Nov. 1, 2025), *https://www.whitehouse.gov/fact-sheets/2025/11/fact-sheet-president-donald-j-trump-strikes-deal-on-economic-and-trade-relations-with-china/*. Pursuant to this deal, the United States would suspend for one year, beginning on November 10, 2025, the responsive actions taken in this investigation. This period would allow the United States to negotiate with China pursuant to Section 301 regarding the issues raised in this investigation as well as to continue U.S. domestic efforts and discussions with key allies and partners on revitalizing American shipbuilding.

Following consideration of public comments and advice from the Section 301 Committee, the Trade Representative, at the specific direction of the President, suspended the actions in this investigation from November 10, 2025 through November 9, 2026. *See* November 13, 2025 FRN.

Discussions with China regarding the acts, policies, and practices at issue in this investigation are ongoing. In this light, and in accordance with Section 307(a)(2) of the Trade Act, on October 23, 2026, the Trade Representative proposed to further suspend the action in this investigation for two months, until January 10, 2027. The Trade Representative requested comments from any interested person regarding the proposal to further suspend the responsive actions. *See* October 26, 2026 FRN.

**II. Determination To Modify the Action**

Section 307(a)(1) of the Trade Act authorizes the Trade Representative to modify any action being taken under Section 301, subject to the specific direction of the President, including if such action being taken under Section 301(b) is no longer appropriate.

The circumstances that warranted the initial suspension continue to exist, and to allow for further discussion with China regarding the issues in this investigation, and at the direction of the President, the Trade Representative has determined that the action taken on

April 17, 2025, as modified, is no longer appropriate and will be further suspended for two months, until January 10, 2027.

Therefore, effective on November 9, 2026, the U.S. Trade Representative is further suspending the responsive actions taken in this investigation in the April 23, 2025 FRN, as modified by the October 16, 2025 FRN and as further modified by the November 13, 2025 FRN, until January 10, 2027. Accordingly, effective on November 9, 2026, headings 9903.91.12, 9903.91.13, 9903.91.14, 9903.91.15, and 9903.91.16 of the Harmonized Tariff Schedule of the United States are each amended by deleting ''November 10, 2026,'' and by inserting ''January 10, 2027,'' in lieu thereof.

During the suspension period, no party will accrue liability for or be required to pay the fees on maritime transport services under Annexes I, II, or III of the April 23, 2025 FRN, as modified by the October 16, 2025 FRN and as further modified by the November 13, 2025 FRN. Further, during the suspension period, no party will accrue liability for or be required to pay the duties provided in Annex V.A of the October 16, 2025 FRN, as further modified by the November 13, 2025 FRN.

### III. Responses to Significant Comments

In response to the October 26, 2026 FRN, USTR received approximately 60 unique comments. Some comments supported the proposal to further suspend the action. Some comments noted that further suspension of the action would avoid increased shipping costs and prevent commercial disruptions. Some comments also recommended further suspension of the actions to provide time for continued negotiation with China on the issues raised in this investigation.

Comments opposing the further suspension asserted that the responsive action is needed to address China's acts, policies, and practices by creating incentives to invest in U.S. shipbuilding and related industries, such as containers. These comments argue that, without the action, China's dominance across the maritime, logistics, and shipbuilding sectors will increase.

Some comments recommended permanent suspension of one or all of the maritime service fees provided for in Annex III of the April 23, 2025 FRN, as modified by the October 16, 2025 FRN. These comments generally asserted that if the suspension is not continued, there may be commercial disruptions that negatively impact U.S. exports.

Some comments addressing the suspension of restrictions of Annex IV of the April 23, 2025 FRN, as modified by the October 16, 2025 FRN, generally supported further suspension and recommended permanently lifting the restrictions provided in Annex IV.

Some comments addressing the suspension of the additional tariffs on STS cranes and other cargo handling equipment in Annex V.A of the October 16, 2025 FRN, as well as the proposed tariffs on additional cargo handling equipment in Annex V.B of the October 16, 2025 FRN, generally supported ending the suspension and addressing tariffs separately from the maritime service fees.

Considering the comments, the Trade Representative has determined that the action taken on April 17, 2025, as modified, is no longer appropriate and will be further suspended for two months, until January 10, 2027. During this further suspension, the United States will continue discussions with China to address the acts, policies, and practices at issue in this investigation and take actions to expand domestic commercial shipbuilding capacity, build a resilient workforce, and continue to partner with key allies to increase U.S. shipbuilding capacity. *See* The White House, America's Maritime Action Plan (Feb. 2026), *https://www.whitehouse.gov/wp-content/uploads/2026/02/Restoring-Americas-Maritime-Dominance.pdf.*

### IV. Ongoing Monitoring

The Trade Representative will continue to monitor the issues raised in this investigation pursuant to Section 301 of the Trade Act and will consider whether it is appropriate to continue the suspension period or whether further action is appropriate in advance of the January 10, 2027, suspension deadline. If modification to the action may be appropriate pursuant to Section 307 of the Trade Act, the Trade Representative may consider the comments received in response to previously proposed responsive actions.

**Jennifer Thornton,**

*General Counsel, Office of the United States Trade Representative.*

[FR Doc. 2026–22867 Filed 11–9–26; 8:45 am]

**BILLING CODE 3390–F4–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

**[Docket No. USTR–2026–0364]**

## Notice of Determination To Extend Section 301 Investigation of Vietnam's Acts, Policies, and Practices Related to Intellectual Property Protection and Enforcement

**AGENCY:** Office of the United States Trade Representative (USTR).

**ACTION:** Notice.

**SUMMARY:** The United States Trade Representative (Trade Representative) has determined to extend for three months the ongoing Section 301 investigation of certain acts, policies, and practices of the Government of Vietnam related to intellectual property (IP) protection and enforcement.

**FOR FURTHER INFORMATION CONTACT:** Questions regarding this notice should be directed to Philip Butler, Deputy Assistant U.S. Trade Representative for Monitoring & Enforcement, or Christina Olson, Senior Associate General Counsel, at (202) 395–5725.

**DATES:** This notice is effective as of *Tuesday, November 3, 2026, at 12:01 a.m. EDT.*

**SUPPLEMENTARY INFORMATION:** On May 29, 2026, the Trade Representative initiated a Section 301 investigation into certain acts, policies, and practices of the Government of Vietnam related to IP protection and enforcement under Section 302(b)(2) of the Trade Act of 1974, as amended (Trade Act). *See* 91 FR 33285 (June 3, 2026). For investigations initiated under that section that do not involve a trade agreement, Section 304(a)(3)(A) directs the Trade Representative to make findings on actionability and what action, if any, to take within six months of the date of initiation. Section 304(a)(3)(B) provides that, if the Trade Representative determines that the investigation involves complex or complicated issues that require additional time, the foreign country involved in the investigation is making substantial progress in drafting or implementing legislative or administrative measures that will provide adequate and effective protection of IP rights, or the foreign country involved in the investigation is undertaking enforcement measures to provide adequate and effective protection of IP rights, then the Trade Representative shall make findings on actionability and what action, if any, to take within nine months of the date of initiation. Pursuant to this provision, the Trade Representative has

determined that the investigation involves complex or complicated issues that require additional time. Accordingly, the determinations in the investigation will be made by no later than February 28, 2027.

**Jennifer Thornton,**

*General Counsel, Office of the United States Trade Representative.*

[FR Doc. 2026–22868 Filed 11–9–26; 8:45 am]

**BILLING CODE 3390–F4–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Notice of Product Exclusion Extensions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

**AGENCY:** Office of the United States Trade Representative (USTR).

**ACTION:** Notice.

**SUMMARY:** In prior notices, the U.S. Trade Representative (Trade Representative) modified the actions in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation by excluding from additional duties certain products of China. While most exclusions have expired in prior years, certain exclusions remain in force. This notice announces the Trade Representative's determination to further extend all 178 current exclusions.

**DATES:** The modifications announced in the annexes to this notice further extend the exclusions through 11:59 p.m. eastern time on January 9, 2027.

**FOR FURTHER INFORMATION CONTACT:** For general questions about this notice, contact Deputy Assistant U.S. Trade Representative for Monitoring & Enforcement Philip Butler at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions, contact *traderemedy@cbp.dhs.gov*.

**SUPPLEMENTARY INFORMATION:**

### A. Background

In the course of this investigation, the Trade Representative has imposed additional duties on products of China in four tranches. *See* 83 FR 28719 (June 20, 2018); 83 FR 40823 (August 16, 2018); 83 FR 47974 (September 21, 2018), as modified by 83 FR 49153 (September 28, 2018); and 84 FR 43304 (August 20, 2019), as modified by 84 FR 69447 (December 18, 2019) and 85 FR 3741 (January 22, 2020). Additionally, the Trade Representative has established certain processes by which U.S. stakeholders could request the temporary exclusion of particular products subject to the actions. With few exceptions, most of these exclusions expired in 2019 and 2020.

On December 29, 2023, USTR invited the public to submit comments on whether to extend 352 previously reinstated exclusions and 77 COVID-related exclusions. *See* 88 FR 90225 (December 29, 2023). On May 30, 2024, USTR announced the extension of 164 of these exclusions through May 31, 2025. *See* 89 FR 46948 (May 30, 2024) (the May 30, 2024 FRN). In connection with the four-year review of the actions taken in this investigation, on September 18, 2024, USTR announced fourteen exclusions covering certain solar manufacturing equipment. *See* 89 FR 76581 (September 18, 2024) (the September 18, 2024 FRN). The fourteen exclusions were effective from January 1, 2024, through May 31, 2025. On May 31, 2025, USTR announced the further extension of the 164 exclusions extended in May 2024 and the fourteen exclusions granted in September 2024, through August 31, 2025. *See* 90 FR 23987 (June 5, 2025). USTR announced a further extension for these 178 exclusions for 90 days, through November 29, 2025. *See* 90 FR 42500 (September 2, 2025).

On September 16, 2025, USTR invited the public to submit comments on whether any of the 178 current exclusions warrant further extension beyond November 29, 2025. *See* 90 FR 44749 (the September 16, 2025 FRN). Among the factors considered, the September 16, 2025 FRN provided that USTR would consider whether further extending an exclusion is consistent with the Administration's priorities and how further extending an exclusion would impact U.S. interests, including the overall impact of the exclusion on the goal of obtaining the elimination of China's acts, policies, and practices covered in the Section 301 investigation.

On November 1, 2025, the White House announced a historic trade and economic deal reached between President Trump and President Xi Jinping of China.[1] Pursuant to this deal, the United States would further extend the 178 exclusions scheduled to expire on November 29, 2025, until November 10, 2026. Among other actions, China would continue its exclusion process and further extend existing exclusions through December 31, 2026, which would facilitate China's purchases of U.S. goods.

On November 26, 2025, USTR announced the extension of all 178 current exclusions through November 9, 2026, and that USTR might consider further extensions or additional modifications as appropriate. *See* 90 FR 55232 (December 1, 2025).

### B. Determination To Extend Exclusions

The Section 301 statute, which is set out in Sections 301 to 308 of the Trade Act of 1974, as amended (19 U.S.C. 2411–2418), provides authority for the Trade Representative to modify the action being taken in an investigation. In particular, Section 307(a)(1) authorizes the Trade Representative to modify or terminate any action taken under Section 301, subject to the specific direction, if any, of the President, if the burden or restriction on U.S. commerce of the acts, policies, and practices that are the subject of the action has increased or decreased, or the action is being taken under Section 301(b) and is no longer appropriate.

In light of ongoing discussions with China, the Trade Representative has determined that it is appropriate to further extend all 178 current exclusions until January 10, 2027.

The Trade Representative's decision to further extend the 178 current exclusions takes into consideration the public comments received in response to the September 16, 2025 FRN. The Trade Representative's decision to extend these exclusions also takes into consideration public comments previously provided, the advice of the advisory committees, and the advice of the interagency Section 301 Committee.

As indicated in the May 30, 2024 FRN and the September 18, 2024 FRN, the exclusion extensions in the annexes to this notice are available for any product that meets the description in the product exclusion. Further, the scope of each exclusion is governed by the scope of the ten-digit Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting numbers and product descriptions set forth in U.S. notes 20(vvv)(i), 20(vvv)(ii), 20(vvv)(iii), and 20(vvv)(iv) and 20(www) to subchapter III of chapter 99 of the HTSUS.

U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

The Trade Representative may continue to consider further extensions or additional modifications as appropriate.

[1] Fact Sheet, The White House, President Donald J. Trump Strikes Deal on Economic and Trade Relations with China (Nov. 1, 2025), *https://www.whitehouse.gov/fact-sheets/2025/11/fact-sheet-president-donald-j-trump-strikes-deal-on-economic-and-trade-relations-with-china/*.

**Annex A**

The Trade Representative has determined to extend all exclusions under heading 9903.88.69 and U.S. notes 20(vvv)(i), 20(vvv)(ii), 20(vvv)(iii), and 20(vvv)(iv) to subchapter III of chapter 99 of the HTSUS. *See* 89 FR 46948 (May 30, 2024), 90 FR 23987 (June 5, 2025), 90 FR 42500 (September 2, 2025), and 90 FR 55232 (December 1, 2025). The extension is effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern time on November 10, 2026, and before 11:59 p.m. eastern time on January 9, 2027. Effective on November 10, 2026, the article description of heading 9903.88.69 of the HTSUS is modified by deleting ''November 9, 2026,'' and by inserting ''January 9, 2027,'' in lieu thereof.

**Annex B**

The Trade Representative has determined to extend all exclusions under heading 9903.88.70 and U.S. note 20(www) to subchapter III of chapter 99 of the HTSUS. *See* 89 FR 76581 (September 18, 2024), 90 FR 23987 (June 5, 2025), 90 FR 42500 (September 2, 2025) and 90 FR 55232 (December 1, 2025). The extension is effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern time on November 10, 2026, and before 11:59 p.m. eastern time on January 9, 2027. Effective on November 10, 2026, the article description of heading 9903.88.70 of the HTSUS is modified by deleting ''November 9, 2026,'' and by inserting ''January 9, 2027,'' in lieu thereof.

**Jennifer Thornton,**

*General Counsel, Office of the United States Trade Representative.*

[FR Doc. 2026–22925 Filed 11–9–26; 8:45 am]

**BILLING CODE 3390–F4–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[FAA–2026–12808]**

### Notice of Intent To Prepare a Programmatic Environmental Impact Statement (PEIS), Open Public Scoping Period, and Hold Public Scoping Meetings on the Proposed SpaceX Starship-Super Heavy Launch and Landing Operations at the Boca Chica Launch Site at Starbase, Texas and Expansion of Starship Landing and Expenditure Locations

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Update regarding the notice of intent to prepare a PEIS, extending the public scoping period, and holding public scoping meetings.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended (NEPA) and FAA Order 1050.1G, *FAA National Environmental Policy Act Implementing Procedures,* the FAA is providing an update regarding its notice intent to prepare a PEIS analyzing Space Exploration Technologies Corp.'s (SpaceX) proposal to increase Starship-Super Heavy operations at the Boca Chica Launch Site at Starbase, TX and expand Starship landing and expenditure locations. Subsequent license modifications or renewals under 14 CFR part 400 are within the scope of the PEIS, and the issuance of temporary airspace closures associated with the Proposed Action are included in FAA's Federal Action. FAA is requesting comments concerning the alternatives or impacts and on relevant information, studies, or analyses with respect to the proposed agency action. A Draft PEIS will be released for public review and comment at a later date.

**DATES:** The FAA will hold five virtual public meetings to solicit comments from the public concerning the scope and content of the EIS (dates and times below). Interested parties must register to join the public meetings. Registration information is available on the FAA's project website: *https://www.faa.gov/space/stakeholder_engagement/spacex_starship.*

- Meeting #1: Tuesday, November 17, 2026: 1:00–3:00 p.m. (CT)
- Meeting #2: Tuesday, November 17, 2026: 5:30–7:30 p.m. (CT)
- Meeting #3: Wednesday, November 18, 2026: 5:30–7:30 p.m. (CT)
- Meeting #4: Thursday, November 19, 2026: 1:00–3:00 p.m. (CT)
- Meeting #5: Thursday, November 19, 2026: 5:30–7:30 p.m. (CT)

A Notice of Intent (NOI) was released on October 14, 2026, which advertised both in-person and virtual scoping meetings. Please be advised that all public scoping meetings, including those previously scheduled for November 17 and 19, 2026 for the PEIS for Increased Launch/Landing Operations at Boca Chica Launch Site at Starbase, Texas and Expansion of Starship Landing and Expenditure Locations will now be conducted virtually. The FAA remains committed to keeping communities informed and providing opportunities for interested stakeholders to learn about the proposed project and provide input. Due to this change, the public comment period will be extended to December 7, 2026.

**ADDRESSES:** Comments, statements, or questions concerning scoping issues may be provided to FAA as follows:

- *Federal E-Rulemaking Portal: http://www.regulations.gov.* Search for Docket No. FAA–2026–12808 to retrieve the docket and follow the instructions to submit a comment. Please note that all comments submitted to the docket will be posted on the internet without changes, including any personal identifying information provided.
- *By U.S. mail to:* Ms. Amy Hanson, FAA Environmental Protection Specialist, SpaceX Boca Chica, c/o Kimley-Horn, 767 Eustis Street, Suite 100, St. Paul, MN 55114.

We encourage the submission of comments electronically through the Federal E-Rulemaking Portal. If comments are submitted electronically, it is not necessary to also submit a hard copy. All comments received will be posted without change to *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Amy Hanson at *SpaceXBocaChica@icf.com.*

**SUPPLEMENTARY INFORMATION:** Please see the original notice issued on October 14, 2026, or the FAA project website *https://www.faa.gov/space/stakeholder_engagement/spacex_starship* for information on the Proposed Action.

The FAA will provide a presentation during the first half hour of the public meetings. Attendees can provide oral comments for up to three minutes afterward. A moderator will facilitate the verbal comments. Although multiple public meetings are being held, the same information will be presented at each meeting.

Both English and Spanish versions of the presentation will be made available to the public on this project page no

later than November 10, 2026. If additional accommodations for the public meetings are needed beyond the planned Spanish translation services, please submit a request by November 10, 2026, to the project email address: *SpaceXBocaChica@icf.com.*

In the event the meetings are rescheduled for any reason, including, technology issues or other circumstances, FAA will post information on the project website.

The FAA invites interested parties to submit comments concerning the scope of alternatives or impacts and on relevant information, studies, or analyses with respect to the Proposed Action.

Public comments can be submitted electronically to *www.regulations.gov* under Docket No. FAA–2026–12808 or by postal mail to Ms. Amy Hanson, FAA Environmental Protection Specialist, SpaceX Boca Chica, c/o Kimley Horn, 767 Eustis Street, Suite 100, St. Paul, MN 55114. The public comment period will close on December 7, 2026.

Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask the FAA in your comment to withhold from public review your personal identifying information, the FAA cannot guarantee that we will be able to do so. All comments received during the comment period will be given equal weight and be taken into consideration in the preparation of the PEIS. For any media inquiries, please contact the FAA Press Office at *pressoffice@faa.gov.*

**Katie L. Cranor,**

*Executive Director, Office of Operational Safety, Commercial Space Transportation, Federal Aviation Administration.*

[FR Doc. 2026–22898 Filed 11–9–26; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA–2020–0062]**

### Notice of Petition for Extension of Waiver of Compliance

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** This document provides the public notice that the Central Florida Rail Corridor (CFRC) petitioned FRA for an extension of relief from certain regulations concerning periodic testing requirements on vital microprocessor-based signal systems.

**DATES:** FRA must receive comments on the petition by January 11, 2027. FRA will consider comments received after that date to the extent practicable.

**ADDRESSES:**

*Comments:* Comments related to this docket may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number. All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

*Docket:* For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** Scott Johnson, Railroad Safety Specialist, FRA Signal, Train Control, and Crossings Division, telephone: 406–657–6642, email: *scott.j.johnson@dot.gov.*

**SUPPLEMENTARY INFORMATION:** Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated June 1, 2026, CSXT petitioned FRA for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236 (Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances). The relevant Docket Number is FRA–2009–0120.

Specifically, CFRC seeks an extension of relief from the 2-year periodic testing requirements in §§ 236.377, *Approach locking;* 236.378, *Time locking;* 236.379, *Route locking;* 236.380, *Indication locking;* and 236.381, *Traffic locking,* related to vital microprocessor-based systems. The existing relief extends the testing requirements in these sections from ''at least once every 2 years'' to every 4 years, after initial testing is completed. In its petition, CFRC states that it has ''updated and submitted the listings of all signal[ ] locations being periodically testing in accordance'' with the waiver and that ''all new locations have been thoroughly tested prior to being placed in service.''

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by January 11, 2027 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

**Privacy Act**

Anyone can search the electronic form of any written communications and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

[FR Doc. 2026–22929 Filed 11–9–26; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA–2010–0029]**

### Amtrak's Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This document provides the public with notice that, on October 26, 2026, the National Railroad Passenger Corporation (Amtrak) submitted a request for amendment (RFA) to one of its FRA-approved Positive Train Control Safety Plans (PTCSP). As this RFA may involve a request for FRA's approval of proposed material modifications to an FRA-certified positive train control (PTC) system, FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTCSP.

**DATES:** FRA will consider comments received by November 30, 2026. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

**ADDRESSES:** *Comments:* Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0029. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/research-development/program-areas/train-control/ptc/railroads-ptc-dockets.* All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

**FOR FURTHER INFORMATION CONTACT:** Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

**SUPPLEMENTARY INFORMATION:** In general, 49 U.S.C. 20157(h) requires FRA to certify that a host railroad's PTC system complies with 49 CFR part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal or train control system. Accordingly, this notice informs the public that, on October 26, 2026, Amtrak submitted an RFA to its PTCSP for its Interoperable Electronic Train Management System, which seeks FRA's approval for updates associated with previously approved system enhancements, revised Amtrak and MARC high-speed operations safety analyses, updated risk assessment information, operational and functional clarifications, and associated supporting documentation. That RFA is available in Docket No. FRA–2010–0029.

Interested parties are invited to comment on Amtrak's RFA to its PTCSP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and, to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

### Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.* To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

[FR Doc. 2026–22934 Filed 11–9–26; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA–2010–0180]**

### Notice of Petition for Extension of Waiver of Compliance

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** This document provides the public notice that Denton County Transit Authority (DCTA) petitioned FRA for an extension of relief from certain regulations related to passenger equipment.

**DATES:** FRA must receive comments on the petition by January 11, 2027. FRA will consider comments received after that date to the extent practicable.

**ADDRESSES:**

*Comments:* Comments related to this docket may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number. All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

*Docket:* For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and follow the online instructions for accessing the docket.

**FOR FURTHER INFORMATION CONTACT:** Harold Weisinger, Railroad Safety Specialist, FRA Motive Power & Equipment Division, telephone: 202–713–8702, email: *harold.weisinger@dot.gov.*

**SUPPLEMENTARY INFORMATION:** Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by letter dated August 11, 2026, DCTA petitioned FRA for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 229 (Railroad Locomotive Safety Standards), part 231 (Railroad Safety Appliance Standards), part 238 (Passenger Equipment Safety Standards). The relevant Docket Number is FRA–2010–0180.

Specifically, DCTA seeks an extension of relief from the following regulations:

- 49 CFR 229.31(d), *Main reservoir tests;* 229.47(b), *Emergency brake valve;* 229.51(a)(3–4), *Aluminum main reservoirs;* 229.71, *Clearance above top of rail;* 229.135(b)(4)(xviii and xix), *Event recorders;* and Appendix D, Criteria for Certification of Crashworthy Event Recorder Memory Module;
- 49 CFR 231.14(a)(2)(b–d, f–g), *Passenger-train cars without end platforms;*

• 49 CFR 238.115(b)(4)(ii), *Emergency lighting;* 238.121(c)(2), *Emergency communication;* 238.223(a), *Locomotive fuel tanks;* 238.229, *Safety appliances—general;* 238.230(d), *Safety appliances—new equipment,* 238.305(c)(5), *Interior calendar day mechanical inspection of passenger cars;* 238.309, *Periodic brake equipment maintenance;* and Appendix D, Requirements for External Fuel Tanks on Tier I Locomotives; and

• 49 CFR 239.101, *Emergency preparedness plan.*

DCTA requests this extension of relief to continue operation of its Stadler diesel multiple-unit vehicles, which were constructed to meet European safety standards for crashworthiness and related safety measures. In its petition, DCTA states that it has ''complied with all facets'' of FRA's conditions and findings from its investigative research for the past 15 years.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

Communications received by January 11, 2027 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

**Privacy Act**

Anyone can search the electronic form of any written communications and comments received into any of FRA's dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov*.

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

[FR Doc. 2026–22926 Filed 11–9–26; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Notice of OFAC Sanctions Action

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and vessels that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. The vessels placed on the SDN List have been identified as property in which a blocked person has an interest.

**DATES:** This action was issued on April 15, 2026. See **SUPPLEMENTARY INFORMATION** for relevant dates.

**FOR FURTHER INFORMATION CONTACT:** OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Licensing, 202–622–2480; Assistant Director for Sanctions Compliance, 202–622–2490; or *https://ofac.treasury.gov/contact-ofac.*

**SUPPLEMENTARY INFORMATION:**

**Electronic Availability**

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: *https://ofac.treasury.gov.*

**Notice of OFAC Action**

On April 15, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

**Entities**

**BILLING CODE 4810–AL–P**

1. SHIPZA SHIPPING LIMITED, Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Organization Established Date 20 Jul 2021; Identification Number IMO 6399908; Registration Number 110111 (Marshall Islands) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

   Designated pursuant to to section 1(a)(iv) of Executive Order 13902 of September 28, 2010, "Imposing Sanctions With Respect to Additional Sectors of Iran," 85 FR 2003, 3 CFR, 2020 Comp., p. 299 (E.O. 13902), for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MOHAMMAD HOSSEIN SHAMKHANI.

2. TAYLOR SHIPPING FZCO (Arabic: تايلور شيبينغ ش م ح), BCB3 304, Third Floor, Business Cluster, Building 3, Dubai CommerCity, Dubai, United Arab Emirates; Website https://taylor-shipping.com/; Organization Established Date 30 May 2024; License 50394 (United Arab Emirates) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

   Designated pursuant to to section 1(a)(iii) of ExeE.O. 13902, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MOHAMMAD HOSSEIN SHAMKHANI.

3. ANIKA LINES INC., Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Organization Established Date 14 May 2024; Identification Number IMO 6503450; Registration Number 125917 (Marshall Islands) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

   Designated pursuant to to section 1(a)(iii) of Executive Order 13902, for having materially assisted, sponsored, or provided financial, material, or technological

support for, or goods or services to or in support of, MOHAMMAD HOSSEIN SHAMKHANI.

4. NARDIE INTERNATIONAL S.A., Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Organization Established Date 25 Jan 2024; Identification Number IMO 6505871; Registration Number 123942 (Marshall Islands) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hosscin).

   Designated pursuant to to section 1(a)(iii) of Executive Order 13902, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MOHAMMAD HOSSEIN SHAMKHANI.

5. CORPLINX CONSULTANCY LLC FZ (Arabic: كوربلينكس للاستشارات ذ م م ح), M Floor, The Meydan Hotel, Business Center 1, Nad Al Shiba, Bur Dubai, Dubai, United Arab Emirates; Organization Established Date 14 Jul 2023; License 2310365.01 (United Arab Emirates) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

   Designated pursuant to to section 1(a)(iii) of Executive Order 13902, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MOHAMMAD HOSSEIN SHAMKHANI.

6. HELMATIC CONSULTANCY DMCC (Arabic: هيلماتيك كوإسالتنسي م د م س) Unit No 4005, Platinum Tower, Parcel JLT-PH1-I2, Jumeirah Lakes Towers, Dubai Multi Commodities Centre, New Dubai, Dubai, United Arab Emirates; Organization Established Date 26 Dec 2024; License DMCC-957571 (United Arab Emirates); Registration Number DMCC201046 (United Arab Emirates) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

   Designated pursuant to to section 1(a)(iii) of Executive Order 13902, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MOHAMMAD HOSSEIN SHAMKHANI.

7. HOUSE OF SHIPPING INVESTMENT FZCO (Arabic: هاوس أوف شيبينج فستمنت ش م ح) (a.k.a. HOUSE OF SHIPPING MANAGEMENT CONSULTANCIES , LLC), BCB3 201, 2nd Floor, Business Cluster Building 3, Dubai Commercity P.O. Box 35267, Dubai, United Arab Emirates; Website ; https://houseofshipping.com; Organization Established Date 01 Aug 2022 : License 19153 (United Arab Emirates) [IRAN-EO13902] (Linked To SHAMKHANI, Mohammad Hossein).

   Designated pursuant to to section 1(a)(iii) of Executive Order 13902, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MOHAMMAD HOSSEIN SHAMKHANI.

8. HOUSE OF SHIPPING PRIVATE LIMITED, Plot No 16 (NP), Industrial Estate Guindy, Chennai, Tamil Nadu 600032, India; IndiQube Alpine, 9th Floor, No. 51, Jawaharlal Nehru Road, Block No. 4, SIDCO Industrial Estate, Alandur, Guindy, Chennai, Tamil Nadu 600032, India; Organization Established Date 01 Mar 2022; C.I.N. U74999TN2022FTC148945 (India); Tax ID No. AAGCH1284G (India) [IRAN-EO13902] (Linked To: HOUSE OF SHIPPING INVESTMENT FZCO).

   Designated pursuant to to section 1(a)(iv) of Executive Order 13902 for for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, HOUSE OF SHIPPING INVESTMENT FZCO.

9. MERITRON DMCC (Arabic: ميريترون م د م س) (a.k.a. OCEANCE TRADING DMCC), Unit No: 3406, Liwa Heights 1, Parcel JLT-PH2-W3A, Jumeirah Lakes Towers, Dubai Multi Commodities Centre, New Dubai, Dubai, United Arab Emirates; Organization Established Date 18 Oct 2020; License DMCC-782759 (United Arab Emirates); Registration Number DMCC188049 (United Arab Emirates); Economic Register Number (CBLS) 11573255 (United Arab Emirates) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

   Designated pursuant to to section 1(a)(iv) of Executive Order 13902 for for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MOHAMMAD HOSSEIN SHAMKHANI.

10. ORIEL GROUP, Sheikh Zayed Road, Dubai, United Arab Emirates; Website https://orielgrp.com; Organization Established Date 2015; Organization Type: Management consultancy activities [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

    Designated pursuant to to section 1(a)(iii) of Executive Order 13902, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MOHAMMAD HOSSEIN SHAMKHANI.

11. SHIPSTAR SHIPCHANDLING LLC (Arabic: شيب ستار للشحن ذ.م.م), Dubai, United Arab Emirates; Organization Established Date 20 Jan 2021; License 924072 (United Arab Emirates); Economic Register Number (CBLS) 11611767 (United Arab Emirates) [IRAN-EO13902] (Linked To: HOUSE OF SHIPPING INVESTMENT FZCO).

    Designated pursuant to to section 1(a)(iv) of Executive Order 13902 for for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, HOUSE OF SHIPPING INVESTMENT FZCO.

12. AURA LINES INC., Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Organization Established Date 10 May 2024; Identification Number IMO 6506631; Registration Number 125871 (Marshall Islands) [IRAN-EO13902].

    Designated pursuant to section 1(a)(i) of E.O. 13902 for operating in the petroleum sector of the Iranian economy.

13. FLEET TANQO PRIVATE LIMITED, Office 2001, 20 Floor, G-Square Business Park, Plot 25/26, Sector 30, Vashi, Navi Mumbai, Maharashtra 400703, India; Organization Established Date 06 Mar 2025; C.I.N. U70200MH2025PTC449767 (India); Identification Number IMO 0261023 [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

    Designated pursuant to to section 1(a)(iii) of Executive Order 13902, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MOHAMMAD HOSSEIN SHAMKHANI.

14. HAPUKA MARINE LTD., Trust Company Complex, Ajeltake Road, Majuro, Ajeltake Island 96960, Marshall Islands; Organization Established Date 16 Oct 2023; Identification Number IMO 6467751; Registration Number 122274 (Marshall Islands) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

    Designated pursuant to to section 1(a)(iii) of Executive Order 13902, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MOHAMMAD HOSSEIN SHAMKHANI.

15. A.C.S. GLOBAL BV, Weerdestein 136, Amsterdam, Noord-Holland 1083 GJ, Netherlands; Additional Sanctions Information - Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 16 Aug 2012; alt. Organization Established Date 06 Sep 2012; V.A.T. Number NL851893867B01 (Netherlands); Trade License No. 55876625 (Netherlands); Branch Unit Number 000025486128 (Netherlands) [SDGT] (Linked To: MOOSAVI, Seyed Naiemaei Badroddin).

    Designated pursuant to section 1(a)(iii)(A) of E.O. 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism," 66 FR 49079, 3 CFR, 2001 Comp., p. 786, as amended by Executive Order 13886 of September 9, 2019, "Modernizing Sanctions To Combat Terrorism," 84 FR 48041, 3 CFR, 2019 Comp., p. 356 (E.O. 13224, as amended), for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, SEYED NAIEMAEI BADRODDIN MOOSAVI.

16. ACS TRADING LLC (Arabic: ايه سي اس للتجارة ذ.م.م.), 221 Oud Metha Offices, PO Box 127670, Dubai, United Arab Emirates; Additional Sanctions Information - Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 09 Dec 2007; Commercial Registry Number 1020337 (United Arab Emirates); Chamber of Commerce Number 127145 (United Arab Emirates); Business Registration Number 603928 (United Arab Emirates); alt. Business Registration Number 10844263 (United Arab Emirates) [SDGT] (Linked To: MOOSAVI, Seyed Naiemaei Badroddin).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, SEYED NAIEMAEI BADRODDIN MOOSAVI.

17. LOTUS UNIVERSAL LLC (Arabic: لوتاس يونيفرسال ش.ذ.م.م.), Deira Oud Al Muteena 3, Dubai, United Arab Emirates; Additional Sanctions Information - Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Organization Established Date 13 Jul 2011; Commercial Registry Number 1847878 (United Arab Emirates); alt. Commercial Registry Number 1079407 (United Arab Emirates); Chamber of Commerce Number 194964 (United Arab Emirates); Business Registration Number 656528 (United Arab Emirates); Economic Register Number (CBLS) 10872593 (United Arab Emirates) [SDGT] (Linked To: MOOSAVI, Seyed Naiemaei Badroddin).

Designated pursuant to section 1(a)(iii)(A) of E.O. 13224, as amended, for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, SEYED NAIEMAEI BADRODDIN MOOSAVI.

**Individuals**

1. BALHOTRA, Chetan Prakash, United Arab Emirates; DOB 26 Feb 1974; POB Delhi, India; nationality India; citizen India; Gender Male; Passport Z5734277 (India) expires 09 Jun 2031 (individual) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

   Designated pursuant to to section 1(a)(iii) of Executive Order 13902 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, MOHAMMAD HOSSEIN SHAMKHANI.

2. SRINIVAS, Tanjore Sunilkumar (a.k.a. SRINIVAS, Tanjore Sunil Kumar), United Arab Emirates; DOB 11 Feb 1976; POB Marredpally, Telangana, India; nationality India; Gender Male; Passport F2674392 (India) (individual) [IRAN-EO13902] (Linked To: SHAMKHANI, Mohammad Hossein).

   Designated pursuant to to section 1(a)(iv) of Executive Order 13902 for for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, MOHAMMAD HOSSEIN SHAMKHANI.

3. MOOSAVI, Seyed Naiemaei Badroddin (a.k.a. MOOSAVI, Badroddin; a.k.a. MOOSAVI, Seyed Naiemai Badoddin; a.k.a. MOUSAVI, Badr Al-Din Naimi; a.k.a. MOUSAWI, Sayed Bader Al Din Sayed; a.k.a. MUSAVI, Sayyed Badroddin Na'ima'i (Arabic: سيد بدر الدين نعايمائي موسوي); a.k.a. NAIEMAEIMOOSAVI, Seyed Badroddin; a.k.a. NAIEMAIEMOOSAVI, Seyed Badroddin), 145-157 St. John Street, London EC1V 4PY, United Kingdom; Saleh Bin Lehej Bld. No. 403, Oud Metha, Bur, P.O. Box 123995, Dubai, United Arab Emirates; Cumburiyet Mahallesi Incirli Dede Sokak 8-566, Simpas Queen

Bomonti Residents, Sidling, Istanbul 34380, Turkey; DOB 11 Jan 1977; POB Iran; nationality Iran; Additional Sanctions Information - Subject to Secondary Sanctions Pursuant to the Hizballah Financial Sanctions Regulations; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport I96955894 (Iran); alt. Passport E96005365 (Iran); alt. Passport P96676926 (Iran); alt. Passport P96600587 (Iran) expires 12 Jul 2023; National ID No. 0065169174 (Iran); alt. National ID No. 151769310001 (United Kingdom) (individual) [SDGT] (Linked To: HIZBALLAH).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, HIZBALLAH.

**Vessels**

1. ANIKA (3E2232) Crude/Oil Products Tanker Panama flag; Vessel Year of Build 2009; Vessel Registration Identification IMO 9417464; MMSI 352002243 (vessel) [IRAN-EO13902] (Linked To: ANIKA LINES INC.).

   Identified as property in which ANIKA LINES INC., a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

2. BELLARIS (3E2763) Oil Products Tanker Panama flag; Vessel Year of Build 2008; Vessel Registration Identification IMO 9332614; MMSI 352001849 (vessel) [IRAN-EO13902] (Linked To: NARDIE INTERNATIONAL S.A.).

   Identified as property in which NARDIE INTERNATIONAL S.A., a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

3. ANAYA (3E3719) Oil Products Tanker Panama flag; Vessel Year of Build 2008; Vessel Registration Identification IMO 9326885; MMSI 352001906 (vessel) [IRAN-EO13902] (Linked To: FLEET TANQO PRIVATE LIMITED).

   Identified as property in which FLEET TANQO PRIVATE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

4. AURA (C9NA63) LPG Tanker Mozambique flag; Former Vessel Flag Palau; Vessel Year of Build 2003; Vessel Registration Identification IMO 9274563; MMSI 650000181 (vessel) [IRAN-EO13902] (Linked To: AURA LINES INC.).

   Identified as property in which AURA LINES INC., a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

5. CAUVERI (TJMOK5) Crude Oil Tanker Cameroon flag; Vessel Year of Build 2005; Vessel Registration Identification IMO 9282508; MMSI 613271440 (vessel) [IRAN-EO13902] (Linked To: HAPUKA MARINE LTD.).

Identified as property in which HAPUKA MARINE LTD, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

6. DAPHNE V (3E3751) Crude Oil Tanker Panama flag; Vessel Year of Build 2006; Vessel Registration Identification IMO 9321677; MMSI 352002063 (vessel) [IRAN-EO13902] (Linked To: FLEET TANQO PRIVATE LIMITED).

   Identified as property in which FLEET TANQO PRIVATE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

7. HORAE (3FUU) Crude Oil Tanker Panama flag; Vessel Year of Build 2009; Vessel Registration Identification IMO 9413004; MMSI 352179000 (vessel) [IRAN-EO13902] (Linked To: FLEET TANQO PRIVATE LIMITED).

   Identified as property in which FLEET TANQO PRIVATE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

8. SILVAR (TJMA37) Crude Oil Tanker Cameroon flag; Vessel Year of Build 2005; Vessel Registration Identification IMO 9291262; MMSI 613414707 (vessel) [IRAN-EO13902] (Linked To: FLEET TANQO PRIVATE LIMITED).

   Identified as property in which FLEET TANQO PRIVATE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

9. VERSA (3E3720) Crude Oil Tanker Panama flag; Vessel Year of Build 2008; Vessel Registration Identification IMO 9379301; MMSI 352001907 (vessel) [IRAN-EO13902] (Linked To: FLEET TANQO PRIVATE LIMITED).

   Identified as property in which FLEET TANQO PRIVATE LIMITED, a person whose property and interests in property are blocked pursuant to E.O. 13902, has an interest.

(Authority: E.O. 13224, as amended; E.O. 13902.)

**Bradley T. Smith,**
*Director, Office of Foreign Assets Control.*
[FR Doc. 2026–22864 Filed 11–9–26; 8:45 am]
**BILLING CODE 4810–AL–C**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

### Notice of OFAC Sanctions Action

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** This action was issued on October 28, 2026. See **SUPPLEMENTARY INFORMATION** for relevant dates.

**FOR FURTHER INFORMATION CONTACT:** OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Sanctions Compliance, 202–622–2490 or *https://ofac.treasury.gov/contact-ofac.*

**SUPPLEMENTARY INFORMATION:**

**Electronic Availability**

The SDN List and additional information concerning OFAC sanctions

programs are available on OFAC's website: *https://ofac.treasury.gov.*

**Notice of OFAC Actions**

On October 28, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

**Individuals**

BILLING CODE 4810–AL–P

1. OBERTAS, Vitold Viktorovich (Cyrillic: ОБЕРТАС, Витольд Викторович), Russia; DOB 18 Nov 1968; POB Vladivostok, Russia; nationality Russia; citizen Russia; Gender Male; Digital Currency Address - ETH 0x761edd5e4546229a0bd35ae99b4d3d01cf4a3510; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Digital Currency Address - TRX TCV4qdpTxoMyqkn7sSPeRrXmhH5JFxMvmT; alt. Digital Currency Address - TRX TQCBdU4K92oxLAkzwexZpqVZJhmPbtLYMm; alt. Digital Currency Address - TRX TFksjBcHPYqgAax2USheQuaT1ydRKyZRdg; National ID No. 4613339474 (Russia) issued 20 Jan 2013 (individual) [DPRK2].

   Designated pursuant to section 1(a)(iv) of Executive Order 13687 of January 2, 2015, "Imposing Additional Sanctions With Respect To North Korea," 80 FR 819, (E.O. 13687), for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the GOVERNMENT OF NORTH KOREA, a person whose property and interests in property are blocked pursuant to E.O. 13687.

2. BOYKOV, Ilya Aleksandrovich (Cyrillic: БОЙКОВ, Илья Александрович), Russia; DOB 30 May 1994; nationality Russia; Gender Male; Digital Currency Address - ETH 0x12Ea80238C7d805D003ce793594e92d84A6f4E8d; alt. Digital Currency Address - ETH 0x761edd5e4546229a0bd35ae99b4d3d01cf4a3510; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Digital Currency Address - TRX TQKoDq5aCrWAciiNtete5pDYVN38i4qFN1; alt. Digital Currency Address - TRX TXmrnVgsqCMJncYHTXchuJ5z111BXSj4g3; Passport 620645580 (Russia) expires 17 Jun 2009 (individual) [DPRK2] (Linked To: LIMITED LIABILITY COMPANY ALIS).

   Designated pursuant to section 1(a)(iv) of E.O. 13687 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, LIMITED LIABILITY COMPANY ALIS, a person whose property and interests in property are blocked pursuant to E.O. 13687.

3. KIM, Ki Hyok (Hangul: 김기혁) (a.k.a. KIM, Ki-hyo'k), Russia; DOB 30 May 1980; nationality Korea, North; Gender Male; Digital Currency Address - ETH 0xE4C9a7F68B1EbA4508f54f07f7378847318dD1A3; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214 (individual) [DPRK2] (Linked To: CHINYONG INFORMATION TECHNOLOGY COOPERATION COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13687 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, CHINYONG INFORMATION TECHNOLOGY COOPERATION COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13687.

4. KIM, Hyo Dong (Hangul: 김효동) (a.k.a. KIM, Hyo-tong), Russia; Laos; DOB 28 Dec 1989; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 108130286 (Korea, North) (individual) [DPRK2] (Linked To: CHINYONG INFORMATION TECHNOLOGY COOPERATION COMPANY).

Designated pursuant to section 1(a)(iv) of E.O. 13687 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, CHINYONG INFORMATION TECHNOLOGY COOPERATION COMPANY, a person whose property and interests in property are blocked pursuant to E.O. 13687.

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5. HAN, Yu Song (a.k.a. HAN, Yu-so'ng), Russia; DOB 20 May 2000; POB Pyongyang, North Korea; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 845349261 (Korea, North) issued 01 Sep 2025 expires 30 Sep 2030 (individual) [DPRK3] (Linked To: FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER).

Designated pursuant to section 2(a)(vii) of Executive Order 13722 of March 15, 2016, ''Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea'' (E.O. 13722), 81 FR 14943, 3 CFR, 2016 Comp., p. 446, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER, a person whose property and interests in property are blocked pursuant to E.O. 13722.

6. HYON, Se Il (a.k.a. HYO'N, Se-il), Russia; DOB 08 Sep 2002; POB Pyongyang, North Korea; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 845349266 (Korea, North) issued 01 Sep 2025 expires 01 Sep 2030 (individual) [DPRK3] (Linked To: FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER).

Designated pursuant to section 2(a)(vii) of E.O. 13722 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER, a person whose property and interests in property are blocked pursuant to E.O. 13722.

7. KIM, Sung Gwan (a.k.a. KIM, Su'ng-kwan), Russia; DOB 07 Jan 1999; POB Pyongyang, North Korea; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 845136774 (Korea, North) issued 18 Feb 2025 expires 18 Feb 2030 (individual) [DPRK3] (Linked To: FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER).

Designated pursuant to section 2(a)(vii) of E.O. 13722 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER, a person whose property and interests in

property are blocked pursuant to E.O. 13722.

8. KIM, Kyong Ju (a.k.a. KIM, Kyo'ng-chu), Russia; DOB 02 Jan 2001; POB Pyongyang, North Korea; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 845349260 (Korea, North) issued 01 Sep 2025 expires 01 Sep 2030 (individual) [DPRK3] (Linked To: FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER).

Designated pursuant to section 2(a)(vii) of E.O. 13722 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER, a person whose property and interests in property are blocked pursuant to E.O. 13722.

9. RI, Thae Chol (a.k.a. RI, T'ae-ch'o'l), Russia; DOB 24 Feb 1999; POB Pyongyang, North Korea; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 845349262 (Korea, North) issued 01 Sep 2025 expires 01 Sep 2030 (individual) [DPRK3] (Linked To: FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER).

Designated pursuant to section 2(a)(vii) of E.O. 13722 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER, a person whose property and interests in property are blocked pursuant to E.O. 13722.

10. SO, Hyong Jin (a.k.a. SO', Hyo'n-chin), Russia; DOB 03 Feb 2002; POB Pyongyang, North Korea; nationality Korea, North; Gender Male; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Passport 845136771 (Korea, North) issued 18 Feb 2025 expires 18 Feb 2030 (individual) [DPRK3] (Linked To: FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER).

Designated pursuant to section 2(a)(vii) of E.O. 13722 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER, a person whose property and interests in property are blocked pursuant to E.O. 13722.

**Entities**

1. FIRST FINANCIAL AND TECHNICAL DEVELOPMENT CENTER, Korea, North; Vladivostok, Russia; Secondary sanctions risk: North Korea Sanctions Regulations, sections 510.201 and 510.210; Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions: North Korea Sanctions Regulations section 510.214; Organization Established Date Jan 2024; Organization Type: Financial and Insurance Activities [DPRK3].

Designated pursuant to section 2(a)(iv) of E.O. 13722 for having engaged in, facilitated, or been responsible for the exportation of workers from North Korea, including exportation to generate revenue for the GOVERNMENT OF NORTH KOREA or the WORKERS' PARTY OF KOREA, a person whose property and interests in property are blocked pursuant to E.O. 13722.

(Authority: E.O. 13687; E.O. 13722.)

**Bradley T. Smith,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2026–22862 Filed 11–9–26; 8:45 am]

**BILLING CODE 4810–AL–P**

## DEPARTMENT OF THE TREASURY

## Office of Foreign Assets Control

## Notice of OFAC Sanctions Action

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** This action was issued on November 5, 2026. See **SUPPLEMENTARY INFORMATION** for relevant dates.

**FOR FURTHER INFORMATION CONTACT:** OFAC: Associate Director for Global Targeting, 202–622–2420; Assistant Director for Licensing, 202–622–2480; Assistant Director for Sanctions Compliance, 202–622–2490; or *https://ofac.treasury.gov/contact-ofac.*

**SUPPLEMENTARY INFORMATION:**

### Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website: *https://ofac.treasury.gov.*

### Notice of OFAC Actions

On November 5, 2026, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

**BILLING CODE 4810–AL–P**

### Individuals

1. PANG, Visal (a.k.a. PANG, Weizhi (Chinese Simplified: 庞伟志); a.k.a. "PANG, Wei Zei"), Cambodia; DOB 20 Feb 1978; POB Taizhou, Zhejiang, China; nationality Cambodia; alt. nationality China; Gender Male; Passport E31455389 (China); alt. Passport N01124709 (Cambodia) issued 26 Jan 2018 expires 26 Jan 2028 (individual) [TCO] (Linked To: PRINCE GROUP TRANSNATIONAL CRIMINAL ORGANIZATION).

   Designated pursuant to section 1(a)(ii)(B) of Executive Order (E.O.) 13581 of July 24, 2011, "Blocking Property of Transnational Criminal Organizations," 76 FR 44757 (July 27, 2011), as amended by E.O. 13863 of March 15, 2019, "Taking Additional Steps to Address the National Emergency With Respect to Significant Transnational Criminal Organizations," 84 FR 10255 (March 19, 2019) (collectively, "E.O. 13581, as amended") for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, PRINCE GROUP TRANSNATIONAL CRIMINAL ORGANIZATION, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

2. QIU, Yong (Chinese Simplified: 邱用), Cambodia; DOB 09 Oct 1987; POB Fujian, China; nationality Cambodia; alt. nationality Turkey; alt. nationality Saint Lucia; Gender Male; Passport N01612777 (Cambodia) issued 08 May 2019 expires 08 May 2029; alt. Passport R229687 (Saint Lucia); alt. Passport U24268399 (Turkey) (individual) [TCO] (Linked To: PRINCE GROUP TRANSNATIONAL CRIMINAL ORGANIZATION).

   Designated pursuant to section 1(a)(ii)(B) of E.O. 13581, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, PRINCE GROUP TRANSNATIONAL CRIMINAL ORGANIZATION, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

3. ZHAO, Mengyao (Chinese Traditional: 趙梦瑶) (a.k.a. "ZHAO, Amy"), Hong Kong, China; DOB 26 May 1991; POB Guiyang, Guizhou, China; nationality Hong Kong; Gender Female; Passport HJ2100621 (Hong Kong) issued 27 Mar

2021 expires 27 Mar 2031; National ID No. M2640517 (Hong Kong) (individual) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(B) of E.O. 13581, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

4. HE, Yujing (Chinese Simplified: 何雨静), Cambodia; DOB 11 Jul 1992; POB Sichuan, China; nationality China; alt. nationality Vanuatu; Gender Female; Passport RV102799 (Vanuatu); alt. Passport ED1721149 (China) issued 16 May 2018 expires 15 May 2028; National ID No. 511302199207112546 (China) (individual) [TCO] (Linked To: PRINCE GROUP TRANSNATIONAL CRIMINAL ORGANIZATION).

**BILLING CODE 4810–AL–C**

Designated pursuant to section 1(a)(ii)(B) of E.O. 13581, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, PRINCE GROUP TRANSNATIONAL CRIMINAL ORGANIZATION, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

5. CHUI, Kok Wa, Antananarivo, Madagascar; DOB 12 Jan 1976; POB Negeri Sembilan, Malaysia; nationality Malaysia; Gender Male; National ID No. 760112055295 (Malaysia) (individual) [CYBER4].

Designated pursuant to section 1(a)(ii)(D) of E.O. 13694 of April 1, 2015, ''Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities,'' 80 FR 18077 (April 2, 2015), as amended by E.O. 13757 of December 28, 2016, ''Taking Additional Steps to Address the National Emergency With Respect to Significant Malicious Cyber-Enabled Activities,'' 82 FR 1 (January 3, 2017), and as further amended by E.O. 14144 of January 16, 2025, ''Strengthening and Promoting Innovation in the Nation's Cybersecurity,'' 90 FR 6755 (January 17, 2025), and E.O. 14306 of June 6, 2025, ''Sustaining Select Efforts To Strengthen the Nation's Cybersecurity and Amending Executive Order 13694 and Executive Order 14144,'' 90 FR 24723 (June 11, 2025) (collectively, ''E.O. 13694, as further amended''), for being a foreign person who is responsible for or complicit in, or has engaged in, directly or indirectly, cyber-enabled activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have materially contributed to, a significant threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of causing a misappropriation of funds or economic resources, intellectual property, proprietary or business confidential information, personal identifiers, or financial information for commercial or competitive advantage or private financial gain.

**Entities**

1. CAMBO DUTY FREE MERCHANDISE CO., LTD., Veal Vong, Prampi Makara, Phnom Penh, Cambodia; Organization Established Date 18 Oct 2019; Organization Type: Wholesale of food, beverages and tobacco; Tax ID No. K004–901908471 (Cambodia); Registration Number 00048573 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

2. CAMBODIA FIRST UNITE CONSTRUCTION GROUP CO., LTD., Phum 2, Boeng Keng Kang Muoy, Chamkar Mon, Phnom Penh 12302, Cambodia; Organization Established Date 25 Jun 2015; Organization Type: Construction of buildings; Tax ID No. K002–901502842 (Cambodia); Business Registration Number 00004152 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

3. CAMBODIAN FIRST UNITE CONSTRUCTION MACHINERY CO., LTD., Chongthnal Khang Kaeut, Teuk Thla, Sen Sok, Phnom Penh, Cambodia; Organization Established Date 10 Jan 2019; Organization Type: Construction of buildings; Tax ID No. K009–901903197 (Cambodia); Registration Number 00039309 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

4. FIRST UNITE DECORATION CAMBODIA CO., LTD., Boeng Kak Pir, Tuol Kouk, Phnom Penh, Cambodia; Organization Established Date 14 Aug 2019; Organization Type: Architectural and engineering activities and related technical consultancy; Tax ID No. K005–901908793 (Cambodia); Registration Number 00045698 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

5. FIRST UNITE INTERNATIONAL LOGISTICS CO., LTD., Phum 2, Boeng Keng Kang Muoy, Chamkar Mon, Phnom Penh 12302, Cambodia; Organization Established Date 01 Nov 2018; Organization Type: Transportation and storage; Tax ID No. L001–901805589 (Cambodia); Registration Number 00037569 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

6. FIRST UNITE NETWORKS ENTERTAINMENT CO., LTD., Boeng Kak Pir, Tuol Kouk, Phnom Penh, Cambodia; Organization Established Date 04 Feb 2020; Organization Type: Management consultancy activities; Tax ID No. K002–902001071 (Cambodia); Registration Number 00051144 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

7. FIRST UNITE PROPERTY CO., LTD., Boeng Kak Pir, Tuol Kouk, Phnom Penh, Cambodia; Organization Established Date 03 Jul 2018; Organization Type: Real estate activities with own or leased property; Tax ID No. L001–901803704 (Cambodia); Registration Number 00034544 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

8. LINKEDUS TECHNOLOGY CO., LTD., Tonle Basak, Chamkar Mon, Phnom Penh, Cambodia; Organization Established Date 23 Apr 2020; Organization Type: Computer programming activities; Tax ID No. K002–902003055 (Cambodia); Registration Number 00052642 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

9. MARCO POLO HOTEL CO. LTD., Boeng Prolit, Prampi Makara, Phnom Penh, Cambodia; Organization Established Date 04 Oct 2019; Organization Type: Short term accommodation activities; Tax ID No. K004–901908024 (Cambodia); Registration Number 00047857 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

10. U–LIFE GO NOW CO., LTD., Phum 2, Boeng Keng Kang Muoy, Chamkar Mon, Phnom Penh 12302, Cambodia; Organization Established Date 31 Oct 2024; Organization Type: Other transportation support activities; Registration Number 00075287 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

11. U–LIFE KH SUPER APP CO., LTD., Phum 2, Boeng Keng Kang Muoy, Chamkar Mon, Phnom Penh 12302, Cambodia; Organization Established Date 17 Mar 2020; Organization Type: Computer programming activities; Tax ID No. K002–902002355 (Cambodia); Registration Number 00052105 (Cambodia) [TCO] (Linked To: PANG, Visal).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, PANG VISAL, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

12. CHEN HUA HOLDINGS PTE LTD, 3 Wallich Street, 41–07, Wallich Residence, Singapore 078882, Singapore; Organization Established Date 19 Dec 2018; Organization Type: Activities of holding companies; Registration Number 201842358M (Singapore) [TCO] (Linked To: DAI, An).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, DAI AN, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

13. GREENMEADOWS PROPERTIES SDN BHD, 14A, Jalan Tun Mohd Fuad, Taman Tun Dr Ismail, Kuala Lumpur 60000, Malaysia; Organization Established Date 03 Dec 2018; Organization Type: Activities of holding companies; Registration Number 201801044010 (Malaysia) [TCO] (Linked To: DAI, An).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, DAI AN, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

14. MERITWISE GROUP PUBLIC LTD, Sir Virgil Naz Street, Citadelle Mall, Port Louis, Mauritius; Organization Established Date 18 Jul 2018; Organization Type: Financial and Insurance Activities; Registration Number C157715 (Mauritius) [TCO] (Linked To: DAI, An).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, DAI AN, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

15. GREENBAY MULTI MEDIA PTE LTD, 2 Jalan Kilang Barat, #08–01, Singapore 159346, Singapore; Organization Established Date 03 Aug 2017; Company Number 201721913W (Singapore) [TCO] (Linked To: LI, Thet).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, LI THET, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

16. SUPER LIGHT SPEED KH TECHNOLOGY CO., LTD., Phum 2, Boeng Keng Kang Muoy, Chamkar Mon, Phnom Penh 12302, Cambodia; Organization Established Date 26 Nov 2024; Organization Type: Computer programming activities; Business Registration Number 00075728 (Cambodia) [TCO] (Linked To: HE, Yujing).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, HE YUJING, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

17. ASIAN WELFARE LOTTERIES CO LTD, Phnom Penh, Cambodia; Organization Established Date 05 Apr 2017; Organization Type: Gambling and betting activities; Tax ID No. L001–901704384 (Cambodia); Business Registration Number 00024286 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

18. CAMBODIAN RESOURCE ENERGY DEVELOPMENT CO LTD, Phnom Penh, Cambodia; Organization Established Date 28 Apr 2017; Organization Type: Support activities for petroleum and natural gas extraction; Tax ID No. K002–901702518 (Cambodia); Business Registration Number 00025007 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

19. CAMBODIAN UNITE WEI YE INVESTMENT CO LTD, Phnom Penh, Cambodia; Organization Established Date 25 Jun 2015; Organization Type: Construction of buildings; Business Registration Number 00004119 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

20. CB GENERAL INSURANCE PLC, Phnom Penh, Cambodia; Organization Established Date 28 Dec 2018; Organization Type: Financial and Insurance Activities; Tax ID No. L001–901900322 (Cambodia); Business Registration Number 00038998 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

21. DT ZHI ZAO CO LTD, Phnom Penh, Cambodia; Organization Established Date 27 Nov 2020; Organization Type: Wholesale of other machinery and equipment; Tax ID No. K006–902101174 (Cambodia); Business Registration Number 00056042 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

22. FIRST AQUATIC INDUSTRIAL CO LTD, Kandal Province, Cambodia; Organization Established Date 04 Mar 2016; Organization Type: Marine aquaculture; Tax ID No. K002–901636552 (Cambodia); Business Registration Number 00003257 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

23. MO NET BEAUTY CO LTD, Phnom Penh, Cambodia; Organization Established Date 30 Mar 2021; Organization Type: Retail sale of pharmaceutical and medical goods, cosmetic and toilet articles in specialized stores; Tax ID No. K002–902102067 (Cambodia); Business Registration Number 00057803 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

24. PRINCE INTERNATIONAL AIRLINES CO LTD, Phnom Penh, Cambodia; Organization Established Date 16 May 2017; Organization Type: Passenger air transport; Tax ID No. L001–901702994 (Cambodia); Business Registration Number 00025370 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

25. RICHENG PROPERTY DEVELOPER CO LTD, Phnom Penh, Cambodia; Organization Established Date 16 Nov 2016; Organization Type: Real estate activities with own or leased property; Tax ID No. K002–901700530 (Cambodia); Business Registration Number 00021677 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

26. TIAN XU INTERNATIONAL TECHNOLOGY PLC, Phnom Penh, Cambodia; Organization Established Date 30 Nov 2016; Organization Type: Financial and Insurance Activities; Tax ID No. K002–901700553 (Cambodia); Business Registration Number 00021503 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

27. ZHX PRINTING EQUIPMENT CAMBODIA CO LTD, Phnom Penh, Cambodia; Organization Established Date 24 Jun 2019; Organization Type: Wholesale of other machinery and equipment; Tax ID No. K010–901904856 (Cambodia); Business Registration Number 00043863 (Cambodia) [TCO] (Linked To: CHEN, Bo).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, CHEN BO, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

28. CELESTIAL DRIVE LIMITED, Virgin Islands, British; Organization Established Date 19 May 2020; Company Number 2036541 (Virgin Islands, British) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

29. DIRECT ASTUTE HK LIMITED, Room D17, 5/F. Mai Gar Industrial

Building, 146 Wai Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Organization Established Date 15 May 2020; Business Registration Number 71868279 (Hong Kong) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

30. DIRECT ASTUTE LIMITED, Wickhams Cay II, Road Town, Tortola VG1110, Virgin Islands, British; Organization Established Date 15 Nov 2018; Company Number 1998307 (Virgin Islands, British) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

31. GLAD GLORY LIMITED, Wickhams Cay II, Road Town, Tortola VG1110, Virgin Islands, British; Organization Established Date 22 Nov 2018; Company Number 1999170 (Virgin Islands, British) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

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32. GLAD HARVEST LIMITED (Chinese Traditional: 欣實有限公司), Room D17, 5/F. Mai Gar Industrial Building, 146 Wai Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Organization Established Date 28 May 2019; Business Registration Number 70766761 (Hong Kong) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

33. GLAD SPARKLE LIMITED (Chinese Traditional: 欣閃有限公司), Room D17, 5/F. Mai Gar Industrial Building, 146 Wai Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Organization Established Date 28 May 2019; Business Registration Number 70766957 (Hong Kong) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

34. GLAD VAST LIMITED (Chinese Traditional: 欣豁有限公司), Room D17, 5/F. Mai Gar Industrial Building, 146 Wai Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Organization Established Date 28 May 2019; Business Registration Number 70766842 (Hong Kong) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

35. PREMIUM FINANCIAL LIMITED (Chinese Traditional: 永寶物業按揭有限公司), Room D17, 5/F. Mai Gar Industrial Building, 146 Wai Yip Street, Kwun Tong, Kowloon, Hong Kong, China; Organization Established Date 06 Sep 2012; Company Number 1796525 (Hong Kong); Business Registration Number 60323090 (Hong Kong) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

36. SINO SAGACIOUS LIMITED, Virgin Islands, British; Organization Established Date 15 Nov 2018; Company Number 1998339 (Virgin Islands, British) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

37. SOLAR SCAPE FINANCE LIMITED (Chinese Traditional: 陽景財務有限公司), Unit 802, 8/F, 68 Kimberley Road, Tsim Sha Tsui, Kowloon, Hong Kong, China; Organization Established Date 27 May 2019; Business Registration Number 70507210 (Hong Kong) [TCO] (Linked To: QIU, Yong).

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Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

38. SOLAR SCAPE LIMITED, Wickhams Cay II, Road Town, Tortola VG1110, Virgin Islands, British; Organization Established Date 15 Nov 2018; Company Number 1998349 (Virgin Islands, British) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

39. SUN SPEED HOLDINGS LIMITED, Virgin Islands, British; Organization Established Date 08 Jun 2015; Company Number 1877249 (Virgin Islands, British) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

40. VICTORY FLORA LIMITED, Virgin Islands, British; Organization Established Date 22 Nov 2018; Company Number 1999147 (Virgin Islands, British) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

41. WIN APPLAUSE LIMITED, Virgin Islands, British; Organization Established Date 03 Jul 2020; Company Number 2039220 (Virgin Islands, British) [TCO] (Linked To: QIU, Yong).

Designated pursuant to section 1(a)(ii)(C) of E.O. 13581, as amended, for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, QIU YONG, a person whose property and interests in property are blocked pursuant to E.O. 13581, as amended.

(Authority: E.O. 13581, as amended; E.O. 13694, as further amended.)

**Bradley T. Smith,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2026–22861 Filed 11–9–26; 8:45 am]

BILLING CODE 4810–AL–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### [Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Related to the Qualified Intermediary (QI), Withholding Foreign Partnership (WP), and Withholding Foreign Trust (WT) Application and Account Management System

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of information collection; request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

**DATES:** Written comments should be received on or before January 11, 2027 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Andrés Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please include, ''OMB Control Number 1545–1597'' in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Marcus W. McCrary at (470) 769–2001.

**SUPPLEMENTARY INFORMATION:** The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C.

3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

*Title:* Qualified Intermediary (QI), Withholding Foreign Partnership (WP), and Withholding Foreign Trust (WT) Application and Account Management System.

*OMB Control Number:* 1545–1597.

*Form Number:* 14345.

*Abstract:* Internal Revenue Code (IRC) Section 1441 (Withholding of tax on nonresident aliens), states any nonresident alien individual or of any foreign partnership shall deduct and withhold from such items a tax equal to 30 percent or 14 percent depending on circumstances. Revenue Procedure 2022–43 sets forth the final qualified intermediary (QI) withholding agreement (QI agreement) entered by the Internal Revenue Service and certain foreign persons under Treas. Reg. § 1.1441–1(e)(5) and (6). The Qualified Intermediary (QI), Withholding Foreign Partnership (WP), and Withholding Foreign Trust (WT) Application and Account Management System (QAAMS) allows entities to apply, renew, or terminate their status as a QI, WP, or WT.

*Current Actions:* There are no changes to the previously approved information collections.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households and Business or other for-profit.

*Estimated Number of Respondents:* 1,097,991.

*Estimated Time per Respondent:* 16 minutes.

*Estimated Total Annual Burden Hours:* 301,018.

Dated: November 6, 2026.

**Jon R. Callahan,**

*Senior Tax Analyst.*

[FR Doc. 2026–22892 Filed 11–9–26; 8:45 am]

**BILLING CODE 4831–GV–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Agency Information Collection Activities; Comment Request on Revenue Procedure 2004–47, Simplified Alternate Procedure for Making Late Reverse QTIP Election

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of Information Collection; request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, the IRS is inviting comments on the information collection request outlined in this notice.

**DATES:** Written comments should be received on or before January 11, 2027 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Control No. 1545–1898'' in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this collection should be directed to Marcus W. McCrary, 470–769–2001.

**SUPPLEMENTARY INFORMATION:** The IRS, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the IRS assess the impact and minimize the burden of its information collection requirements. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record, and viewable on relevant websites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

*Title:* Revenue Procedure 2004–47, Simplified Alternate Procedure for Making Late Reverse QTIP Election

*OMB Control Number:* 1545–1898.

*Revenue Procedure Number:* Revenue Procedure 2004–47

*Abstract:* This revenue procedure provides a simplified alternate procedure (in lieu of requesting a letter ruling) for certain executors of estates and trustees of trusts to request relief to make a late reverse qualified terminable interest property (QTIP) election under section 2652 of the Code.

*Current Actions:* There is no change to the previously approved information collection.

*Type of Review:* Extension of a currently approved collection

*Affected Public:* Individuals and households.

*Estimated Number of Responses:* 6.

*Estimated Time Per Response:* 9 hours.

*Estimated Total Annual Burden Hours:* 54.

Dated: November 6, 2026.

**Marcus W. McCrary,**

*Tax Analyst.*

[FR Doc. 2026–22886 Filed 11–9–26; 8:45 am]

**BILLING CODE 4831–GV–P**

## U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

### Notice of Open Public Event

**AGENCY:** U.S.-China Economic and Security Review Commission.

**ACTION:** Notice of open public event.

**SUMMARY:** Notice is hereby given of the following open public event of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to monitor,

investigate, and report to Congress annually on ''the national security implications of the bilateral trade and economic relationship between the United States and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold a public release of its 2026 Annual Report to Congress in Washington, DC on November 18, 2026.

**DATES:** The release is scheduled for Wednesday, November 18, 2026, at 1:00 p.m.

**ADDRESSES:** This release will be held in-person at or near the U.S. Capitol and adjacent congressional office buildings (specific building and room number to be announced) and online via live webcast on the Commission's website at *www.uscc.gov*. Please check the Commission's website for an announcement on the specific event location once determined. Instructions on how to view the webcast and submit questions or participate in the question and answer session will also be posted at *USCC.gov.* Reservations are not required to attend.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public seeking further information concerning the event should contact Jameson Cunningham, 444 North Capitol Street NW, Suite 602, Washington, DC 20001; telephone: 202–624–1496, or via email at *jcunningham@uscc.gov.* Reservations are not required to attend.

*ADA Accessibility:* For questions about the accessibility of the event or to request an accommodation, please contact Jameson Cunningham at 202–624–1496, or via email at *jcunningham@uscc.gov.* Requests for an accommodation should be made as soon as possible, and at least five business days prior to the event.

**SUPPLEMENTARY INFORMATION:** Topics to Be Discussed: The Commission's 2026 Annual Report to Congress addresses key findings and recommendations for congressional action based upon the Commission's hearings, research, fact-finding travel, and review of areas designated by Congress in its mandate, including focused work this year on: a review of economics, trade, security, and foreign affairs developments in China and in the U.S.-China relationship in 2026; China's relations with India and the future of U.S. strategy in the Indo-Pacific; China's predatory diplomatic practices in Latin America; China's efforts to narrow the United States' advantages in the undersea domain; China's bid to reshape global commodities markets; China's attempts to harness data to advance its economic, technological, intelligence, and military goals; China's bid to control the AI tech stack; and recent developments affecting Taiwan and Hong Kong.

## Authority

Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Public Law 106–398), as amended by Public Laws No. 107–67 (November 12, 2001), No. 108–7 (February 20, 2003), 109–108 (November 22, 2005), No. 110–161 (December 26, 2007), No. 113–291 (December 19, 2014), and No. 117–286 (December 27, 2022).

Dated: November 5, 2026.

**Christopher P. Fioravante,**

*Deputy Executive Director, U.S.-China Economic and Security Review Commission.*

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## Department of Health and Human Services

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42 CFR Parts 403, 416, et al.

Medicare and Medicaid Programs; Cutting Administrative Requirements for Excellence in Patient Care); Proposed Rule

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**42 CFR Parts 403, 416, 418, 438, 442, 460, 482, 483, 485, and 494**

**[CMS–3484–P]**

**RIN 0938–AW04**

# Medicare and Medicaid Programs; Cutting Administrative Requirements for Excellence in Patient Care

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would reform Medicare and Medicaid regulations deemed obsolete or excessively burdensome on healthcare providers and suppliers, with the objective of reducing costs, enhancing flexibility in delivering innovative care, and streamlining existing regulations. This reform seeks to enable healthcare professionals to devote more resources to improving patient care by eliminating or minimizing requirements that impede quality patient care or that divert resources away from furnishing high quality patient care.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, by January 11, 2027.

**ADDRESSES:** In commenting, please refer to file code CMS–3484–P. Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *https://www.regulations.gov/docket/CMS-2026-3631.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3484–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3484–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the ''**SUPPLEMENTARY INFORMATION**'' section.

**FOR FURTHER INFORMATION CONTACT:** CMS Health and Safety Inquiries, 410–786–6633, *HealthandSafetyInquiries@cms.hhs.gov,* for further information related to the following: Ongoing and public health emergency (PHE) respiratory illness data reporting for hospitals, critical access hospitals, long-term care facilities and rural emergency hospitals; obstetrical services quality assessment and performance improvement, all staff trainings, and critical access hospital co-location; long-term care facility staff COVID–19 vaccination education and Ombudsman notice; intermediate care facility for individuals with intellectual disabilities staff vaccination education; and Life Safety Code, Health Care Facilities Code, and Emergency and Standby Powers Systems Code. *DCWReporting@cms.hhs.gov,* for further information related to Medicaid institutional payment transparency reporting.

**SUPPLEMENTARY INFORMATION:** *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *https://www.regulations.gov.* Follow the search instructions on that website to view public comments. CMS will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

*Plain Language Summary:* In accordance with 5 U.S.C. 553(b)(4), a plain language summary of this proposed rule may be found at *https://www.regulations.gov/.*

## I. Background

### *A. Executive Summary*

The Centers for Medicare & Medicaid Services (CMS) is committed to incorporating and integrating ongoing retrospective review of regulations to achieve a more streamlined and effective regulatory framework. CMS routinely reviews its regulations to identify opportunities to strengthen the patient health and safety requirements by revising the Conditions of Participation (CoPs), Conditions for Coverage (CfCs), Conditions for Certification, and Requirements for Participation, (collectively referred to as CoPs).

We conducted a comprehensive review of the CoPs for all 21 provider and supplier types with the objectives of improving the quality of existing regulations consistent with statutory requirements; streamlining procedural solutions; maximizing net benefits (including benefits that are difficult to quantify); and reducing costs and other burdens on facilities to comply with regulations. We identified obsolete and burdensome regulations that could be eliminated or reformed to enhance the effectiveness of facility operations and reduce unnecessary burden or other costs, with a particular focus on freeing up resources that health care providers could otherwise use to improve patient health and safety. We have also identified unnecessary and burdensome reporting requirements that can be eliminated to improve the efficiency of the Medicaid program.

*Relationship of This Rulemaking to Future Reforms:* We are committed to working with, and welcome suggestions for future rulemaking from, interested parties to identify other reforms to the CoPs that would improve patient health and safety while reducing unnecessary burden on health care facilities and entities or improve flexibility in meeting the Federal requirements.

### *B. Summary of Major Provisions*

We propose to reduce regulatory burden on providers and suppliers by modifying, removing, or streamlining current regulations that we now believe are excessively burdensome. We note that the appropriate term for the individual receiving care and/or services differs depending upon the facility type, such as hospital ''patients'' and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) ''clients.'' When discussing each individual provider or supplier type, we use the appropriate term; however, when discussing all or multiple provider or supplier types we will use the general term ''patient.'' Similarly, despite the different terms used for specific entities (such as campus, center, clinic, facility, organization, or program), when we are discussing all or multiple entities, we will use the general term ''facility.''

1. Hospitals

For hospitals, we propose to remove the recently finalized staff training requirements for transfer protocols, emergency services readiness, and obstetrics (OB) care, as well as OB-specific quality assessment and performance improvement (QAPI) requirements. We are also proposing policies that address informed consent requirements and policies and procedures that aim to support families' ability to request collection of birth tissues, including for cultural, religious, or personal reasons in hospitals.

2. Long Term Care (LTC) Facilities

For LTC facilities, we propose to revise the facility assessment requirement by removing the requirement for the active involvement of representatives of direct care staff in conducting the LTC facility assessment. We also propose to revise the infection control requirement to remove the ongoing (weekly) acute respiratory illness data reporting requirements and amend the reporting requirements during a Public Health Emergency (PHE) to include the data elements originally specified in the ongoing data reporting section. We are also proposing to remove requirements related to educating staff about COVID–19 vaccine and its benefits and risks, offering it to them, and documenting these actions.

Additionally, we propose to revise the physical environment requirements to exempt existing facilities from the room occupancy and bathroom facility standards when there is a change of ownership (CHOW) for the facility or a lapse in and restoration of a facility's certification. We also propose to remove the requirement for LTC facilities to provide Ombudsman notice of resident transfers related to emergent care and solicit public comment regarding additional changes to the Ombudsman notice. Finally, we solicit public comment on the role of physician assistants and nurse practitioners in delivering resident care.

3. Intermediate Care Facilities for Individuals With Intellectual Disabilities (ICFs/IID)

For ICFs/IID, we propose to remove requirements related to educating staff about the COVID–19 vaccine and its benefits and risks and offering it to them.

4. Rural Emergency Hospitals (REHs)

For REHs, we propose to remove expired COVID–19 requirements related to ongoing data reporting and staff vaccination regulations. We propose to remove the data reporting requirement during a PHE to reduce burden. We also propose to update the emergency preparedness requirement to revise the point of contact that REHs may use to obtain copies of standards that are incorporated by reference and to correct an inaccurate cross-reference.

5. Critical Access Hospitals (CAHs)

For CAHs, we propose revising the regulation to clarify current CMS policy that CAH distance eligibility determinations are based on proximity to hospitals that provide acute inpatient care services, including other CAHs, rather than hospitals that provide only specialty services, such as psychiatric hospitals, long-term care hospitals (LTCHs), or rehabilitation hospitals. We also propose adding a requirement that implements section 241 of the Consolidated Appropriations Act, 2026 (Pub. L. 119–75), that revised the application of the statutory distance requirement in specified circumstances as set forth in the law. In addition, we propose to remove recently finalized staff training requirements for emergency services readiness, and obstetrical (OB) care, as well as OB-specific quality assessment and improvement (QAPI) requirements. We are also proposing policies that address informed consent requirements and policies and procedures that aim to support families' ability to request collection of birth tissues, including for cultural, religious, or personal reasons in CAHs.

6. Life Safety Code (LSC) and Health Care Facilities Code (HCFC) Updates for All Applicable Providers and Suppliers

We propose to update the National Fire Protection Association (NFPA) LSC and HCFC editions that are incorporated into the regulations for religious nonmedical health care institutions (RNHCIs), ambulatory surgical centers (ASCs), inpatient hospices, programs of all-inclusive care for the elderly (PACE), hospitals, LTC facilities, ICFs/IID, REHs, CAHs, and dialysis facilities. The LSC and HCFC are nationally recognized fire and building safety standards published by the NFPA. We propose to adopt the most recent (2024) editions of the LSC and HCFC, with limited exceptions.

7. Emergency and Standby Power Sources

For hospitals, CAHs, REHs, and LTC facilities that are required to have emergency and standby power systems, we propose to update the current requirements to allow the use of additional sources of emergency power. We also propose to adopt the 2022 edition of the Standard for Emergency and Standby Power Systems (ESPS), which establishes safety and performance requirements for emergencies and standby power systems.

8. Outside Window or Door Requirement Updates

For RNHCIs, inpatient hospices, hospitals, CAHs, and LTC facilities, we propose to remove the requirement for windows and doors in every patient sleeping area and a 36-inch windowsill requirement for buildings constructed after July 5, 2016, and defer to the egress requirements within the health care occupancy chapters of the LSC. Additionally, for hospitals and CAHs, we also propose to remove the 60-inch windowsill requirement for special nursing care areas in new occupancies. We propose to remove a similar requirement for ICFs/IID related to windows in client bedrooms that are below the level of the ground outside and defer to the window requirements for resident board and care occupancies within the LSC.

9. Life Safety Code and Health Care Facility Code Waiver Authority

We propose to codify our authority to waive certain LSC and HCFC provisions in the regulatory text applicable to each affected provider type. We would permit facilities to comply with specific provisions of a newer edition of the LSC or HCFC, subsequent to CMS review. We would permit this exception after we have determined that the provision provides an equal or superior means of ensuring patient safety as compared to the provisions of the code edition currently adopted in regulation at that time.

10. Transplant Programs Request for Information (RFI)

CMS' policy on organ transplantation is to increase the number of transplants available to patients on the organ transplant waiting lists. Achieving this goal requires a sufficient number of transplant programs to provide lifesaving surgeries. There are currently over 250 Medicare-approved programs providing organ transplantation services. However, programs seeking initial Medicare approval report challenges in meeting the initial requirements for Medicare certification. We are soliciting public comments on how to reduce potential barriers for new transplant programs seeking Medicare certified transplant programs.

11. Supervision of Anesthesia Services RFI

We are soliciting public comments related to Medicare's physician supervision requirement for certified registered nurse anesthetists (CRNAs) administering anesthesia services in hospitals, CAHs, REHs, and ASCs. Under current policy, anesthesia must be administered only by qualified practitioners. When a CRNA administers anesthesia, a physician, such as the operating practitioner or an anesthesiologist, must be immediately available to provide supervision. Since 2001, CMS has allowed a State's Governor to request an exemption from this requirement, permitting CRNAs to practice independently where consistent with State law. CMS is now requesting public input on this policy, including whether it should be retained, revised, or otherwise modified.

12. Reducing Reporting Burden for Hospital and CAH Respiratory Illness and Infectious Disease Data RFI

We are soliciting public comments on ways to reduce the reporting burden associated with respiratory illness and infectious disease data reporting requirements for hospitals, including CAHs (collectively referred to as ''hospitals'' for purposes of this RFI). Following the COVID–19 response, the health care community identified a need for standardized data elements and digital data collection approaches to ease this burden, particularly given the risk of overlapping or duplicative requirements across agencies for smaller or resource-constrained facilities. CMS, in partnership with CDC, has worked to reduce this burden through the development of data standards, adoption of interoperability modernization activities, and use of a single reporting system, the National Healthcare Safety Network (NHSN), which currently offers flexible reporting options such as Comma-Separated Values (CSV) import, Application Programming Interface (APIs), and Fast Healthcare Interoperability Resources (FHIR)-based approaches. Building on these efforts, CMS is requesting public comment on how to further support hospitals' adoption of data and interoperability capabilities to reduce burden through greater automation and digital data collection.

13. Medicaid Institutional Payment Transparency

We propose to rescind requirements for States to report annually, at the facility level, on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff, and the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff. We also solicit public comment on approaches to address direct care worker shortages and strengthen the direct care workforce in nursing facilities and ICFs/IID.

*C. Statutory and Regulatory Background*

The Social Security Act (the Act) sets forth definitions for the types of providers and suppliers that may participate in Medicare and Medicaid, the requirements that each must meet to be eligible for Medicare and Medicaid participation, and the Secretary's authority to establish other requirements as necessary to protect the health and safety of patients. The following list identifies the statutory and regulatory citations for the providers and suppliers for which we are proposing to revise or remove regulations in this rule:

- Religious Nonmedical Health Care Institutions (RNHCIs)—section 1821 of the Act and 42 CFR 403.700 through 403.770.
- Ambulatory Surgical Centers (ASCs)—section 1832(a)(2)(F)(i) of the Act and 42 CFR 416.
- Hospices—section 1861(dd)(1) of the Act and 42 CFR 418.
- Programs of All-Inclusive Care for the Elderly (PACE)—sections 1894, 1905(a), and 1934 of the Act and 42 CFR 460.
- Hospitals—section 1861(e)(9) of the Act and 42 CFR 482.
- Long Term Care (LTC) Facilities—Skilled Nursing Facilities (SNFs)—under section 1819 of the Act, Nursing Facilities (NFs)—under section 1919 of the Act, 42 CFR 483.1 through 483.315, 42 CFR 438.72, and 42 CFR 442.43.
- Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)—section 1905(d) of the Act, 42 CFR 483.400 through 483.480, and 42 CFR 442.43.
- Rural Emergency Hospitals (REHs)—sections 1861(kkk) of the Act and 42 CFR 485.500 through 485.546.
- Critical Access Hospitals (CAHs)—sections 1820 and 1861(mm) of the Act and 42 CFR 485.601 through 485.649.
- Dialysis Facilities—sections 1881(b), 1881(c), 1881(f)(7) of the Act and 42 CFR 494.

In addition, Title XIX of the Act established the Medicaid program as a joint Federal and State program to provide medical assistance to eligible individuals. Section 1902(a)(30)(A) of the Act requires State Medicaid programs to ensure that payments to providers are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available to beneficiaries at least to the extent as to the general population in the same geographic area. Section 1902(a)(6) of the Act requires State Medicaid agencies to make reports, in such form and containing such information, as the Secretary may from time to time require. To comply with provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports, section 1932(c) of the Act lays out quality assurance standards with which States must comply when delivering Medicaid services through managed care organizations (MCOs). Section 1902(a)(4) of the Act provides authority to specify ''methods of administration'' that are ''necessary for proper and efficient'' administration of the State plan.

CMS previously published four final rules [1] [2] [3] [4] that removed or revised unnecessary, obsolete, or excessively burdensome regulations for these health care providers and suppliers, resulting in significant annual Medicare and Medicaid savings. These rules also enhanced health care professionals' ability to focus on improving patient care by eliminating or reducing requirements that hindered quality or diverted resources away from delivering high-quality care. The 2019 final rule produced an estimated savings of $800 million annually.[5] Among other things, in the 2019 final rule, we scaled back the emergency preparedness requirements across providers; revised

[1] ''Medicare and Medicaid Program; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction,'' published May 16, 2012. 77 FR 29002.

[2] ''Medicare and Medicaid Programs; Reform of Hospital and Critical Access Hospital Conditions of Participation,'' published May 16, 2012. 77 FR 29034.

[3] ''Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction; Part II,'' published May 12, 2014. 79 FR 27106.

[4] ''Medicare and Medicaid Programs; Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction; Fire Safety Requirements for Certain Dialysis Facilities; Hospital and Critical Access Hospital (CAH) Changes To Promote Innovation, Flexibility, and Improvement in Patient Care,'' published September 30, 2019. 84 FR 51732.

[5] ''Medicare and Medicaid Programs; Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction; Fire Safety Requirements for Certain Dialysis Facilities; Hospital and Critical Access Hospital (CAH) Changes To Promote Innovation, Flexibility, and Improvement in Patient Care,'' published September 30, 2019. 84 FR 51732.

the hospital and CAH CoPs for infection control, swing beds, and documentation; simplified hospice requirements for medications; and added flexibility to the home health CoPs for home health aide competency evaluations.

This proposed rule is a continuation of our efforts to reduce regulatory burden and is in accordance with recent Executive Order (E.O.) 14192 ''Unleashing Prosperity Through Deregulation'' [6] and E.O. 14219: ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative.'' [7]

This proposed rule is also related to the RFI ''Unleashing Prosperity Through Deregulation of the Medicare Program Request for Information,'' that CMS released in April 2025 (henceforth referred to as the 2025 deregulatory RFI).[8] The RFI sought public feedback on approaches and opportunities to streamline regulations and reduce administrative burdens on providers, suppliers and beneficiaries. CMS reviewed the 937 timely submissions and considered the comments and suggestions. Additionally, we have conducted our own review and evaluation of current practices. This included an analysis of regulations released by the prior Administration and long-standing requirements, meetings with external interested parties, and collaboration with other CMS interested parties to identify opportunities to improve patient care by reducing unnecessary provider compliance burden through deregulation.

In 2024, we finalized Medicaid institutional payment transparency reporting requirements in the ''Minimum Staffing Standards for Long-Term Care (LTC) Facilities and Medicaid Institutional Payment Transparency Reporting'' final rule (2024 Minimum Staffing final rule; CMS 3442–F) [9] to promote public transparency around States' statutory obligation under section 1902(a)(30)(A) of the Act and around the quality requirements in section 1932(c) of the Act for services furnished through MCOs and prepaid inpatient health plans (PIHPs) [10] under our authority under section 1902(a)(4) of the Act.

To support the implementation of the Medicaid institutional payment transparency reporting requirements, we engaged with States, providers, and other interested parties to provide training and technical assistance and address questions. Based on the public input received through this engagement and our internal deliberations as we developed guidance and technical specifications, we have a better understanding of the complexity and challenges of implementing certain components of the requirements we finalized. This understanding has led us to propose to deregulate some of the provisions from that 2024 final rule.

*D. Summary of Costs and Benefits*

1. Overall Impact

This proposed rule would create savings and reduce burden in many areas. Several of the proposed changes would create measurable monetary savings for providers and suppliers, while others would create less quantifiable savings of time and administrative burden. We estimate an average annual savings of approximately $320 million.

2. Section-By-Section Economic Impact Estimates

*Hospitals:* We expect average annual savings of $123.2 million and $1.23 billion over 10 years for hospitals.

*Long Term Care Facilities (LTC):* We expect average annual savings of $142.6 million and $1.426 billion over 10 years for LTC facilities.

*Critical Access Hospitals (CAHs):* We expect an average annual savings of $16.6 million and $166 million over 10 years for CAHs.

*Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID):* We expect an average annual savings of $6.6 million and $66 million over 10 years for ICFs/IID.

*Rural Emergency Hospitals (REHs):* This proposed rule would not result in any costs or savings for REHs.

*Life Safety Code (LSC) and Health Care Facilities Code (HCFC) Updates:* We expect an average annual cost of approximately $112,000, and $1,120,000—over 10 years that would be offset by unquantified flexibility savings.

*Emergency and Standby Power Sources:* These proposals would not result in costs but would provide providers with increased flexibility.

*Outside Window or Door Requirement Updates:* These proposals would not result in any costs but would provide providers with increased flexibility for building construction.

*Medicaid Institutional Payment Transparency Reporting:* We expect an average annual savings of approximately $68,760, and $687,600 over 10 years for the Federal Government. We expect an average annual savings of approximately $68,760 and $687,600 over 10 years for States. We expect an average annual savings of $30.4 million and $304.1 million over 10 years for providers.

*E. Severability*

We are clarifying and emphasizing our intent that if any provision of this proposed rule, if finalized, is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, or stayed pending further action, it shall be severable from the remainder of the final rule, and from rules and regulations currently in effect, and not affect the remainder thereof or the application of the provision to other persons not similarly situated or to other, dissimilar circumstances. If any provision is held to be invalid or unenforceable, the remaining provisions which could function independently should take effect and be given the maximum effect permitted by law. In this rule, we propose several provisions that are intended to and will operate independently of each other, even if each serves the same general purpose or policy goal. Where a provision is necessarily dependent on another, the context generally makes that clear.

## II. Provisions of the Proposed Regulations

*A. Hospitals*

Hospitals provide a range of services to treat patients with acute care needs, which may include emergency medicine, surgery, labor and delivery, cardiac care, oncology, among a wide variety of other services. Hospitals also administer general and specialty care that cannot safely be provided in other settings, under the supervision of physicians and licensed practitioners. They may operate as independent institutions or as part of a larger health care system or learning institution. As of January 2026, there are around 4,700 Medicare-certified hospitals.[11]

Under sections 1866 and 1902 of the Act, hospitals seeking to participate in

[6] 90 FR 9065.

[7] 90 FR 10583.

[8] ''Medicare Regulatory Relief | CMS.'' *Cms.gov,* 2025, *https://www.cms.gov/files/document/unleashing-prosperity-through-deregulation-medicare-program-request-information.pdf.* Accessed September 2025.

[9] *https://www.federalregister.gov/documents/2024/05/10/2024-08273/medicare-and-medicaid-programs-minimum-staffing-standards-for-long-term-care-facilities-and-medicaid#h-32.*

[10] Throughout this section, the use of the term ''managed care plan'' means MCOs and PIHPs.

[11] Centers for Medicare & Medicaid Services. Quality, Certification and Oversight Reports (QCOR), Hospital provider reports, Active Provider and Supplier Counts Report, FY 2025. Accessed January 30, 2026. *https://qcor.cms.gov/main.jsp.*

the Medicare or Medicaid program, respectively, or both, must enter into an agreement with the Secretary or the State Medicaid agency, as appropriate. Hospitals (all hospitals to which the requirements of 42 CFR part 482 apply, including short-term acute care hospitals, long term care hospitals (LTCHs), rehabilitation hospitals, psychiatric hospitals, cancer hospitals, and children's hospitals), seeking to be Medicare and Medicaid providers of services must be certified as meeting Federal participation requirements. Our CoPs set out at 42 CFR part 482 establish the patient health and safety protections established by the Secretary for hospitals (except for critical access hospitals (CAHs)). The specific statutory authority for hospitals is set forth in section 1861(e) of the Act. In addition to specific terms of that subsection, the hospital provision at section 1861(e)(9) of the Act authorizes the Secretary to issue any additional regulations deemed necessary to protect the health and safety of those receiving services in the hospital.

In accordance with section 1864 of the Act, State surveyors assess hospital compliance with the conditions as part of the process of determining whether a hospital qualifies for a provider agreement under Medicare. However, under section 1865 of the Act, hospitals can elect to be reviewed instead by private accrediting organizations approved by CMS as having standards that meet or exceed the applicable Medicare standards and survey procedures comparable to those CMS requires for State survey agencies.

1. Proposal To Remove OB QAPI Requirements (§ 482.21(b) and (e))

In November 2024, as part of the final rule, ''Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs, Including the Hospital Inpatient Quality Reporting Program; Health and Safety Standards for Obstetrical Services in Hospitals and Critical Access Hospitals; Prior Authorization; Requests for Information; Medicaid and CHIP Continuous Eligibility; Medicaid Clinic Services Four Walls Exceptions; Individuals Currently or Formerly in Custody of Penal Authorities; Revision to Medicare Special Enrollment Period for Formerly Incarcerated Individuals; and All-Inclusive Rate Add-On Payment for High-Cost Drugs Provided by Indian Health Service and Tribal Facilities'' (henceforth referred as CY 2025 OPPS/ASC final rule) [12] CMS finalized new CoPs for hospitals that offer obstetrical (OB) services. Prior to the CY 2025 OPPS/ASC final rule, CMS had not established CoPs specifically for OB services. Rather those services fell within the scope of broader CoPs applicable to hospitals, including the QAPI requirements. Separate from the CoPs, CMS also addressed maternal health through sub-regulatory guidance,[13] [14] hospital quality measures, and initiatives such as the Birthing-Friendly Hospital designation.

In the CY 2025 OPPS/ASC final rule,[15] we finalized additional QAPI requirements for hospitals that offer OB services (§ 482.21(b)(4) and (e)), revisions to the discharge planning CoP for all hospitals related to transfer protocols (§ 482.43(c)), revisions to the CoP related to emergency services readiness for hospitals that provide emergency services (§ 482.55(c)(3)), as well as baseline standards for the organization, staffing, and delivery of OB care, including staff training on evidence-based maternal health practices (§ 482.59). In this section we discuss the proposed changes to the hospital QAPI requirements. Revisions to the discharge planning CoP, emergency services CoP, and obstetrical services CoP, are discussed in sections II.A.2., II.A.3., and II.A.4. of this proposed rule, respectively.

On January 25, 2003, we published the Medicare and Medicaid Programs; Hospital Conditions of Participation: Quality Assessment and Performance Improvement final rule,[16] which codified provisions in the hospital CoPs, requiring hospitals to develop, implement, and maintain a QAPI program (§ 482.21). The hospital QAPI program CoP requires hospitals to implement an ongoing hospital-wide, data-driven system to improve quality of care, patient safety, and improved health outcomes. Hospitals must use data to identify and prioritize improvement areas (§ 482.21(b)), sustain measurable improvements (§ 482.21(c)), conduct performance improvement projects (§ 482.21(d)), and demonstrate leadership oversight over the program and that the program reflects the complexity of the facility's organization and services (§ 482.21(e)). On September 30, 2019, CMS published the ''Medicare and Medicaid Programs; Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction; Fire Safety Requirements for Certain Dialysis Facilities; Hospital and Critical Access Hospital (CAH) Changes To Promote Innovation, Flexibility, and Improvement in Patient Care'' final rule,[17] which finalized a new standard at § 482.21(f), to allow a hospital that is part of a hospital system to elect to have a unified and integrated QAPI program for all of its member hospitals. This rule also expanded the program data requirements at § 482.21(b), to require that the hospital QAPI program incorporate quality indicator data submitted to or received from quality reporting and quality performance programs. In the CY 2025 OPPS/ASC final rule,[18] we finalized additional QAPI requirements for hospitals that offer OB services (89 FR 94593). Specifically, effective January 1, 2027, the facility at a minimum, will be required to: (1) analyze data and quality indicators by diverse subpopulation as determined by the facility; (2) measure, analyze, and track outcomes and disparities in processes of care, services, and outcomes among OB patients; (3) analyze and prioritize patient health outcomes and disparities, develop and implement actions to improve patient health outcomes and disparities, measure results, and track performance to ensure improvements are sustained when disparities exist among OB patients; and (4) conduct at least one measurable performance improvement project that focuses on improving health outcomes and maternal health disparities, annually. Additionally, hospitals that offer OB services are required to have their OB leadership participate in the facility's QAPI program (§ 482.21(e)(1)) and, where a state, local, or tribal maternal mortality review committee (MMRC) exists, the facility must have a process for incorporating publicly available MMRC data and recommendations into its QAPI program (§ 482.21(e)(2)).

This proposal to remove OB QAPI requirements at § 482.21(b)(4) and (e) would promote efficiency and reduce waste, consistent with the E.O. 14219 and E.O. 14192. As part of regulatory reviews conducted in response to these E.O.s, CMS received input through the

[12] 89 FR 93912.

[13] Centers for Medicare and Medicaid Services. *State Operations Manual Appendix A -Survey Protocol, Regulations and Interpretive Guidelines for Hospitals Transmittals for Appendix A.* 2024, *https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_a_hospitals.pdf.* Accessed 31 July 2026.

[14] Center for Clinical Standards and Quality. ''QSO–22–05-Hospitals (ADVISORY).'' *Centers for Medicare & Medicaid Services,* 7 Dec. 2021, *https://www.cms.gov/files/document/qso-22-05-hospitals.pdf.*

[15] 89 FR 93912.

[16] 68 FR 3437.

[17] 84 FR 51776.

[18] 89 FR 94484.

2025 deregulatory RFI [19] from interested parties. Commenters, including physician organizations, medical associations, and rural health advocates, specifically raised concerns about the OB QAPI requirements at § 482.21(b)(4) and (e) as well as the broader OB services CoPs (§ 482.59) finalized in the CY 2025 OPPS/ASC final rule. Commenters indicated that these requirements were overly burdensome and costly, particularly for small and rural hospitals, and expressed concern that compliance costs could contribute to the closure of labor and delivery units, which would worsen access to maternity care and potentially exacerbate maternal health disparities.

While we originally disagreed with these types of comments in the CY 2025 OPPS/ASC final rule, we have since refined our understanding of the issues that hospitals are facing in diverting resources away from direct patient care to comply with administrative standards. Upon further consideration, including input received through the 2025 deregulatory RFI and the policy priorities reflected in E.O. 14219 and E.O. 14192, CMS has reassessed the burden imposed by the OB-specific QAPI requirements and the quality improvement those requirements would achieve, beyond what was previously already required under the existing, broadly applicable QAPI CoPs at § 482.21. In particular, CMS now finds that the existing QAPI CoPs, which require hospitals to maintain an effective, ongoing, facility-wide, data-driven program that measures, analyzes, and tracks quality indicators, including adverse patient events, across all services provides a sufficient foundation for quality oversight of OB care, without the need for OB-specific requirements. In consideration of the above, CMS is proposing to remove the OB QAPI requirements at § 482.21(b)(4) and (e) for hospitals that offer OB services. Hospitals would continue to be required to comply with the remaining QAPI requirements at § 482.21, including with respect to OB services.

CMS also recognizes the compliance costs associated with the OB QAPI requirements, estimated in the CY 2025 OPPS/ASC final rule,[20] are $187,985,440 and 1,110,900 hours of staff time over a ten-year period, or approximately $18,798,544 and 111 staff hours annually. This burden may pose a disproportionate burden on small and rural hospitals, potentially contributing to the closure of labor and delivery units and thereby worsening access to maternity care in underserved communities. Hospitals may have begun taking steps toward compliance with the OB QAPI requirements finalized in the CY 2025 OPPS/ASC final rule, which are not effective until January 1, 2027. CMS has considered these efforts toward achieving compliance and, given that the requirements have not yet taken effect, expects the disruption to hospitals from this proposed change in position to be limited. Although it is unlikely that this proposed rule will be finalized before January 1, 2027, we would request our surveyors that conduct surveys after that date to focus on those CoPs that are not potentially subject to imminent revision. CMS recognizes and affirms the importance of high-quality OB-focused QAPI programs in improving maternal health outcomes and reducing maternal mortality and morbidity. While we are proposing to remove the OB-specific requirements at § 482.21(b) and (e), we strongly encourage hospitals that offer OB services to prioritize maternal health as part of their existing QAPI programs. Furthermore, nothing in these proposals prohibits hospitals from establishing and maintaining policies and procedures that go beyond the minimum standards set forth in the CoPs. Hospitals are encouraged to exercise this flexibility to ensure they are meeting the unique needs of their patient populations.

Furthermore, HHS has several existing quality initiatives related to maternal health, including CMS' ''Birthing-Friendly'' designation and state-based National Perinatal Quality Collaboratives (PQCs) supported by the Centers for Disease Control (CDC) and Prevention. The Birthing-Friendly Hospital Designation (hereinafter referred to as ''the Designation''), was created to identify hospitals that demonstrate the delivery of high-quality maternal care and a commitment to improving maternal health outcomes (87 FR 49284 through 49290).[21] The Designation serves as a quality-driven mechanism to incentivize hospitals to adopt and sustain evidence-based maternal health practices, and is one of several tools CMS is leveraging to advance maternal health outcomes. CMS intends to explore, in future rulemaking, opportunities to expand the Designation and similar quality-based programs as a primary vehicle for reducing maternal mortality and morbidity, and we invite public comment on how such programs could be structured or expanded to address maternal health disparities. CMS is also actively refining the Designation program, including through a recent Request for Information (RFI) in the proposed rule titled, Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals (IPPS) and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year (FY) 2027 Rates; Requirements for Quality Programs; and Other Policy Changes (91 FR 19597, April 14, 2026),[22] which sought public input on updates to designation criteria, alignment with other Federal and state maternal health quality initiatives, and strategies to increase hospital participation, particularly among rural and safety-net hospitals.

While the Designation operates at the hospital level, state-based PQCs complement this effort by advancing standardized best practices at the state and regional level, serving as another tool for advancing maternal health. As of March 2026, there are 52 state- and territory-based PQCs,[23] of which 36 are funded by the CDC.[24] Through Federal grants and cooperative agreements with the CDC and/or funding and support from state and local governments, PQCs have achieved notable improvements in maternal health and safety, including in severe pregnancy complications.[25] For example, the Illinois Perinatal Quality Collaborative launched the Severe Maternal Hypertension Initiative helped raise timely treatment rates for sever hypertension from 41 percent to 87 percent within 2 years.[26] Together, this regulatory approach ensures flexibility and reduces burden while maintaining strong support for maternal and infant health.

CMS acknowledges that U.S. maternal mortality remains elevated relative to peer nations and that the majority of

[19] ''Medicare Regulatory Relief | CMS.'' *Cms.gov*, 2025, *https://www.cms.gov/files/document/unleashing-prosperity-through-deregulation-medicare-program-request-information.pdf* Accessed September 2025.

[20] 89 FR 94577.

[21] 87 FR 48780.

[22] 91 FR 19312.

[23] ''National Network of Perinatal Quality Collaboratives.'' *The National Institute for Children's Health Quality*, National Institute for Children's Health Quality, *https://nichq.org/projects/national-network-of-perinatal-quality-collaboratives/*. Accessed 30 March 2026.

[24] ''State Perinatal Quality Collaboratives.'' *Centers for Disease Control and Prevention*, 15 May 2024, *https://www.cdc.gov/maternal-infant-health/pqc/state-pqcs.html*. Accessed 24 September 2025.

[25] ''Perinatal Quality Collaboratives.'' *Centers for Disease Control and Prevention*, 15 May 2024, *https://www.cdc.gov/maternal-infant-health/pqc/index.html*. Accessed 24 September 2025.

[26] Centers for Disease Control and Prevention. ''PQC Impacts: Reducing Pregnancy Complications From High Blood Pressure.'' *Maternal Infant Health*, 20 May 2024, *https://www.cdc.gov/maternal-infant-health/pqc/success-stories-illinois.html*.

pregnancy-related deaths are considered preventable. According to data from MMRCs in 45 states, 85.7 percent of pregnancy-related deaths occurring in 2022 were preventable, with clinical skill and quality of care, lack of continuity of care, and knowledge identified as the most common contributing factors.[27] MMRC prevention recommendations were directed at the provider level (32.2 percent), facility level (18.6 percent), and system level (38.0 percent),[28] underscoring the importance of facility-level responsiveness to MMRC findings. Comprehensive strategies for improving maternal health quality, such as engaging with State PQCs, utilizing AIM resources, and seeking the CMS Birthing-Friendly designation, can significantly enhance outcomes in maternal health. CMS encourages hospitals that offer OB services to incorporate maternal health quality improvement activities, including review of publicly available MMRC data and recommendations where available, into their existing QAPI programs under § 482.41.

2. Proposal To Remove Transfer Protocol Staff Training (§ 482.43(c))

The hospital discharge planning requirements at § 482.43, ''Discharge planning,'' were originally published on December 13, 1994,[29] including the requirement that hospitals must maintain a written discharge planning process for all patients that supports safe, timely transitions from hospital care. This includes early identification of patients at risk of adverse outcomes and timely discharge planning evaluations by qualified personnel to assess post-hospital care needs, service availability, and the patient's capacity for self-care or appropriateness of the discharge setting (§ 482.43). When needed, hospitals must document and communicate evaluation results, develop and implement discharge plans, reassess plans as patient needs change, ensure appropriate transfer or referral, and regularly review their discharge planning process.

In the September 30, 2019 final rule, ''Medicare and Medicaid Programs; Revisions to Requirements for Discharge Planning for Hospitals, Critical Access Hospitals, and Home Health Agencies, and Hospital and Critical Access Hospital Changes to Promote Innovation, Flexibility, and Improvement in Patient Care,'' [30] CMS established additional discharge planning requirements requiring hospitals to assist patients and their caregivers in selecting post-acute care providers by sharing relevant quality and resource use data that are relevant to the patient's goals of care and treatment preferences, and to document this sharing of information in the medical record (§ 482.43(a)(8)).

The discharge planning CoP was last updated in the CY 2025 OPPS/ASC final rule. Effective July 1, 2025, all hospitals must have written policies and procedures for transferring patients under their care (§ 482.43(c)). This requirement is inclusive of hospital inpatients, such as transfers from the emergency department to inpatient admission, transfers between inpatient units in the same hospital, as well as transfers between inpatient units at different hospitals. In addition, hospitals are required to provide annual training to the relevant staff (as determined by the facility) regarding the hospital policies and procedures for transferring patients under its care.

In the CY 2025 OPPS/ASC final rule, CMS specifically agreed with commenters that supported inclusion on annual training on transfer protocols in the hospital CoPs to promote consistency in transfer processes and ensure that transfers are conducted safely by minimizing errors.[31] In light of additional public comments received through the 2025 deregulatory RFI [32] and the issuance of E.O. 14192 and E.O. 14219, CMS is now reconsidering that position. CMS received comments on the 2025 deregulatory RFI stating that transfer protocols are already built into existing regulations, and that the additional formal annual staff training requirement is unnecessarily prescriptive, as staff engage with transfer processes routinely as part of daily clinical operations and maintain familiarity through regular practice, including through electronic health record systems that facilitate unit-to-unit and facility-to-facility transfer processes. CMS agrees that a separate, prescriptive annual training requirement is not necessary to ensure staff familiarity with transfer policies and procedures. CMS also recognizes that the broader existing regulatory requirements, including Emergency Medical Treatment and Labor Act (EMTALA) requirements for emergency department transfers, the existing discharge planning CoP requirements (§ 482.43), and accrediting organization (AO) standards collectively support staff competency in transfer processes without the need for a separate annual training requirement.

CMS acknowledges that hospitals were required to undertake compliance efforts, including conducting initial annual training sessions and documenting staff completion in personnel records, since the July 1, 2025, effective date of § 482.43(c). However, CMS has determined that the ongoing annual compliance burden of maintaining and documenting a separate staff training requirement on transfer protocols outweighs the benefit of retaining this requirement, given that the written policies and procedures requirement remains in place and the existing operational and regulatory requirements support staff knowledge of transfer protocols.

Specifically, the compliance costs associated with the emergency services readiness staff training requirements, estimated in the CY 2025 OPPS/ASC final rule,[33] are more than $862 million and 5.1 million hours of staff time over a ten-year period, or approximately $86 million and 505,213 staff hours annually.

Removing the annual transfer protocol staff training requirement may allow clinicians to spend more time with patients and prioritize high-quality patient care, while maintaining flexibility in how hospitals ensure staff familiarity with transfer policies and reduce regulatory compliance burden. As patient transfers require coordinated clinical decision-making across settings and levels of care, maintaining written transfer policies support consistent transfer decision-making, including critical or infrequent situations. Removing this annual training requirement would not prevent hospitals, states or AOs from independently establishing and enforcing facility policies requiring annual training.

3. Proposal To Remove Emergency Services Readiness Staff Training (§ 482.55(c))

In the CY 2025 OPPS/ASC final rule,[34] CMS finalized emergency services readiness staff training

[27] CDC. ''Pregnancy-Related Deaths: Data from Maternal Mortality Review Committees.'' *Maternal Mortality Prevention,* 28 Aug. 2025, *www.cdc.gov/maternal-mortality/php/data-research/mmrc/index.html?cove-tab=4.* Accessed 28 May 2026.

[28] ''Pregnancy-Related Deaths: Data from Maternal Mortality Review Committees.'' *Maternal Mortality Prevention,* 28 Aug. 2025, *www.cdc.gov/maternal-mortality/php/data-research/mmrc/index.html?cove-tab=5.* Accessed 28 May 2026.

[29] 59 FR 64142.

[30] 84 FR 51836.

[31] 89 FR 94481.

[32] ''Medicare Regulatory Relief | CMS.'' *Cms.gov,* 2025, *https://www.cms.gov/files/document/unleashing-prosperity-through-deregulation-medicare-program-request-information.pdf.* Accessed September 2025.

[33] 89 FR 94481.

[34] 89 FR 93912.

requirements for hospitals (89 FR 94592). As of July 1, 2025, § 482.55(c)(3) requires hospitals to train applicable staff annually on the protocols and provisions implemented pursuant to the emergency services readiness requirements at § 482.55(c). Specifically, in accordance with the complexity and scope of services offered by the facility, the hospital must have adequate provisions and protocols to meet the emergency needs of patients. These protocols must be consistent with nationally recognized and evidence-based guidelines for the care of patients with emergency conditions, including but not limited to patients with OB emergencies, complications, and immediate post-delivery care. The hospital's governing body is responsible for identifying and documenting which staff must complete training on emergency services readiness protocols and procedures. Additionally, the hospital must document in their personnel records that the training was successfully completed and demonstrate staff knowledge on emergency services readiness topics. Further, the hospital must use findings from their QAPI programs to inform staff training needs and any additions, revisions, or updates to training topics on an ongoing basis.

In the CY 2025 OPPS/ASC final rule, CMS disagreed with commenters who contended that the emergency services readiness staff training requirements at § 485.618(e)(2) were duplicative of existing CoPs (89 FR 94472). CMS is now reconsidering that position in light of public comments we received through the 2025 deregulatory RFI [35] and E.O. 14219 and E.O. 14192, which direct agencies to reduce regulatory burdens. Commenters stated that this requirement is duplicative, as most hospitals have internal standards and protocols to ensure compliance with nationally accepted guidelines for emergency care and readiness including OB emergencies, complications, immediate post-delivery care, and other patient health and safety events. Other commenters noted that the emergency services readiness requirements at § 482.55(c) will impose large burdens on hospitals and health care professionals, particularly for small and rural hospitals with limited staffing and financial resources. CMS agrees that the combination of existing CoP requirements (including those for QAPI under § 482.21), EMTALA requirements, AO accreditation standards, specialty board certification requirements, and nationally recognized clinical resources ensure staff competency in emergency services readiness without the need for a separate, prescriptive annual training requirement. This determination is further supported by the role of state licensing boards, which require clinicians to meet continuing education and competency standards for licensure renewal, as well as private-sector patient safety organizations that advance national clinical readiness and safety practices.

CMS acknowledges that hospitals were required to undertake compliance efforts since the July 1, 2025, effective date, however, CMS has determined that the ongoing annual compliance burden outweighs the incremental benefit of retaining this requirement given the robust existing structure of other applicable regulations, AO standards, board certifications, EMTALA requirements, and QAPI requirements. Specifically, the compliance costs associated with the emergency services readiness staff training requirements, estimated in the CY 2025 OPPS/ASC final rule [36] at $1.73 billion and 16.4 million hours of staff time over a 10-year period, or approximately $173 million and 1.6 million hours annually.

The financial pressures facing rural hospitals further underscore the need for this reconsideration. Rural hospitals are experiencing significant and worsening financial challenges that threaten patient access to care, including emergency services. According to the North Carolina Rural Health Research Program's financial distress index, a model that assesses rural hospital vulnerability across financial performance, government reimbursement, organizational traits, and market characteristics,[37] there are currently 86 rural hospitals in the highest financial risk category and an additional 329 are in the mid-highest risk category.[38] For rural hospitals already experiencing financial strain, the recurring annual cost associated with implementing, documenting, and maintaining separate staff training requirements is an additional burden, further worsening existing financial constraints. The financial challenges rural hospitals face may impact access to care as shown by expanding ambulance and health care deserts,[39] and the absence of hospital-based obstetric services in 60 percent of rural counties.[40] The compounding financial and operational challenges rural hospitals experience highlight the disproportionate burden of retaining a requirement that CMS has determined is duplicative of similar regulations, AO accreditation standards, specialty board certifications, and EMTALA requirements. Therefore, removing this staff training requirement may allow clinicians to spend more time with patients and prioritize providing high-quality patient care, while maintaining flexibility in how hospitals ensure staff competency and reducing regulatory compliance expenditures.

Existing requirements for hospitals that provide emergency services, located at § 482.55, require hospitals to meet each patient's emergency care needs in accordance with acceptable standards of practice through appropriate oversight, integration, and staffing. Hospitals must also have adequate provisions and protocols to meet the emergency needs of patients. Further, hospitals may incorporate emergency services readiness and staff competency activities into their QAPI programs under § 482.21, which require hospitals to evaluate and improve the quality of all services furnished, including emergency and OB services. Considering the duplicative nature of these requirements, and in alignment with both E.O. 14192 and E.O. 14219, we are proposing to remove the emergency services readiness staff training requirement at § 482.55(c)(3). This change would streamline regulatory requirements while preserving patient safety, allowing clinicians to spend more time delivering high-quality care to patients.

In meeting the existing emergency services CoP requirements at § 482.55, hospitals commonly rely on AO standards, voluntary certification programs, and nationally recognized clinical resources that include staff training and competency expectations

[35] ''Medicare Regulatory Relief | CMS.'' *Cms.gov,* 2025, *https://www.cms.gov/files/document/unleashing-prosperity-through-deregulation-medicare-program-request-information.pdf.* Accessed September 2025.

[36] 89 FR 94545 to 94546.

[37] Malone, Tyler L, et al. ''An Updated Model of Rural Hospital Financial Distress.'' *The Journal of Rural Health,* vol. 41, no. 2, 3 Oct. 2024, *onlinelibrary.wiley.com/doi/full/10.1111/jrh.12882, https://doi.org/10.1111/jrh.12882.* Accessed 27 May 2026.

[38] Malone, Tyler, et al. ''Rural Hospital Financial Distress: Relative Risk in 2025.'' North Carolina Rural Health Research Program, Nov. 2025, *www.ruralhealthresearch.org/publications/1742.* Accessed 28 May 2026.

[39] Jonk, Y., Milkowski, C., Croll, Z., & Pearson, K. (2023). Ambulance Deserts: Geographic Disparities in the Provision of Ambulance Services [Chartbook]. University of Southern Maine, Muskie School, Maine Rural Health Research Center.

[40] Interrante JD, O'Hanlon K, Kozhimannil KB. Availability of Hospital-Based Obstetric Services in the United States by County, 2010–2023: A State-by-State Report. University of Minnesota Rural Health Research Center. January 2026. *https://rhrc.umn.edu/publication/availability-of-hospital-based-obstetric-services-in-the-united-states-by-county-2010-2023-a-state-by-state-report/.*

related to emergency services readiness. AOs have staff training requirements pertaining to emergency services readiness for patients with critical illnesses. For example, The Joint Commission (TJC) offers facility certification programs in managing critical illnesses, such as heart attacks and stroke, through its comprehensive heart attack and stroke centers programs in collaboration with the American Heart Association and American Stroke Association.

Additionally, professional health care societies offer facility credentialing opportunities and free resources to improve emergency services readiness. For example, the American College of Emergency Physicians (ACEP) offers a geriatric emergency department (ED) accreditation program, with the aim of promoting best clinical practices for older adults, coordinating care more efficiently, and reducing the cost of care.[41] ACEP also offers an ED accreditation program to establish transparency and improve patient care through the implementation of evidence-based policies and practices.[42] EDs also have access to free educational resources such as the American College of Obstetricians and Gynecologists' (ACOG's) toolkit for OB emergencies in non-obstetric settings and the Alliance for Innovation on Maternal Health (AIM) Obstetric Emergency Readiness Kit, including guidance for rural facilities, to improve their obstetrical readiness.[43] [44] CMS also recognizes that risk-appropriate care, a strategy to ensure that pregnant women and infants receive the right care in the right place at the right time, is an important framework for rural hospitals, including those without dedicated OB services.[45] Under this approach, healthy patients can safely deliver in their communities, while complex pregnancies are delivered in hospitals with the personnel and resources to support higher risk conditions. Having formal transfer policies and protocols in place beyond individual hospital systems is foundational to providing risk-appropriate care. Hospitals, including those without dedicated OB services, may find it beneficial to ensure that providers have the skills necessary to stabilize and transport, or potentially deliver, a high-risk pregnancy, and are encouraged to explore the range of training resources available to support obstetric emergency preparedness in non-obstetric settings. Similarly, the National Pediatric Readiness Project, developed in partnership with ACEP, the Emergency Nurses Association (ENA), and the American Academy of Pediatrics, empowers EDs nationwide to improve their ''pediatric readiness'' or capability to care for acutely ill and injured children through free assessment and toolkit resources.[46]

In addition, hospitals commonly rely on existing specialty board certification and continuing education requirements to ensure that emergency services staff are qualified and prepared to deliver care in accordance with acceptable standards of practice, consistent with § 482.55. Notably, specialty board certification is a key component of physician education and required by a majority of hospital-based employers. For example, physicians can pursue board certification in emergency medicine from organizations such as the American Board of Emergency Medicine (ABEM) or the Board of Certification in Emergency Medicine (BCEM).[47] Emergency Medicine board certification requires physicians to demonstrate and maintain knowledge of key emergency topics, including OB emergencies.[48] ACEP also offers Continuing Medical Education (CME) in best practice updates for managing common and critical emergency conditions through conferences, online modules, and seminars and requires its members to earn 150 CME hours every 3 years.[49] [50] The Board of Certification of Emergency Nursing offers nurses credentialling as a certified emergency nurse (CEN), while the ENA offers nurses continuing education courses in managing critical patients, including pediatrics, obstetrics, geriatrics, and trauma.[51]

The extensive nature of these resources and the nature of hospital expectations for clinician training would continue to drive improvements in clinician training in the absence of the emergency services staff training requirements that we propose to remove from the hospital regulations.

4. Proposal To Remove OB Services Staff Training (§ 482.59(c))

In the CY 2025 OPPS/ASC final rule,[52] we finalized OB services staff training requirements for hospitals. Effective January 1, 2027, section § 482.59(c) requires hospitals to ''develop policies and procedures to ensure that relevant staff are trained on select topics for improving the delivery of maternal care.'' The training topics must reflect the scope and complexity of the services offered within the facility, including facility-identified, evidence-based best practices and protocols. Hospitals will also be required to use findings from their QAPI programs to inform staff training needs and any additions to the training topics on an ongoing basis and provide relevant new staff with initial training. In addition, the governing body will be required to identify and document which staff must complete an initial training and subsequent biennial (every 2 years) training. Additionally, the hospital must document in the staff personnel records that the training was successfully completed and must be able to demonstrate staff knowledge on the aforementioned topics.

As part of the regulatory review conducted in response to the E.O 14219 and E.O. 14192, we solicited and received interested parties input through the 2025 deregulatory RFI.[53] Commenters expressed several concerns about the OB services CoP staff training requirements at § 482.59(c). Several commenters requested that rural hospitals be exempt from the new OB services and QAPI requirements, noting that REHs, a provider type with its own unique care model and standards, are exempt and that small, rural hospitals require flexibility given their unique operational constraints. Commenters

[41] ''Accreditation Programs.'' American College of Emergency Physicians, *www.acep.org/patient-care/accreditation-programs.* Accessed 4 February 2026.

[42] ''Accreditation Programs.'' American College of Emergency Physicians, *www.acep.org/patient-care/accreditation-programs.* Accessed 4 February 2026.

[43] ''Obstetric Emergencies in Nonobstetric Settings.'' *www.acog.org, www.acog.org/programs/obstetric-emergencies-in-nonobstetric-settings.* Accessed 4 February 2026.

[44] ''AIM | Alliance for Innovation on Maternal Health.'' Saferbirth.org, *saferbirth.org/.* Accessed 4 February 2026.

[45] CDC. ''CDC Levels of Care Assessment Tool (CDC LOCATe®).'' *Maternal Mortality Prevention,* 13 Feb. 2026, *www.cdc.gov/maternal-infant-health/php/cdc-locate/index.html#cdc_toolkit_main_purpose-risk-appropriate-care.* Accessed 28 May 2026.

[46] ''National Pediatric Readiness Project.'' *Emergency Medical Services for Children Innovation and Improvement Center (EIIC), emscimprovement.center/domains/pediatric-readiness-project/.* Accessed 4 February 2026.

[47] ''Emergency Medicine Board Certification | ABPS.'' *American Board of Physician Specialties,* 7 October 2025, *www.abpsus.org/specializations/emergency-medicine.* Accessed 4 February 2026.

[48] ''Continuing Medical Education.'' American College of Emergency Physicians, *www.acep.org/education/cme.* Accessed 4 February 2026.

[49] ''ACEP26—Chicago, Illinois—October 5–8, 2026.'' *Acep.org,* ACEP's Scientific Assembly, 2026, *www.acep.org/sa.* Accessed 4 February 2026.

[50] ''Continuing Medical Education.'' American College of Emergency Physicians, *www.acep.org/education/cme.* Accessed 4 February 2026.

[51] ''CEN—Certified Emergency Nurse Specialization.'' Board of Certification for Emergency Nursing, *bcen.org/cen.* Accessed 4 February 2026.

[52] 89 FR 93912.

[53] ''Medicare Regulatory Relief | CMS.'' *Cms.gov,* 2025, *https://www.cms.gov/files/document/unleashing-prosperity-through-deregulation-medicare-program-request-information.pdf.* Accessed September 2025.

also raised concerns about the requirement that the governing body identify and document which staff must complete training on maternal care protocols, suggesting that decisions regarding the frequency, content, and scope of staff training are more appropriately made at the facility leadership level and that prescriptive training requirements take staff away from direct patient care while increasing the cost of care. More broadly, commenters expressed concern that the staff training requirements, as currently designed, are highly unlikely to reduce maternal mortality or morbidity while significantly increasing administrative burden, and that they risk exacerbating access to care challenges, particularly in rural and underserved areas, by contributing to hospitals reducing or discontinuing OB services. Several commenters also noted that the requirements are duplicative of standards hospitals are already held to under existing requirements, including EMTALA, AO standards, and existing staff training and quality monitoring requirements.

CMS previously considered similar concerns in the CY 2025 OPPS/ASC final rule (89 FR 94480 to 94483). At that time, we concluded that the patient safety benefits of the staff training requirements outweighed the operational and financial burdens on hospitals, and that existing AO standards and CME requirements did not fully substitute for the specific, QAPI-informed, facility-level training we were establishing. We reviewed both of those conclusions in accordance with the deregulatory directives set forth in E.O. 14219 and E.O. 14192, and the additional input received through the 2025 deregulatory RFI to reassess the relative costs and benefits of the requirement. Upon further review, and consistent with concerns raised by commenters through the 2025 deregulatory RFI and the CY 2025 OPPS/ASC final rule, we find that the staff time and administrative costs associated with § 482.59(c), when added to existing financial and workforce pressures, could affect some hospitals' decisions to continue providing OB services at their current level, particularly in areas with limited access to maternity care. We further find that existing AO accreditation standards, board certification requirements, and voluntary professional society training opportunities together provide a robust and sufficient foundation for ensuring staff competency in OB care, such that the incremental benefit of the additional CoP requirement does not justify its associated burden. Specifically, the compliance costs associated with the OB services staff training requirement for hospitals, estimated in the CY 2025 OPPS/ASC final rule,[54] are $242 million and 1.8 million hours of staff time over a 10-year period, translating to approximately $24.2 million and 176,600 staff hours annually. Due to these concerns, and to reduce unnecessary regulatory burden while preserving patient safety, we are proposing to remove the OB services staff training requirement at § 482.59(c). We also note that, since this requirement does not take effect until January 1, 2027, hospitals are not yet required to comply and are unlikely to have made significant investments or actions in preparation for meeting this requirement. To the extent that any hospitals have already begun investing resources in implementing these requirements in anticipation of the effective date, we acknowledge those efforts and note that the training infrastructure developed may continue to serve facilities under existing AO standards and voluntary initiatives. As noted previously, although it is unlikely that this proposed rule will be finalized before January 1, 2027, we would request that our surveyors conducting surveys after that date focus on those CoPs that are not potentially subject to imminent revision. CMS recognizes and affirms the critical importance of high-quality, evidence-based OB staff training programs in improving maternal health outcomes and reducing maternal mortality and morbidity. While we are proposing to remove the requirement at § 482.59(c) we strongly encourage hospitals to continue investing in these activities. Hospitals have the flexibility to exceed the health and safety standards set forth by CMS by establishing additional policies and procedures as needed to address the specific needs of their patients.

If the proposed changes are finalized, hospitals that provide OB services would still need to continue to meet all applicable CoPs related to the organization of services, staffing, delivery of care, and emergency preparedness to ensure safe, high-quality care for pregnant, birthing, and postpartum patients. In meeting these ongoing requirements, hospitals accredited by a CMS-approved accrediting organization would continue to comply with the standards of their AO, which may include staff competency and readiness to safely care for pregnant and postpartum patients. AOs have staff training requirements pertaining to maternal health. For example, TJC requires facilities to provide role-specific education to all staff and providers who treat pregnant and postpartum patients on their OB hemorrhage procedure (Standard PC.06.01.01 EP 4) and to develop written, evidence-based procedures for managing pregnant and postpartum patients with severe hypertension/preeclampsia procedures (Standard PC.06.03.01 EP 3). Under TJC standards, this education must occur at orientation, whenever there are changes to the processes or procedures, or at least every 2 years (Standard PC.06.01.01 EP 4, Standard PC.06.03.01 EP 3). Facilities must also conduct drills at least annually to determine system issues, followed by a team debrief (Standard OC.06.01.01 EP 5).[55]

Hospitals accredited by TJC may voluntarily seek assessment and confirmation of their maternal care capabilities through TJC's ''Maternal Levels of Care Verification'' program, developed in collaboration with ACOG.[56] The program evaluates whether a facility has the expertise, equipment, and resources necessary to provide risk-appropriate care. It also helps hospitals identify and address capability gaps, clarify which patients they are equipped to manage and when transfer is appropriate, and strengthen collaborative relationships with other facilities, supporting broader efforts to reduce maternal mortality and severe maternal morbidity.[57]

Additionally, hospital clinicians may choose to pursue and maintain board certification to demonstrate their expertise and commitment to their specialty and evidence-based medicine. Medical specialty board certification is a key component of physician education and required by a majority of hospital-based employers. Although certification requires an investment of time and resources, this process may enhance physicians' employment opportunities, professional standing, and increase patient trust. Hospitals may also support board certification as part of their credentialing and quality improvement

[54] 89 FR 94542 to 94543.

[55] ''Comprehensive Accreditation Manual for Hospitals.'' The Joint Commission, 1 July 2025, *https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:843eea61-ae7f-4a8f-b413-fb52d44317b7.* Accessed 4 February 2026.

[56] ''Maternal Levels of Care Verification.'' *www.jointcommission.org, www.jointcommission.org/what-we-offer/verification/maternal-levels-of-care-verification/.* Accessed 4 February 2026.

[57] ''Maternal Levels of Care Verification.'' *www.jointcommission.org, www.jointcommission.org/what-we-offer/verification/maternal-levels-of-care-verification/.* Accessed 4 February 2026.

activities, as it can assist in verifying physician qualifications, meeting accreditation standards, and promoting high-quality patient care.

In addition to AO standards and board certification, several professional health care societies offer training opportunities related to improving management of OB emergencies to protect the health of mothers. For example, ACOG's ''Emergencies in Clinical Obstetrics'' course covers a variety of OB emergencies including breech vaginal delivery, shoulder dystocia, postpartum hemorrhage, and teamwork and communication.[58] Further, ACOG provides CME for physicians and health care professionals practicing obstetrics and gynecology through eModules, conferences, simulations, courses, and webinars.[59] The American Academy of Family Physicians' (AAFP) ''Advanced Life Support in Obstetrics (ALSO) Program'' equips the entire pregnancy care team with skills to effectively manage OB emergencies and positively impact maternal outcomes.[60]

Patient advocacy groups and nursing associations also offer maternal health educational opportunities. March of Dimes offers several educational programs that include continuing nursing education (CNE) and CME in maternal health and provide peer-reviewed and clinically relevant content.[61] Additionally, the American Nurses Association supports professional development by offering resources and opportunities for nurses to enhance their skills and knowledge in various nursing specialties, including obstetrics.[62] [63] [64] The Association of Women's Health, Obstetric, and Neonatal Nurses (AWHONN) offers the ''Obstetric Patient Safety: OB Emergencies Workshop'' to disseminate best practices to help clinicians identify, assess, and manage the care for patients with OB emergencies.[65] We believe that this robust set of external resources and standards can be used by hospitals to comply with the existing CoPs related to the organization of services, staffing, delivery of care, and emergency preparedness to ensure safe, high-quality care for pregnant, birthing, and postpartum patients in the absence of the specific OB services staff training requirement that we are proposing to remove.

We invite the public to comment on these proposals, and on any alternatives to our approach. Also, we are interested in any suggestions to improve existing requirements, within our statutory authority, where they make providing quality care difficult or less effective. Additionally, we seek comments on whether and how such training and quality improvement initiatives could be more effectively advanced through the Birthing-Friendly hospital designation program or similar voluntary, incentive-based frameworks, rather than through the CoPs. The most useful comments will be those that include data or evidence to support the position, offer suggestions to amend specific sections of the existing regulations, or offer particular additions.

5. Patients' Rights for Birth Tissue Collection in Hospitals (Proposed § 482.59(c))

a. Background on Birth Tissues Uses

Birth tissues are solely generated as a direct result of pregnancy, labor, and delivery and may be discarded, retained by the patient, stored, donated, banked for potential future medical use, and/or transferred to a third party for research or commercial purposes. These tissues can include umbilical cord blood, umbilical cord tissue, umbilical veins, placenta, amniotic membrane, chorionic membrane, amniotic fluid, and Wharton's jelly.[66] Currently, the vast majority of birth tissue—approximately 96 percent—is disposed of following delivery.[67] If intended for future medical purposes, such tissue must be collected promptly and handled in a manner designed to minimize contamination.[68] For our analysis, it is helpful to separate our discussion of the collection of cord blood from consideration of other birth tissues.

Cord blood is the most commonly collected birth tissue for future medical use (approximately 110,000 collections annually, or about 3 percent of births, with 75 to 80 percent stored in private banks).[69] It is also the most researched and regulated birth tissue, at both the federal and state level. Cord blood is unique in that families can pursue either public or private cord banking. Public cord blood banking has an established role in hematopoietic stem cell transplantation for certain malignant, hematologic, immunologic, and metabolic disorders.[70] Public cord banking is free to the family as part of a national transplant registry. HRSA oversees the C.W. Bill Young Cell Transplantation Program and the National Cord Blood Inventory.[71] These programs were established under the Stem Cell Therapeutic and Research Acts to expand donor and cord blood availability to fund and coordinate the collection, banking, and distribution of cord blood units to increase access for transplantation and research.[72] Yet only approximately 180 facilities participate in public cord banks nationwide due to costs associated with collection, processing, and storage.[73] Conversely, private cord banks allow families to retain exclusive access to their stored cord blood for potential future personal or family use with collection and storage costs paid out of pocket by the family, which can total several thousand dollars initially, followed by annual storage costs of several hundred dollars.[74] [75] [76]

Professional organizations have emphasized the importance of accurate information, informed consent, and

[58] ''Emergencies in Clinical Obstetrics.'' *www.acog.org, www.acog.org/education-and-events/simulations/eco.* Accessed 4 February 2026.

[59] ''Continuing Medical Education Program.'' *www.acog.org, www.acog.org/education-and-events/cme-program.* Accessed 4 February 2026.

[60] ''Advanced Life Support in Obstetrics (ALSO) Program.'' Aafp.org, 2020, *www.aafp.org/cme/programs/also.html.* Accessed 4 February 2026.

[61] ''Continuing Education Courses.'' Marchofdimes.org, 2024, *www.marchofdimes.org/our-work/health-professionals/continuing-education-courses.* Accessed 4 February 2026.

[62] American Nurses Association. ''About ANA.'' American Nurses Association, 2025, *www.nursingworld.org/ana/about-ana/.* Accessed 4 February 2026.

[63] American Nurses Association. ''About ANA.'' American Nurses Association, 2025, *www.nursingworld.org/ana/about-ana/.* Accessed 4 February 2026.

[64] ''Continuing Education for Nurses (CE) | ANA Enterprise.'' American Nurses Association, 2024, *www.nursingworld.org/continuing-education/.* Accessed 4 February 2026.

[65] ''Getting Started with OPS.'' Association of Women's Health, Obstetric and Neonatal Nurses, *www.awhonn.org/education/hospital-products/ops/getting-started-with-ops/www.awhonn.org/education/hospital-products/ops/getting-started-with-ops/.* Accessed 4 February 2026.

[66] The gelatinous connective tissue that protects vessels within the umbilical cord.

[67] *https://pmc.ncbi.nlm.nih.gov/articles/PMC3477280/.*

[68] *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking.*

[69] *https://www.consumeraffairs.com/health/cord-blood-banking-statistics.html.*

[70] *https://publications.aap.org/pediatrics/article/140/5/e20172695/37866/Cord-Blood-Banking-for-Potential-Future.*

[71] Health Resources and Services Administration, Donation and Transplantation Statistics, Blood Stem Cell, *https://bloodstemcell.hrsa.gov/data/donation-and-transplantation-statistics* (last visited June 2026).

[72] *https://bloodstemcell.hrsa.gov/about/legislation.*

[73] *https://pmc.ncbi.nlm.nih.gov/articles/PMC3477280/.*

[74] *https://publications.aap.org/pediatrics/article/140/5/e20172695/37866/Cord-Blood-Banking-for-Potential-Future.*

[75] *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking.*

[76] *https://www.cordbloodbanking.com/banking/cost/.*

conflict-of-interest disclosure in cord blood banking. ACOG states that public cord blood banking is the recommended method of obtaining cord blood for transplantation, immune therapies, or other medically validated indications and that routine private cord blood banking is not supported by available evidence and that ''there is no current evidence to support the use of an autologous umbilical cord blood sample in regenerative medicine.'' [77] The American Academy of Pediatrics has similarly noted that public cord blood banking is highly regulated, while private banking may be costly and rarely used for treatment, and has recommended ethical and operational standards addressing informed consent, financial disclosures, and conflicts of interest.[78] The American Medical Association (AMA) Code of Medical Ethics states that physicians who provide OB care should be prepared to inform pregnant women of options regarding cord blood donation or storage and potential uses, and should obtain informed consent before the onset of labor whenever feasible when participating in collection.[79]

Data on collection rates of other birth tissue (non-cord blood) for future medical uses are limited due to a lack of standardized national data. Parent's Guide to Cord Blood, a patient advocacy group, estimates approximately 100,000 placentas are collected by birth tissue procurement organizations (BTPOs) each year and distributed to research and/or commercial entities.[80] Unlike cord blood, there is no public banking infrastructure for other birth tissues. The Food and Drug Administration (FDA) regulates such tissues either under section 361 of the Public Health Service (PHS) Act and 21 CFR part 1271 [81] or under Section 351 of the PHS Act and relevant sections of the Federal Food, Drug and Cosmetic Act.[82] These tissues are often marketed to the public in a misleading manner and without following applicable statutory and/or regulatory requirements.[83]

Regenerative medicine products derived from human cells or tissues, including stem cells, umbilical cord blood, amniotic tissue, and related products that meet all of the criteria in 21 CFR 1271.10(a) are subject only to regulation under section 361 of the PHS Act and the regulations in 21 CFR part 1271. If such a product does not meet all the criteria set out in 21 CFR 1271.10(a), and the establishment that manufactures the HCT/P does not qualify for any of the exceptions listed in 21 CFR 1271.15, the HCT/P will be regulated under section 351 of the PHS Act and/or the FD&C Act, and applicable regulations, including 21 CFR part 1271, and FDA approval will generally be required.[84] Specifically, the FDA issues warning letters to companies regarding the marketing of unapproved biological products and regarding manufacturing and quality system deficiencies. Additionally, FDA has stated that unapproved regenerative medicine therapies can pose serious safety risks. Adverse events associated with the use of unapproved regenerative medicine products have included bacterial infections, blindness, tumor formation, inflammatory reactions, and other harms.[85] [86] [87] These regulations, company communications, and public safety communications provide additional context regarding FDA's oversight of regenerative medicine products, including birth tissues, and the potential risks associated with products that do not comply with applicable statutory and regulatory requirements.

Investigative reporting has also described commercialization of birth tissues and the potential for donations made in connection with childbirth to enter supply chains for unapproved or unproven products. In a 2019 investigation, *The New Yorker* and *ProPublica* reported that some patients who donated birth tissue understood the donation to be for a beneficial purpose, but did not recall the details of the donation process, and described a broader market for birth tissue products used in unproven commercial uses, often without families' awareness.[88] [89]

National data on the number of placentas or other birth tissues released to or taken home by families each year is not available. The limited available evidence consists primarily of small surveys of hospital/pathology practices and non-national studies of placentophagy or community birth populations.[90] [91] [92] We are aware that mothers and families may have significant cultural, religious, spiritual, or personal interests in birth tissues, especially the placenta and umbilical cord.[93] Although birth tissues are often treated as medical waste within healthcare settings, scholarly literature describes numerous traditions and cultural practices, in the United States and internationally, involving the retention, burial, preservation, or other uses of birth tissue following childbirth.[94] Scholars have further observed that patient preferences regarding the disposition of birth tissues are not always reflected in institutional policies or informed consent practices, and that families may face inconsistent policies or practices when seeking to retain their placentas and other birth tissues.[95] [96] One limited survey in 2013

[77] American College of Obstetricians and Gynecologists, Committee Opinion No. 771, Umbilical Cord Blood Banking (Mar. 2019), *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking.*

[78] William T. Shearer et al., Cord Blood Banking for Potential Future Transplantation, 140 Pediatrics e20172695 (2017), *https://publications.aap.org/pediatrics/article/140/5/e20172695/37866/Cord-Blood-Banking-for-Potential-Future.*

[79] American Medical Association, Code of Medical Ethics Opinion 6.1.5, Umbilical Cord Blood Banking, *https://code-medical-ethics.ama-assn.org/ethics-opinions/umbilical-cord-blood-banking.*

[80] *https://parentsguidecordblood.org/en/news/its-morning-your-c-section-and-someone-wants-you-donate-your-placenta.*

[81] 21 CFR part 1271, includes requirements related to collection, processing, storage, and distribution of certain tissues HCT/Ps (including placenta, amniotic membrane, and cord tissue).

[82] Section 361 of the Public Health Service Act, 42 U.S.C. 264; Section 351 of the Public Health Service Act, 42 U.S.C. 262; 21 CFR part 1271; Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 *et seq.*

[83] Food and Drug Administration, Consumer Alert on Regenerative Medicine Products Including Stem Cells and Exosomes, *https://www.fda.gov/vaccines-blood-biologics/consumers-biologics/consumer-alert-regenerative-medicine-products-including-stem-cells-and-exosomes.*

[84] *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/regulatory-considerations-human-cells-tissues-and-cellular-and-tissue-based-products-minimal.*

[85] *https://www.fda.gov/vaccines-blood-biologics/safety-availability-biologics/patient-and-consumer-warning-about-potential-serious-risks-harm-following-use-unapproved-products.*

[86] Food and Drug Administration, Important Patient and Consumer Information About Regenerative Medicine Therapies (June 3, 2021), *https://www.fda.gov/vaccines-blood-biologics/consumers-biologics/important-patient-and-consumer-information-about-regenerative-medicine-therapies.*

[87] *https://www.fda.gov/vaccines-blood-biologics/safety-availability-biologics/public-safety-notification-exosome-products.*

[88] Caroline Chen, The Birth-Tissue Profiteers, The New Yorker and ProPublica (May 7, 2019), *https://www.newyorker.com/news/news-desk/the-birth-tissue-profiteers.*

[89] Mathilde Cohen, The Law of Placenta, 31 Yale Journal of Law and Feminism 337 (2020).

[90] *https://journals.sagepub.com/doi/10.2350/13-05-1338-OA.1.*

[91] *https://pubmed.ncbi.nlm.nih.gov/29722066/.*

[92] Although Cohen's analysis draws on international case studies, including examples from Brazil, CMS cites the article because it addresses ethical, legal, and commercial issues associated with birth tissue procurement and use that have received comparatively limited attention in the U.S. literature.

[93] Mathilde Cohen, The Law of Placenta, 31 Yale Journal of Law and Feminism 337 (2020).

[94] Mathilde Cohen, The Law of Placenta, 31 Yale Journal of Law and Feminism 337 (2020).

[95] Mathilde Cohen, The Law of Placenta, 31 Yale Journal of Law and Feminism 337 (2020).

[96] *https://parentsguidecordblood.org/en/news/your-placenta-rights-under-us-state-laws.*

found that 61 percent of hospitals allow for placenta release to families, and most hospitals had an interdisciplinary policy supporting it.[97]

b. Need for New Hospital Standards

As discussed in section II. A. of this proposed rule, section 1861(e)(9) of the Act authorizes the Secretary to establish additional requirements necessary for the health and safety of patients served by Medicare-participating hospitals. Existing hospital CoPs establish the framework for protecting patient rights, promoting informed decision-making, and ensuring accurate medical and clinical record documentation. Together, the requirements safeguard patient health and safety and promote quality care for all patients in Medicare- and Medicaid-participating hospitals. Specifically, patient rights CoPs for hospitals at § 482.13(a) and (b) provide that patients or their representatives have the right to make informed decisions regarding their care, including being informed of their health status, being involved in care planning and treatment, and being able to request or refuse treatment. The hospital medical records CoP at § 482.24(c)(4)(v) requires the medical record to contain properly executed informed consent forms for procedures and treatments specified by the medical staff, or by Federal or State law if applicable. However, there are no existing CoPs related specifically to the collection of birth tissues.

We note that this differs from the regulatory framework applicable to organs and tissues collected for transplantation. For example, § 482.45 establishes specific requirements for organ, tissue, and eye procurement, including requirements related to hospitals' agreements with organ procurement organizations, tissue banks, and eye banks and policies governing the donation process. Of note, hospitals are not required to have a relationship with birth tissue procurement organizations or birth tissue banks. Organs and tissues collected for transplantation are therefore subject to an established regulatory framework and associated donation and consent process. The existing hospital CoPs do not establish comparable requirements specifically addressing the collection and disposition of birth tissues following a live birth, including circumstances in which tissues may be retained by the patient or collected, donated, transferred, stores, or used for purposes other than transplantation.

We believe that decisions involving the collection, storage, donation, banking, transfer, release, or discarding of birth tissues may implicate important patient interests and rights and therefore warrant additional transparency and informed decision-making protections. Unlike many other biological materials generated during the course of medical care, birth tissues may have unique cultural, religious, personal, or familial significance to patients and their families.[98] At the same time, birth tissues may also have medical, research, or other uses that can involve their collection or transfer to entities outside of the hospital. These characteristics distinguish birth tissues from both biological materials routinely discarded in the course of medical care and organs and tissues collected through established transplantation and donation processes. Therefore, families giving birth at hospitals may reasonably wish to understand whether such tissues will be discarded, available for them to retain, used for research purposes, transferred to third parties, stored for future use, or otherwise utilized in commercial activities.

Moreover, because of the concerns discussed previously about inappropriate clinical use and profiteering, transparency is particularly important when a hospital participates in a program or arrangement through which birth tissues may be donated, transferred, banked, stored, or used by a third party and/or for commercial purposes. We believe that patients have the right to the information necessary to make an informed decision about consenting to these uses of their personal birth tissues and biological materials.

CMS understands that many hospitals may already have policies around informed consent and allow patients to request retention or release of birth tissues, subject to State law, infection prevention and control requirements, and clinical circumstances.[99] However, practices may vary, and patients may not know whether, when, or how to make such a request. Some hospitals may rely on general consent forms or medical waste policies that do not clearly inform patients about possible collection, transfer, storage, donation, commercial use, or other disposition of birth tissues. Variation in these processes can create uncertainty for patients, staff, and hospitals.

We believe that establishing new requirements to address these variations would strike the appropriate balance between improving transparency, creating consistent patient expectations and ensuring that no hospital is compelled to collect, bank, donate, or release tissues in circumstances that would be unsafe, unlawful, or inconsistent with clinical care.

c. Proposed Scope and Definition of Birth Tissues (§ 482.59(c))

Mothers who give birth in hospitals that furnish OB services should have baseline protections regarding informed decision-making, documentation, and safe handling of their birth tissues when the hospital engages in birth tissue collection, storage, donation, banking, transfer, or release. To advance this goal, we propose to add new standards at § 482.59(c). As noted earlier in this section, we are proposing to remove the current requirements at § 482.59(c) and replace them with new standards that build on the CoPs for obstetrical services. These new standards address informed consent for birth tissue collection and patient requests for retention or release of birth tissues.

We propose to add a new standard to the OB Services CoP at § 482.59(c), titled ''Birth tissue collection.'' Facilities that furnish obstetrical services vary widely in their involvement with birth tissues. For example, some hospitals are deeply involved in birth tissue activities, including operating or sponsoring public cord blood donation programs, contracting with third-party collection or tissue procurement entities, or facilitating private banking arrangements. Others have more limited involvement, such as occasionally receiving requests to retain or release birth tissues to the patient for cultural, religious, or personal uses or to a private third-party for personal future medical uses, research, or donation, even where no formal relationship exists between the hospital and the third party. To account for this variation, the proposed standard would apply to only those hospitals that furnish obstetrical services and participate in one or more activities related to birth tissues including collection, storage, donation, banking, transfer, or release to patient. For purposes of this standard, we interpret participation to include hospital-sponsored, hospital-operated, or hospital-facilitated activities, that is, any instance in which the hospital's personnel, premises, policies, or processes are used in connection with the collection, packaging, storage, transfer, banking, donation, or release

[97] *https://journals.sagepub.com/doi/10.2350/13-05-1338-OA.1.*

[98] Mathilde Cohen, The Law of Placenta, 31 Yale Journal of Law and Feminism 337 (2020).

[99] *https://journals.sagepub.com/doi/10.2350/13-05-1338-OA.1.*

birth tissues. Facilities that do not engage in any of these activities would not be subject to the proposed standard.

Furthermore at § 482.59(c), we propose to define ''birth tissues'' to capture the materials most commonly associated with live childbirth that may be collected, retained, stored, donated, banked, transferred, or released for personal, clinical, research, and/or commercial purposes. For purposes of this proposed rule, birth tissue is limited to tissue or biological material obtained in connection with labor and delivery resulting in a live birth. This proposal does not apply to tissue or biological material obtained in other clinical circumstances. Specifically, we propose to define ''birth tissue'' as ''human cells, tissues, and cellular and tissue-based products obtained during or immediately following labor and delivery, (including cesarean-section delivery), such as umbilical cord blood, umbilical cord tissue, placenta, amniotic membrane, amniotic fluid,[100] and other tissues or biological materials associated with live childbirth.'' This definition is intended to avoid gaps in patient protections that could arise if the rule addressed only one category of birth tissue, such as cord blood, while other tissues were collected, transferred, released, or disposed of under less transparent processes. This definition is also intended to be flexible enough to accommodate changes in collection practices and terminology over time. NIH has issued policy describing additional requirements related to research uses of such tissue.[101] Importantly, our definition is not intended to conflict with or alter FDA definitions or classifications of human cells, tissues, and cellular or tissue-based products (HCT/Ps) under FDA authorities or other similar FDA terminology, which remain controlling for purposes of FDA regulation.[102] Similarly, CMS' definition of birth tissues is not intended to conflict with or alter NIH's definitions or policies as it relates to this or similar topics. Lastly, we note that nothing in this proposal limits or impairs a family's ability to receive their stillborn child for the purposes of holding, mourning, or making funeral arrangements. Such activities are regulated under state and local law, and hospital specific policies.[103] Furthermore, such scenarios are beyond the scope of this regulation, which applies only to live births.

d. Proposals for Informed Consent (§ 482.59(c)(1))

At proposed § 482.59(c)(1), we would require that the hospital ensure that it obtains informed consent from the patient or the patient's representative prior to the collection, storage, donation, transfer, banking, or release to patients of birth tissues, consistent with the hospital's scope of services and role in those activities. The consent must be documented consistent with the medical records requirements at § 482.24(c)(4)(v).

Consistent with the phrase ''scope of services and role in those activities'' in proposed § 482.59(c)(1), the obligations under this proposal would be tailored to the specific activities in which the hospital participates. The proposal would not require hospitals to offer new services, to purchase or provide new equipment, or initiate or sponsor a collection program, private banking arrangement, or other birth tissue collection program. Rather, it would require only that when a hospital furnishes obstetrical services and participates in a covered birth tissue activity, the hospital maintains appropriate consent, documentation, policies, procedures, and safe handling processes commensurate with its scope of services and role in that activity. For example, a hospital that operates a public cord blood collection program would be expected to ensure that its consent process includes the information and disclosures applicable to public donation. In contrast, a hospital that does not participate in a public cord blood collection program and is only collecting birth tissue in response to an individual mother's request for release of a placenta for personal or cultural reasons would be expected to document the request and release decision consistent with its policies and provide safe handling instructions.

We propose that the informed consent process include, as applicable, six categories of information: (1) a description of the birth tissues to be collected; (2) the intended use, including commercial and research uses, of the birth tissues; (3) disclosure of any third-party involvement and conflicts of interest; (4) information regarding risks, limitations, and infection prevention and quality control considerations; (5) notice that a patient's refusal to provide informed consent will not affect access to care or treatment; (6) and any other information required under applicable Federal or State law. These elements establish a baseline and are not intended to prescribe a single consent form or process for all hospitals or activities. For example for relevant research purposes, HHS' Federal Policy for the Protection of Human Subjects (also known as the Common Rule; codified at 45 CFR part 46 (Authority: 5 U.S.C. 301; 42 U.S.C. 289(a); 42 U.S.C. 300v–1(b)) [104] [105] may also apply, such as Institutional Review Board (IRB) review, additional informed consent requirements, and specific protections for pregnant women, fetuses, and neonates (subparts B and D), inclusive of certain birth tissues such as the

[100] CMS acknowledges that the inclusion of amniotic fluid within ''birth tissues'' definition differs from FDA's definition of Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/P). Namely, that amniotic fluid is not an HCT/P for FDA regulatory purposes. See 21 CFR 1271.3(d)(3). See also FDA's July 2020 guidance entitled ''Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue-Based Products: Minimal Manipulation and Homologous Use'' (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/regulatory-considerations-human-cells-tissues-and-cellular-and-tissue-based-products-minimal*), on page 15 states ''Secreted body fluids (*e.g.* amniotic fluid) are generally not considered HCT/Ps'' per the definition of HCT/P in 21 CFR 1271.3(d). However, CMS for its regulatory purposes includes amniotic fluid within its definition of ''birth tissue'' based on current practices regarding collection of such material and the CMS definition is not intended to incorporate FDA's definition in 1271.

[101] *https://grants.nih.gov/grants/policy/nihgps/HTML5/section_4/4.1.15_human_fetal_tissue_research.htm.*

[102] FDA regulations define human cells, tissues, or cellular or tissue-based products (HCT/Ps) as articles containing or consisting of human cells or tissues that are intended for implantation, transplantation, infusion, or transfer into a human recipient. See 21 CFR 1271.3(d). FDA does not define or use the term ''birth tissue'' in 21 CFR part 1271, its 2007 Donor Eligibility Guidance (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/eligibility-determination-donors-human-cells-tissues-and-cellular-and-tissue-based-products*), or its Minimal Manipulation/Homologous Use guidance (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/regulatory-considerations-human-cells-tissues-and-cellular-and-tissue-based-products-minimal*). In January 2025, FDA issued draft guidance entitled ''Recommendations for Determining Eligibility of Donors of Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/Ps)'' (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/recommendations-determining-eligibility-donors-human-cells-tissues-and-cellular-and-tissue-based*). This document uses the term ''gestational cells or tissues.'' Differences may exist between FDA's definitions of HCT/Ps and ''gestational cells or tissues'' and CMS' definition of ''birth tissues,'' as CMS is not intending to incorporate FDA's definition into this rulemaking. CMS chose to define and use the term ''birth tissue'' because it is already familiar to tissue establishments and to hospitals that contract with them. Since this proposed CoP would regulate facility-patient interactions, as well as facility policies, documentation, and processes related to informed decision-making and the safe release of birth tissues, CMS chose terminology that is familiar to the affected industry.

[103] *https://stacks.cdc.gov/view/cdc/80634/cdc_80634_DS1.pdf.*

[104] *https://www.hhs.gov/ohrp/regulations-and-policy/regulations/common-rule/index.html.*

[105] *https://www.hhs.gov/ohrp/regulations-and-policy/regulations/45-cfr-46/index.html.*

placenta.[106] CMS acknowledges the importance of research related to birth tissues [107] [108] and views this proposal as in alignment with the Common Rule and not as a replacement for such standards. This proposed rule would therefore defer to Common Rule standards related to exempted or waived research activities. Additionally, facilities retain the flexibility to adapt their consent processes to reflect their specific scope of services and patient needs in alignment with local, state, and federal law and regulations. Birth tissues may move through complex supply chains and may have research, clinical, manufacturing, or commercial value. We propose at § 482.59(c)(1)(i) and (ii) requirements for disclosure to ensure that patients and families fully understand how collected tissues may be transferred to a third party, processed into a product, sold, used in research, banked for future use, or discarded if quality criteria are not met. Patients must be informed if a hospital and/or third party will be financially compensated for the procurement, facilitation, transfer, end use or other activity regarding collected tissues. Providing this information supports patient autonomy and empowers the patient to make a decision that reflects the patient's values and preferences.

We propose at § 482.59(c)(1)(iii) to require disclosure of (both not-for-profit and for-profit) third-party involvement and conflicts of interest. ACOG and AMA both recognize the importance of conflict-of-interest disclosure in cord blood banking.[109] Disclosure is particularly important when a hospital, practitioner, or other staff member has a financial, contractual, ownership, employment, research, or other business relationship with a third party that could reasonably be viewed as influencing the presentation of delivery options to the patient (such as recommending a cesarean-section over a vaginal delivery) or when such a relationship could result in profit from the processing and sale of birth materials). Patients must receive sufficient information to understand third-party involvement and potential conflicts when they are making decisions about birth tissues from their deliveries. The components of the informed consent as required at proposed § 482.59(c)(1)(i) through (vi) are consistent with general informed consent principles and with professional guidance that emphasizes disclosure of financial interests.[110]

We propose at § 482.59(c)(1)(iv) to require information regarding risks, limitations, infection prevention, and quality control considerations. Depending on the activity, relevant information could include the possibility that collection may not be feasible because of maternal or neonatal clinical circumstances, that a specimen may fail to meet volume or quality criteria, that stored birth tissues may not be clinically useful in the future, or that releasing tissue for personal handling may involve infection prevention and storage considerations.

We also propose at § 482.59(c)(1)(v) that the patient be informed that refusal to provide informed consent will not affect access to care or treatment. Patients in labor or experiencing obstetrical emergencies may be vulnerable to time pressure or perceived pressure from clinicians, hospital staff, or third parties. Equally, the patient's decision to request collection or release of birth tissues does not obligate the hospital to provide services that are unsafe, unavailable, or inconsistent with State law or hospital policy. This is consistent with patient exercise of rights at § 482.13(b)(2).

We recognize that timing of consent in the labor and delivery context can be challenging. As previously discussed, the proposed requirements apply to birth tissue obtained during or immediately following labor and delivery resulting in live birth. The timing of the informed consent process does not alter the scope of tissues subject to this proposal. Prenatal education and consent are preferable when feasible, especially for planned donation or banking arrangements, but patients may present without prior knowledge of their options or make key requests at admission or after delivery. Under these proposals, hospitals retain flexibility to design processes that are consistent with clinical practice, patient needs, State law, and the hospital's role provided that consent is obtained before the applicable birth tissue activity occurs whenever possible, and that collection or release activities does not interfere with clinical care (for example, pathologic examination of the placenta). Patient safety takes precedence in high-acuity or emergent circumstances.

Finally, we also recognize that, in some circumstances, a patient may independently arrange with a third-party tissue bank, private bank, courier, or other entity and may ask the hospital solely to accommodate collection or release. In such cases, the hospital is not expected to become an expert in the third party's products, business practices, marketing claims, or downstream uses. The hospital should have a process, consistent with its policies, to document the patient's request; confirm, as appropriate to the hospital's role, that the patient has provided authorization or evidence of the applicable third-party consent; and document the actions taken by the hospital to accommodate, accommodate subject to reasonable conditions, delay, or deny the request based on clinical circumstances, infection prevention, and legal requirements. This approach supports patient choice while ensuring that the hospital's obligations remain proportional to the hospital's actual role and involvement. We note that FDA regulates human cells, tissues, and cellular and tissue-based products, including birth tissues.

e. Policies and Procedures for Cultural, Religious, or Personal Uses (§ 482.59(c)(2))

At § 482.59(c)(2), we propose to require the hospital to have written policies and procedures that permit patients to request retention or release of birth tissues for cultural, religious, or personal reasons, consistent with State law and the hospital's infection prevention and control program requirements under § 482.42. Such policies and procedures would not require patients to provide justification or documentation for their respective cultural, religious, or personal reasons. We propose this requirement because patient requests for retention or release may arise in routine deliveries, scheduled cesarean deliveries, emergent deliveries, or other clinical contexts, and families and staff need clear procedures for safe, consistent collection and release of birth tissues.

The proposed policies and procedures would address four core topics. First, policies must address processes for patient requests for retention or release of birth tissues. We expect hospitals to specify how and when a patient or representative may make a request, who

[106] *https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-46/subpart-B/section-46.206.*

[107] *https://www.nichd.nih.gov/sites/default/files/inline-files/STILLBIRTH_WG_REPORT_03152023.pdf.*

[108] *https://pubmed.ncbi.nlm.nih.gov/36180175/*" *https://pubmed.ncbi.nlm.nih.gov/36180175.*

[109] American College of Obstetricians and Gynecologists, Committee Opinion No. 771, Umbilical Cord Blood Banking (Mar. 2019), *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking;* American Medical Association, Code of Medical Ethics Opinion 6.1.5, Umbilical Cord Blood Banking, *https://code-medical-ethics.ama-assn.org/ethics-opinions/umbilical-cord-blood-banking.*

[110] American College of Obstetricians and Gynecologists, Committee Opinion No. 771, Umbilical Cord Blood Banking (Mar. 2019), *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking.*

is responsible for receiving and documenting the request, what forms or authorizations must be completed, and how the hospital will communicate decisions regarding release to the patient. Hospitals should design processes that are easily understandable and accessible for their patient population and align with clinical operations.

Second, the policies and procedures must address safe handling, packaging, storage, and release practices of birth tissues. For example, we expect hospitals to identify the personnel responsible for handling birth tissues, provide appropriate containers or packaging as needed in alignment with safe handling, clearly label each tissue container or package as appropriate, accommodate tissue storage pending release as requested by the patient, establish chain-of-custody or handoff processes where needed, and implement protocols for circumstances requiring consultation with infection prevention personnel, pathology, risk management, or clinical leadership. These procedures should reflect the type of tissue, the intended use, the clinical circumstances, and the hospital's infection prevention and control program. Third, we propose that policies and procedures must address circumstances under which retention or release may be limited or denied, including infection prevention and control concerns, biohazard risks, certain clinical conditions, emergency cases, or other applicable legal requirements, as discussed below.

• Infection Prevention and Control Concerns and Biohazard Risks

Suspected or confirmed infection, contamination, or other biohazard concerns may create unacceptable risks that warrant limiting or denying retention or release. Occupational Safety and Health Administration (OSHA) classifies human blood, certain body fluids, and unfixed human tissues and organs as potentially infectious materials.[111] Because placental and related birth tissues may contain blood and other biological material, hospitals would need to implement handling and packaging procedures to protect patients, staff, and others from potential exposure to bloodborne pathogens (for example, HIV, hepatitis B, hepatitis C, or other infectious agents).[112] Hospitals must have processes to address safe handling, packaging, storage, and release when patients request retention or release of birth tissues. Hospitals should also identify circumstances in which release may be limited or denied due to infection prevention and control concerns consistent with the hospital's infection prevention and control program under § 482.42.

• Certain Clinical Conditions

Retention or release may also be limited when tissue is needed for pathology review or other clinically appropriate diagnostic evaluation. Placental pathology may assist in the evaluation of adverse maternal, fetal, or neonatal outcomes, including fetal growth restriction, stillbirth,[113] infection, congenital abnormalities, preterm birth, placental insufficiency, maternal hypertensive disorders, or other complications of pregnancy and delivery. Hospitals should identify in their policies the clinical circumstances under which retention for diagnostic purposes would take precedence over patient's requests for release. To the extent possible, patient requests should take precedence over circumstances under which hospitals may want to retain the placenta or other birth tissues for elective evaluation, research, or other purposes. Unless there are circumstances such as infection prevention concerns or a need for the hospital to retain the birth tissue for appropriate diagnostic evaluation, the patient's autonomy over their biological materials related to delivery should be prioritized.

• Emergency Cases

Patient safety takes precedence in all emergency circumstances in which staff cannot safely collect, process, or release birth tissues due to emergent patient care needs. Collection, storage, donation, banking, transfer, or release activities of birth tissues should not delay emergency care, interfere with the clinical management of labor and delivery, or alter medically appropriate obstetric or neonatal practice.[114] [115] A hospital would not be expected to delay necessary clinical intervention to complete a birth tissue consent process or collection activity, and failure to collect birth tissue due to emergent clinical circumstances would not, by itself, constitute noncompliance. To the extent necessary, such consents may be obtained following resolution of the emergency and stabilization of the patient's condition.

• Other Applicable Legal Requirements

Retention, testing, handling, or disposition of birth tissue may also be limited or governed by applicable Federal, State, Tribal, territorial, or local law (See discussion of relevant State laws in section II.A.5. of this proposed rule.) By defining these criteria in advance, hospitals provide patients and staff with clear expectations and transparent and consistent processes. These proposed requirements are intended to complement, not interfere with, a hospital's existing authority to retain birth tissues when clinically appropriate or otherwise required by law.

Fourth, at § 482.59(c)(2)(i)(D), we propose that the policies and procedures must address staff education regarding the hospital's procedures for responding to patient requests. This education is intended to be focused and practical. Staff who may receive or respond to requests to know how to identify the applicable policy, document the request, process the request safely and within their scope of services, and provide safe handling instructions when tissue is released.

Lastly, we propose at § 482.59(c)(2)(ii) that the hospital provide patients who request retention or release of birth tissues with instructions for safe handling, transport, storage, and disposition of the tissues, as applicable. These instructions should be understandable, practical, and tailored to the birth tissue and release context. For example, instructions might address the need to maintain tissue in a leak-proof container, avoid exposure to other patients or staff, refrigerate or otherwise store tissue as directed, use appropriate personal protective measures, or comply with applicable local disposition requirements. The proposed requirement would not require hospitals to supervise the patient's use after release, but it does require the hospital to provide instructions that support safe decision-making at the point of release.

In summary, these proposed requirements are intended to operate alongside, not in place of, other existing Federal and State authorities. FDA regulates human cells, tissue and cellular and tissue-based products (HCT/Ps) either under Section 361 of the Public Health Service Act and 21

[111] OSHA Bloodborne Pathogens Standard, 29 CFR 1910.1030. *https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1030.*

[112] *https://www.cdc.gov/pregnancy-hiv-std-tb-hepatitis/php/screening/index.html.*

[113] *https://www.acog.org/clinical/clinical-guidance/obstetric-care-consensus/articles/2020/03/management-of-stillbirth.*

[114] American College of Obstetricians and Gynecologists, Committee Opinion No. 771, Umbilical Cord Blood Banking (Mar. 2019), *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking.*

[115] American Medical Association, Code of Medical Ethics Opinion 6.1.5, Umbilical Cord Blood Banking, *https://code-medical-ethics.ama-assn.org/ethics-opinions/umbilical-cord-blood-banking.*

CFR part 1271 or under Section 351 of the PHS Act and relevant sections of the Federal Food, Drug, and Cosmetic (FD&C) Act and applicable regulations. FDA has issued guidance on minimal manipulation and homologous use and has stated that HCT/Ps that do not meet the criteria to be regulated solely under section 361 of the Public Health Service Act and 21 CFR part 1271 are regulated as drugs, devices, and/or biological products.[116] FDA also has taken compliance and enforcement actions addressing unapproved HCT/Ps, including products derived from birth tissues.

The proposed CoPs at § 482.59(c) occupies a narrower and distinct role, regulating the facility-patient interaction, facility policies, documentation, and processes for informed decision-making and safe release in Medicare and Medicaid participating hospitals. Nothing in this proposal determines whether any product is lawfully marketed or subject to FDA premarket review. Rather the purpose of the CoPs is to protect patient health and safety and to ensure that quality care is furnished to all patients in Medicare-participating hospitals. In accordance with section 1864 of the Act, State surveyors assess hospital compliance with the conditions as part of the process of determining whether a hospital qualifies for a provider agreement under Medicare. Alternatively, under section 1865 of the Act, hospitals can elect to be reviewed instead by private accrediting organizations approved by CMS as having standards that meet or exceed the applicable Medicare standards and survey procedures comparable to those CMS requires for State survey agencies. Examples of survey and enforcement activities include review of facility policies and procedures, auditing of patient medical records, and interviewing facility leadership and staff.

We invite public comment on proposed § 482.59(c), including the scope of hospitals and activities to which the standard should apply; the proposed definition of birth tissues; the proposed informed consent standard; and the proposed policies and procedures for cultural, religious, or personal uses.

[116] Food and Drug Administration, Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue-Based Products: Minimal Manipulation and Homologous Use; Guidance for Industry and Food and Drug Administration Staff (July 2020), *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/regulatory-considerations-human-cells-tissues-and-cellular-and-tissue-based-products-minimal.*

*B. Long-Term Care Facilities*

LTC facilities, meaning SNFs and NFs, are institutions or distinct parts of an institution that are primarily engaged in providing skilled nursing care and related services to patients that require medical or nursing care or rehabilitation services due to an injury, disability, or illness. As of January 2026, there are around 15,000 LTC facilities caring for about 1.25 million residents daily.[117] LTC facilities seeking to be Medicare and Medicaid providers of services must be certified as meeting Federal participation requirements set forth at 42 CFR part 483 (hereafter, ''LTC requirements''), which set out the resident health and safety protections established by the Secretary. The specific statutory authority for LTC facilities is set forth in section 1819 and 1919 of the Act. Sections 1819(d)(4)(B) and 1919(d)(4)(B) of the Act explicitly authorize the Secretary to issue any regulations he deems necessary to protect the health and safety of residents of LTC facilities. Under sections 1866 and 1902 of the Act, LTC facilities seeking to participate in the Medicare or Medicaid program, respectively, or both, must enter into an agreement with the Secretary or the State Medicaid agency, as appropriate.

1. Proposal To Amend Transfer Notice to Ombudsman (§ 483.15(c))

In 2016 CMS finalized revised requirements that LTC facilities must meet to participate in the Medicare and Medicaid programs.[118] This comprehensive update of the regulations focused on quality of healthcare furnished through Federal programs, patient safety and reducing procedural burdens on providers. Among other things, this 2016 final rule emphasized the importance of protection to residents from being inappropriately transferred or discharged, providing residents with access to an advocate who can inform them of their options and rights, and ensuring that the Office of the State LTC Ombudsman is aware of facility activities related to transfers and discharges. Specifically, as a part of ensuring resident rights at § 483.15(c), we require LTC facilities to provide notice to the resident and the resident's representative(s) before transfer or discharges. The facility must also send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman.

[117] Centers for Medicare & Medicaid Services. Quality, Certification and Oversight Reports (QCOR), Nursing home provider reports, Active Provider and Supplier Counts Report, FY 2025. Accessed February 2, 2026. *https://qcor.cms.gov/main.jsp.*

[118] 81 FR 68688.

In accordance with the January 30, 2017, E.O. ''Reducing Regulation and Controlling Regulatory Costs'' (E.O. 13771), on July 18, 2019, we published a proposed rule entitled, ''Requirements for LTC Facilities: Provisions to Promote Efficiency and Transparency.'' [119] In that rule we proposed changes to § 483.15 related to admission, transfer, and discharge rights. Specifically, we proposed to revise the requirement for facilities to send transfer and discharge notices to the State LTC ombudsman to apply only to ''involuntary transfers and discharges.'' In response to the proposed rule, we received comments from a wide range of individual health care professionals, various healthcare associations, LTC facilities, organizations representing providers of LTC and senior service, LTC Ombudsmen, advocacy groups for LTC consumers, and LTC consumers and their family representatives. Many commenters supported the proposed change to remove Ombudsman notifications for hospitalizations where the facility has every intention of accepting the resident back following the hospitalization. However, some commenters suggested that this should be addressed in the sub-regulatory guidance, rather than through regulatory revisions. Furthermore, these commenters indicated that the use of the terms ''involuntary'' or ''facility-initiated'' in the regulations is confusing and suggest that a notice would not be required unless a resident actively objects to the transfer or discharge. Due to circumstances surrounding the COVID–19 pandemic and the rapidly evolving needs and concerns of the LTC community at that time, we did not finalize the proposal to restrict Ombudsman notices to involuntary transfers and discharges only.

While the original intent of this requirement as finalized in the 2016 rule was to enable Ombudsman officials to intervene in cases of inappropriate resident discharges, the volume of paperwork related to notice for every transfer of care and discharge has prevented Ombudsman officials from effectively focusing their efforts on inappropriate discharges, thereby negating the purpose of the regulation. In an emergent care situation, the urgency of the transfer of a resident to an acute care hospital for emergent care must be the primary focus of LTC facility staff, with a notice of transfer provided to the resident and resident's representative(s) as soon as practicable

[119] 84 FR 34737.

before the transfer in accordance with the requirements set forth at § 483.15(c)(4)(ii)(D). Copies of notices for emergency transfers must be sent to the Ombudsman, however the practicalities of implementing this requirement have led to the permitted practice of submitting a monthly list of residents who experienced a transfer to receive emergency care. This current practice does not meet the original intent of the regulations to prevent residents from being inappropriately transferred or discharged, as a transfer for emergency care services is inherently appropriate, nor does the practice as implemented lend itself to actionable efforts on the part of the Ombudsman officials.

We are aware that Ombudsman offices have expressed concerns about the issue of large numbers of notices and the difficulties of sorting notices in a timely manner so that problematic notices can be identified and acted upon. Responses to the 2025 deregulatory RFI [120] indicate that transfer and discharge notice requirements create administrative burden for nursing homes, particularly during emergent resident hospital transfers. Commenters indicated that while these notices may be necessary for planned discharges, they are excessive and are low priority for urgent hospital visits. Commenters recommend eliminating transfer notices for emergent care and eliminating the requirement to send a copy of the notice to the Ombudsman to reduce administrative burden and confusion for the families.

In light of the public comments and the misalignment between our original regulatory goals and the way in which LTC facilities and Ombudsman offices have complied with the regulations, we propose to modify the requirement at § 483.15(c)(3)(i) for LTC facilities to provide Ombudsman notice of resident transfers, except for transfers related to emergent care, as a way to focus Ombudsman official efforts on the reduction of inappropriate transfers and discharges and to alleviate the burdens of sending and processing these notices for both LTC facilities and Ombudsman officials.

The transfer and discharge facility requirements at § 483.15(c) would continue to require that the facility must permit each resident to remain in the facility and not transfer or discharge the resident from the facility unless certain circumstances are present. The circumstances center around the resident's welfare, whether the resident has improved sufficiently that the resident no longer needs the services provided by the facility, safety of individuals in the facility is endangered due to the clinical or behavioral status of the resident, payment issues and/or the facility ceases to operate. In addition, the resident has the right to appeal a transfer or discharge. The robust nature of the facility requirements around transfer and discharge, specifically the timing of the notice at least 30 days before the resident is transferred or discharged, would continue to assure that residents receive appropriate protection in the transfer and discharge process. The requirements would also continue to require that if the information in the notice changes prior to affecting the transfer or discharge, the facility must update the recipients of the notice as soon as practicable once the updated information becomes available. We invite comments on how to reduce burden while supporting sharing the most current, updated information related to transfer and discharge notices.

2. Proposal To Amend Facility Assessment Requirement (§ 483.71)

In May 2024 CMS finalized changes to the LTC facility requirements.[121] Among other things, these changes moved the existing facility assessment requirements from § 483.70(e) to their own requirement at § 483.71. As part of this revision, CMS expanded the facility assessment requirements to require the active involvement of certain categories of staff and others in the facility assessment process. One of those new categories is direct care staff, including but not limited to, RNs, LPNs/LVNs, NAs, and representatives of the direct care staff, if applicable. Most commenters at the time of the proposed rule supported the inclusion of direct care staff; however, some commenters opposed including third party representatives of direct care staff, such as union representatives.

Commenters contended that inclusion of representatives of direct care staff would be inappropriate since the facility assessment is an operational document for the facility. They also suggested that the inclusion of third parties, especially union representatives, could be disruptive, divisive, and render the facility assessment ineffective. In addition, commenters raised concerns that third parties, especially union representatives, would be primarily concerned about the well-being of the workers they represent instead of the quality of residents' care. CMS acknowledged these counter arguments to the proposal but subsequently finalized the provision, and we have continued to review and reevaluate all aspects of the facility assessment regulation. Upon review of these changes, conducted in light of recent E.O. 14192 ''Unleashing Prosperity Through Deregulation'' [122] and E.O. 14219 ''Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative,'' [123] CMS identified the provision related to ensuring the active involvement of representatives of direct care staff as being operationally and logistically burdensome without direct benefits to resident care. LTC facilities do not have any authority over the actions or inactions of direct care staff representatives; therefore, requiring LTC facilities to be responsible for assuring their active involvement in the facility assessment process is impracticable. We have determined that holding LTC facilities responsible for the actions of those that do not have employment or contractual obligations with the facility is not an appropriate requirement for LTC facility regulations. As such, we propose to remove this provision from the requirements. We would retain the remainder of the facility assessment requirements without change.

The facility assessment is a foundational element of the LTC requirements, providing the basis for ensuring residents receive safe and appropriate care. LTC facilities are required to conduct and document a facility-wide assessment to determine what resources are necessary to competently care for their residents during both day-to-day operations and emergencies, including an evaluation of the resident population and the resources needed to serve them. The facility assessment informs several key areas of LTC facility operations, including nursing services (§ 483.35), food and nutrition services (§ 483.60), quality assurance and performance improvement (§ 483.75), infection control (§ 483.80), and training (§ 483.95). We recognize that LTC facilities serve a uniquely vulnerable population with complex, chronic, and often rapidly changing care needs. Unlike other provider types, LTC facilities serve as the permanent residence for their residents, requiring a level of individualized, continuous care planning that necessitates a structured,

[120] ''Medicare Regulatory Relief | CMS.'' *Cms.gov,* 2025, *https://www.cms.gov/files/document/unleashing-prosperity-through-deregulation-medicare-program-request-information.pdf.* Accessed September 2025.

[121] 89 FR 40876.

[122] 90 FR 9065.

[123] 90 FR 10583.

facility-wide assessment. The facility assessment requirement reflects this distinct care environment and is intended to ensure that facilities have the resources, staffing, and systems in place to meet the needs of their specific resident population.

Although we are proposing to remove the prescriptive requirement regarding the inclusion of representatives of direct care staff in the facility assessment, we encourage LTC facilities to consider the input of any individuals the facility deems appropriate as part of a comprehensive and meaningful facility assessment. We recognize the facility assessment as an essential tool for effective LTC facility planning. While we remain committed to ensuring that facility assessments are comprehensive and meaningful, we also acknowledge the administrative burden this process may place on LTC facilities. Therefore, we invite public comments on approaches to streamline and reduce burden associated with the facility assessment process, without compromising its integrity or effectiveness. Specifically, we seek input on the following:

- What process improvements or best practices have LTC facilities found effective in conducting facility assessments efficiently?
- Are there existing or emerging technological tools that could assist LTC facilities in completing this process more efficiently?
- How can CMS support facilities in leveraging these tools while maintaining the quality and comprehensiveness of the assessment?

3. Infection Control (§ 483.80(d) and (g))

The COVID–19 Public Health Emergency (PHE) placed unprecedented strain on the Nation's healthcare system, particularly LTC facilities, which faced severe staffing shortages and limited access to personal protective equipment (PPE) and critical supplies. Protecting LTC residents under these conditions required enhanced visibility into the spread and impact of infectious diseases within these settings. To address this need, CMS published a series of interim final rules with comment period (IFCs) and subsequent final rules during and after the PHE to establish and refine data reporting, testing, vaccination, and infection control requirements for LTC facilities. The data informed coordination of operations and were especially important to anticipate and prepare for surge conditions.

Beginning on May 8, 2020, CMS issued an IFC[124] revising infection prevention and control requirements to better respond to COVID–19, including electronic reporting of confirmed and suspected COVID–19 cases to the Centers for Disease and Control and Prevention and notification requirements for residents and their representatives. These reporting requirements enabled CMS and CDC to identify national epidemiological trends in LTC facilities. On September 2, 2020, CMS issued a second IFC[125] establishing COVID–19 testing requirements for LTC facilities, including documentation and response protocols following positive test results. On May 13, 2021, CMS issued an additional IFC[126] further revising infection control requirements by requiring LTC facilities and ICFs-IID to provide education about COVID–19 vaccines and to offer vaccination to residents, clients, and staff, as well as to report resident and staff vaccination status to CDC.

To ensure continuity of critical data collection beyond the end of the PHE, CMS finalized the COVID–19 reporting requirements from the May 2020 and May 2021 IFCs in a November 9, 2021 final rule.[127] This rule modified and streamlined reporting requirements, reduced reporting frequency, and required LTC facilities to continue reporting standardized COVID–19 data elements through December 31, 2024, with ongoing reporting of vaccination status without a sunset date. On June 5, 2023, CMS issued a final rule[128] removing expired COVID–19 testing requirements, withdrawing the COVID–19 staff vaccination mandate issued in an earlier IFC, ''Medicare and Medicaid Programs; Omnibus COVID–19 Health Care Staff Vaccination Interim Final Rule'' dated November 5, 2021 (hereafter ''Staff Vaccination IFC''),[129] and finalizing requirements for LTC facilities and ICFs-IID to continue providing vaccine education and offering COVID–19 vaccinations to residents, clients, and staff. Together, these actions reflect CMS' evolving regulatory approach to monitoring and mitigating the impact of COVID–19 in LTC settings while reducing unnecessary burden as conditions changed following the PHE.

In November 2024, CMS finalized the current iteration of these requirements, as part of the ''Medicare Program; Calendar Year (CY) 2025 Home Health Prospective Payment System (HH PPS) Rate Update; HH Quality Reporting Program Requirements; HH Value-Based Purchasing Expanded Model Requirements; Home Intravenous Immune Globulin (IVIG) Items and Services Rate Update; and Other Medicare Policies'' (henceforth referred to as CY 2025 HH PPS final rule)[130] which included ongoing respiratory illness data reporting requirements as well as requirements for reporting during a Secretary-declared PHE (89 FR 88459). These requirements further reduced compliance burden when compared to the data reporting that was required during the PHE. Specifically, we decreased the scope of data categories required to be reported (including, total deaths and COVID–19 deaths among patients and staff, ventilator capacity, access to COVID–19 testing, and staff vaccination status).

In the CY 2025 HH PPS final rule, CMS finalized requirements at § 483.80(g) for LTC facilities to report respiratory illness data on an ongoing basis as well as additional reporting requirements during a declared national, State, or local PHE (89 FR 88458). We revised the requirements related to LTC facility infection prevention and control and antibiotic stewardship program to extend a modified form of the COVID–19 and influenza reporting requirements that included data for RSV and reduced the frequency of reporting compared to prior rules. Specifically, we required LTC facilities to report a facility census as well as information on acute respiratory illnesses (including influenza, COVID–19, and RSV), related to resident vaccination status, confirmed resident cases, and hospitalized residents in a standardized format and frequency specified by the Secretary, through the CDC's NHSN on an ongoing basis (§ 483.80(g)(1)(i) (89 FR 88485). We also established that during a declared Federal, State, or local PHE, the Secretary could require LTC facilities to report additional or modified data elements relevant to an acute infectious illness, up to a frequency of daily reporting, without going through additional notice and comment rulemaking. We also established that during a declared PHE the Secretary may require LTC facilities to report supply inventory shortages, staffing shortages, relevant medical countermeasures and therapeutic inventories usage, and relevant confirmed infections for staff (§ 483.80(g)(2)).

[124] 85 FR 27550.

[125] 85 FR 54820.

[126] 86 FR 26306.

[127] 86 FR 62240.

[128] 88 FR 36485.

[129] 86 FR 61555.

[130] 89 FR 88354.

a. Proposal To Remove Staff Covid–19 Vaccine Educate, Offer and Documentation Requirements (§ 483.80(d))

During the COVID–19 PHE, CMS, in consultation with the CDC, issued an evolving series of requirements to address emerging concerns. As part of the response, CMS required LTC facilities to educate and offer COVID–19 vaccination to staff. On May 13, 2021, CMS published an IFC,[131] which revised the health and safety requirements that LTC facilities must meet to participate in the Medicare and Medicaid programs. The IFC established requirements at § 483.80(d)(3), requiring that LTC facilities provide COVID–19 vaccination education to staff, and offer COVID–19 vaccines to staff, and document these activities, referred to as the ''educate and offer'' provisions. The IFC also established similar requirements related to educating and offering COVID–19 vaccinations to residents. On June 5, 2023, CMS finalized the educate and offer provisions. Specifically, LTC facilities are required to develop and implement policies and procedures to ensure that all of the requirements set forth within that section are followed. For residents and staff members, the facility maintains documentation related to COVID–19 vaccination that includes, at a minimum, that residents and staff were provided education regarding the benefits and potential risks associated with COVID–19 vaccines; were offered a COVID–19 vaccine or information on obtaining a COVID–19 vaccine; and the COVID–19 vaccine status of residents and staff and related information as indicated by the CDC's NHSN. These educate and offer provisions, supported quality measures that included healthcare providers that were adopted in the 2024 SNF Prospective Payment System rule.[132]

Similar to the requirement that LTC facilities must educate their staffs about the COVID–19 vaccine and offer it to them, issued on November 5, 2021, we issued the Staff Vaccination IFC.[133] This IFC revised the requirements that most Medicare- and Medicaid-certified providers and suppliers were required to meet to participate in the Medicare and Medicaid programs to include requirements regarding development and implementation of policies and procedures to ensure COVID–19 vaccination of staff. At that time evidence continued to demonstrate that unvaccinated healthcare staff presented risks to patient safety across healthcare settings, and that too few healthcare staff were getting vaccinated. While the requirements established by the staff vaccination IFC were necessary to protect the health and safety of residents at that time, circumstances of the COVID–19 pandemic evolved with the eventual lifting of the PHE. On June 5, 2023, we issued a final rule[134] that ultimately withdrew the requirements regarding development and implementation of policies and procedures to ensure COVID–19 vaccination of staff, noting that declining infection rates, deaths, and decreasing severity of disease were important reasons for withdrawing the healthcare staff COVID–19 vaccination provisions.

We find the same reasoning to be true when examining the necessity and appropriateness of the requirement that LTC facilities must educate staff about the COVID–19 vaccine, offer it to them, and document these actions. During the COVID–19 PHE, there was value in these requirements as we sought to protect vulnerable residents from the risks of infection with the COVID–19 virus through reduced transmission from facility staff members. We expect that, if finalized, eliminating the staff COVID–19 education requirements found at § 483.80(d)(3), would free up resources that LTC facilities could use to implement best practices for infection control and prevention.

We would retain the COVID–19 educate and offer requirements applicable to LTC facility residents currently codified at § 483.80(d)(3). This is consistent with the resident-specific immunization requirements at § 483.80(d) that are specific to influenza and pneumococcal immunizations that also apply to just residents and not staff.

To further streamline and simplify the documentation requirements for residents regarding COVID–19 immunization, we are proposing to align the regulatory text with the influenza and pneumococcal immunization requirements at § 483.80(d)(1) and (d)(2). Specifically, we are proposing to revise the language at § 483.80(d)(3). While the current requirement includes documentation in the resident's medical record of each individual dose of the COVID–19 vaccine, the proposed changes would consolidate documentation into two concise elements: education and immunization status. The proposed regulatory text for COVID–19 immunizations at 483.80(d)(3) would follow the sequence for influenza and pneumococcal immunizations at § 483.80(d)(1) and (d)(2). The regulation sequence starts with education regarding the benefits and potential side effects of immunization, offering the option to refuse immunization, and documentation requirements that fall into two categories, education provided and whether the resident received the immunization. This streamlined regulatory text should be familiar to providers. We are also proposing to remove the requirements at § 483.80(d)(3) for education regarding multi-dose vaccine series. We are proposing at § 483.80(d)(3)(i) to require education of vaccine requirements to be more flexible, as vaccines formulations can change over time. We are also proposing to revise the documentation requirements for immunization status to include that the resident was either immunized or not immunized. If the resident is not immunized, documentation would be required to indicate if this was due to medical contraindication or refusal.

Research demonstrates that LTC facility residents are highly susceptible to COVID–19 infection because of their age, comorbidities, and frailty.[135] Vaccination of residents in LTC facilities against respiratory diseases including influenza, pneumococcal disease, and COVID–19 is a simple, inexpensive, and effective means to reduce the burden of infection in this segment of the population.[136] In fall 2024 COVID–19 vaccination coverage among LTC facility residents, as reported to NHSN, was lower than coverage of community dwelling older adults, while influenza vaccination coverage among LTC facility residents was similar to that of the general adult population aged 65 years and older.[137] While LTC facility residents faced increased risks from these infections, their vaccination rates for RSV and COVID–19 lagged behind their community dwelling counterparts. This vaccination gap may reflect vaccination barriers in LTC facilities that have real consequences for resident health and safety. During each week of October 2024, approximately 5,500 LTC facility residents received a diagnosis of

[131] 86 FR 61555.

[132] 88 FR 53200.

[133] 86 FR 61555.

[134] 88 FR 36485.

[135] Nursing homes used unproven COVID measures and didn't use vaccines, antivirals enough, review finds. CIDRAP.

[136] *Gerontology* (2024) 70 (3): 241–247. *https://doi.org/10.1159/000534998.*

[137] Reses HE, Segovia G, Dubendris H, et al. Coverage with Influenza, Respiratory Syncytial Virus, and COVID–19 Vaccines Among Nursing Home Residents—National Healthcare Safety Network, United States, November 2024. MMWR Morb Mortal Wkly Rep 2024;73:1052–1057. DOI: *http://dx.doi.org/10.15585/mmwr.mm7346a2.*

COVID–19 and 360 were hospitalized after having received a positive COVID–19 test result.[138] During the 2023 to 2024 respiratory virus season, approximately one in six adults hospitalized with COVID–19 was a LTC facility resident, and their peak weekly hospitalization rate was approximately eight times the peak weekly rate of all U.S. adults aged 70 years and older.[139] CMS continues to believe that LTC residents have the right to be informed and exercise their right to self-determination by making informed decisions about the care they receive, and that LTC facilities should be required to facilitate informed decision making among residents and their representatives. Residents and their representatives would continue to have the right to refuse all offered vaccines. Additionally, LTC facilities would continue to be required to document information regarding the education and offering of the vaccine to each resident.

We note that while we are proposing to eliminate the staff COVID–19 educate and offer requirements, adherence to proper infection control guidelines, including current CMS infection control requirements, continues to be an effective strategy to prevent COVID–19 cases and deaths. For example, one study found that in nursing homes with higher adherence to CDC infection prevention guidelines, including hand hygiene, disinfection, PPE use, and screenings for symptoms and elevated temperature, there were lower incidences of COVID–19 vis-à-vis nursing homes with lower adherence.[140] A broader literature review found an association between proper mask use and proper donning of PPE and a lower prevalence of COVID–19 infections.[141] Another literature review centered on influenza in LTC facilities and the need for robust infection prevention and control practices to minimize outbreaks. Prevention and control of influenza in LTC facilities requires a multifaceted approach that includes infection prevention and control policies, strong managerial leadership, outbreak planning and a well-trained workforce.[142] Leading organizations, including the Society for Healthcare Epidemiology of America (SHEA) and the Association for Professional in Infection Control and Epidemiology (APIC) have also recently released updated guidelines for best practices related to infection prevention and control policies in nursing homes that are an important source of information to help providers protect vulnerable residents.[143] CMS recognizes these guidelines recommend that staff should receive recommended vaccinations or have documented evidence of immunity against vaccine-preventable diseases. Also, the guidelines recommend that LTC facilities should identify and implement multimodal interventions to increase vaccine acceptance by LTC facility staff.

We expect that eliminating the staff COVID–19 education requirements would help LTC facilities realign resource allocation to implement best practices for infection control and prevention. LTC facility residents are at risk for becoming infected with and experiencing complications from respiratory viruses, protecting residents against respiratory illness by continuing to educate and offer them vaccinations coupled with supporting their rights for informed choices will promote quality of life.

b. Proposal To Remove Ongoing Data Reporting Requirements (§ 483.80(g))

As part of regulatory review conducted in response to E.O. 14219 and E.O. 14192, CMS solicited and received interested parties' input through the 2025 deregulatory RFI.[144] Some comments focused on the ongoing acute respiratory illness data reporting requirement. Commenters stated that this provision is duplicative of State and local requirements, noting that these requirements—including reporting clusters of respiratory symptoms and confirmed cases to local public health agencies as required under infection control regulations, as well as data reported through the CMS Minimum Data Set (MDS)—already impose excessive burden on facilities through time consumed in, data collection, verification, and submission. Moreover, the reporting creates technical challenges operating reporting software. While we received comments noting similar concerns during the CY 2025 HH PPS final rule comment period, such concerns are common when implementing new regulations and at that time we believed that facilities could overcome these challenges and the data would be used to protect the health and safety of residents. Since the implementation of this final rule, facilities have reported continuing to struggle with data reporting to the extent that they are unable to comply.

Furthermore, based on feedback on the 2025 deregulatory RFI from providers and interested parties, we have come to understand that current expenditures related to ongoing data reporting are likely diverting staff from direct resident care.

Most notably, CMS estimates that maintaining the current reporting requirement would impose approximately $61 million in average annual costs and require over 600,000 average annual staff hours. We have not identified corresponding improvements in resident health or safety that would justify this burden. In brief, the ongoing cost and administrative burden to LTC facilities outweigh any demonstrated benefit.

The burden of data reporting includes labor costs associated with developing policies and procedures to report the required information, as well as costs associated with gathering, reviewing, and organizing the data used to compile the reported information. At this time, CMS does not believe that the benefits of ongoing data reporting outweigh the costs of complying with these requirements, and interested parties have requested removal of the existing requirements.

Given these considerations, CMS proposes to remove the ongoing reporting requirements currently found at § 483.80(g)(1) while retaining the authority to require specific reporting during a future Secretary declared PHE. This approach does not impose new costs, as PHE reporting requirements are already established in regulation. Preserving the Secretary's authority ensures the ability to require targeted reporting for emerging infectious diseases without additional rulemaking.

[138] Reses HE, Segovia G, Dubendris H, et al. Coverage with Influenza, Respiratory Syncytial Virus, and COVID–19 Vaccines Among Nursing Home Residents—National Healthcare Safety Network, United States, November 2024. MMWR Morb Mortal Wkly Rep 2024;73:1052–1057. DOI:

[139] Reses HE, Segovia G, Dubendris H, et al. Coverage with Influenza, Respiratory Syncytial Virus, and COVID–19 Vaccines Among Nursing Home Residents—National Healthcare Safety Network, United States, November 2024. MMWR Morb Mortal Wkly Rep 2024;73:1052–1057. DOI:

[140] Telford, Carson T et al. ''COVID–19 Infection Prevention and Control Adherence in Long-Term Care Facilities, Atlanta, Georgia.'' *Journal of the American Geriatrics Society* vol. 69,3 (2021): 581–586. doi:10.1111/jgs.17001.

[141] Henriques, H.R., Sousa, D., Faria, J. *et al.* Learning from the covid-19 outbreaks in long-term care facilities: a systematic review. *BMC Geriatr* 23, 618 (2023). *https://doi.org/10.1186/s12877-023-04319-w.*

[142] Lansbury LE, Brown CS, Nguyen-Van-Tam JS. Influenza in long-term care facilities. Influenza Other Respir Viruses. 2017 Sep;11(5):356–366. doi: 10.1111/irv.12464. Epub 2017 Jul 26. PMID: 28691237; PMCID: PMC5596516.

[143] Mody L, Advani SD, Ashraf MS, et al. Multisociety guidance for infection prevention and control in nursing homes. *Infection Control & Hospital Epidemiology.* 2025;46(11):1069–1096. doi:10.1017/ice.2025.10252.

[144] ''Medicare Regulatory Relief | CMS.'' *Cms.gov,* 2025, *https://www.cms.gov/files/document/unleashing-prosperity-through-deregulation-medicare-program-request-information.pdf.* Accessed September 2025.

Infection prevention and control is a primary goal and responsibility of facilities in their normal day-to-day operations. While we propose to remove both the requirements for educating staff about the COVID–19 vaccine and offering it to them and the requirements for ongoing data reporting related to respiratory illnesses from the LTC infection prevention and control requirements, the remaining infection control requirements would continue to remain in effect. Sections 1819(d)(3) and 1919(d)(3) the Act explicitly require LTC facilities to develop and maintain an infection control program that is designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents, personnel, and the general public. Existing requirements for LTC facilities at § 483.80 require facilities to establish and maintain an infection prevention and control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of communicable diseases and infections. This program must include, among other things, an antibiotic stewardship program with antibiotic use protocols and a system to monitor antibiotic use and at least one designated infection preventionist, who is responsible for the facility's infection prevention and control programs. Specifically, the infection control officer(s) are required to develop a system for identifying, reporting, investigating, and controlling infections and communicable diseases of residents and personnel. Furthermore, § 483.71 requires that LTC facilities conduct and document a facility-wide assessment to determine what resources are necessary to care for its residents competently during both day-to-day operations (including nights and weekends) and emergencies. This includes determining the infection prevention and control needs in their facility. In addition, issues identified in the all-facilities' infection prevention and control programs must be addressed in facility-wide QAPI programs (§ 483.75). All of these requirements would remain in place if CMS were to finalize the proposed removal of the ongoing data reporting requirement to ensure patient health and safety. As such, we believe that there would be adequate minimum infection prevention and control practices in the absence of the ongoing respiratory illness data reporting requirements and staff COVID–19 vaccination requirements.

In addition to complying with the robust LTC facility requirements, facilities may have other measures in place to address infectious disease outbreaks in response to State and local governments laws. For example, some States may have regulations for communicating information to local public health agencies. We believe that these ongoing requirements provide the necessary protection for residents from infections within the LTC environment. We understand that data from healthcare providers remain a key driver to identify and respond to resident needs and public health threats.

The CDC has continued to refine data collection and promote electronic data collection directly from electronic health records, like fast healthcare interoperability resources (FHIR) enabled data reporting from hospitals. These activities help to reduce voluntary reporting burden and build a foundation for conducting surveillance in all clinical settings that may incentivize LTC facilities to voluntarily report data. We encourage LTC facilities to continue submitting data to the NHSN on an ongoing basis to contribute to greater public health efforts.

We also remind LTC facilities that, while we are proposing to remove the ongoing acute respiratory illness data reporting, we are proposing to retain the requirements for facilities to report specified acute infectious illness data during a declared PHE, in the standardized format and frequency specified by the Secretary, as currently required at § 483.80(g)(2). During the comment period for the CY 2025 PPS/HH final rule, healthcare facilities and interested parties noted that the value of data reporting during a PHE outweighed the administrative burden. During a PHE, insight into facility capacity helps to ensure capabilities are available to meet patient needs with quality care through enhanced planning, technical assistance, resource allocation, and coordination. Retaining the current PHE data reporting requirements enables facilities to maintain a functional reporting capacity. This data can be used to inform and guide response efforts at the local, State, and Federal levels to protect residents and their communities, including resource allocation and load balancing within and across facilities during emergencies when system capacity is most critical.

We propose to modify the current regulations for acute infectious illness data reporting during a PHE for LTC facilities because some of the necessary data elements are listed within the ongoing data reporting section that we propose to remove. All of the elements that we propose to include in the data reporting requirements during a PHE are already required by the current regulations for ongoing reporting and would provide a response-ready foundation for LTC facilities and the broader health system.

The proposed regulatory revisions would retain the Secretary's authority to require reporting during a declared PHE, without naming the yet-unknown infectious disease pathogen(s), while reducing the overall burden on facilities. This approach provides CMS with the flexibility to respond to a broad range of future public health threats without the need for additional rulemaking, while imposing reporting obligations for only those circumstances necessary to protect patient health and safety. Specifically, we propose to retain requirements that LTC facilities must report (1) facility census (currently § 483.80(g)(1)(ii)(A)); (2) confirmed, resident cases (currently § 483.80(g)(1)(ii)(C)); (3) hospitalized residents with confirmed cases (currently § 483.80(g)(1)(ii)(D)); (4) confirmed infections for staff (currently § 483.80 (g)(2)(i)); (5) supply inventory shortages (currently § 483.80 (g)(2)(ii)); (6) staffing shortages (currently § 483.80 (g)(2)(iii)); and (7) medical countermeasures and therapeutic inventories (currently § 483.80 (g)(2)(iv)) during a PHE. We are proposing to rescind the reporting of resident vaccination status (currently § 483.80(g)(1)(ii)(B)).

To facilitate LTC facility compliance with the proposed data reporting requirements during a PHE, the Secretary would provide clear, standardized definitions for any data to be reported, as well as instructions for the effective reporting date. HHS would provide notification to LTC facility to activate PHE reporting and indicate the frequency and required elements based on the specific circumstances at the time. We expect that we would use existing communication mechanism, such a Quality Safety and Oversight (QSO) Memorandum, that is readily available to the public, nationally accessible, and familiar to interested parties, to ensure clarity and access to necessary information.

We invite public comment on these proposals, and on any alternatives to our approach. Also, we are interested in any suggestions to improve existing requirements, within our statutory authority, where they make providing quality care difficult or less effective. The most useful comments will be those that include data or evidence to support the position, offer suggestions to amend specific sections of the existing regulations, or offer particular additions. We also request comments on how to reduce burden related to capturing

information related to supply inventory shortages, staffing shortages, and medical countermeasures and therapeutic inventories.

4. Revisions to Existing LTC Facilities' Resident Room Occupancy and Bathroom Facility Requirements § 483.90(e)(1)(i) and (f)

LTC facilities newly certified after November 28, 2016, must meet the current resident occupancy and bathroom facility standards—specifically, the requirements to accommodate no more than two residents per bedroom and to provide each resident room with its own bathroom equipped with a commode and sink. These requirements can create significant barriers for new providers seeking to take over operations and re-open a facility, as large-scale renovations—particularly for older buildings—may be required to comply with these standards. Such renovations may create significant financial challenges, potentially deterring new providers from re-opening facilities, particularly in areas that already have limited access to long-term care services. To address these concerns and reduce barriers related to the certification of new providers, we propose to amend resident room occupancy (proposed to be redesignated as § 483.90(d)(1)(i)) and bathroom facility standards (proposed to be redesignated as § 483.90(e)), both of which set standards for ''newly certified'' facilities. We propose to remove the term ''newly certified ''from the resident room occupancy and bathroom facility standards, thereby eliminating certification status as the trigger for compliance with the requirements to accommodate no more than two residents per bedroom and to provide each resident room with its own bathroom equipped with a commode and sink.

Specifically, we propose that for facilities that receive approval of building construction and reconstruction plans by the State and local authorities after November 28, 2016, each bedroom must accommodate no more than two residents per room. We also propose that for facilities that receive approval of building construction plans by the State and local authorities after November 28, 2016, each resident room must be provided with its own bathroom with at least a commode and sink.

This change would exempt existing facilities from being required to meet the current room occupancy (no more than two residents per room) and bathroom standards (commode and sink per room) because the facility changed ownership or experienced a gap in operations. Even with this exemption, LTC facilities must still comply with the CoPs, which are intended to protect the health and safety of residents and ensure that high-quality care is provided to all residents. LTC facilities must also comply with Title III of the Americans with Disabilities Act (ADA), which prohibits discrimination based on disability in public accommodations and commercial facilities, and requires businesses and non-profit service providers to ensure equal access to their goods, services, and facilities. In addition, sections 1819(b)(1)(A) and 1919(b)(1)(A) of the Act explicitly require Medicare and Medicaid LTC facilities to care for their residents in a manner and environment that promotes the maintenance or enhancement of the safety and quality of life of each resident. We invite public comment on these proposals, and on any alternatives to our approach as well as the risks and potential unintended consequences.

5. Additional LTC Comment Solicitation

We are seeking public comments related to information regarding resident preferences on sending discharge notice to the State Ombudsman office, specifically when the discharge is initiated by the resident or resident's representative. Second, we are seeking information regarding expanding the scope of practice of physician assistants and nurse practitioners providing care in SNFs, especially as it pertains to performing visits currently required to be made by a physician.

a. Ombudsman Notice of Discharge Opt Out

The current requirement at § 483.15(c)(3)(i) requires that LTC facilities provide a notice of transfer or discharge prior to transferring or discharging a resident. Facilities must notify the resident and the resident representative(s), in writing and in a language and manner they understand, of the transfer or discharge and the reasons for the move. Facilities are also required to send a copy of this notice to a representative of the Office of the State Long-Term Care Ombudsman. The regulation specifies both the timing of the notice and the required content.

As part of safeguarding resident rights, LTC facilities must notify the State Ombudsman office of all resident discharges and transfers. As previously discussed, several interested parties have indicated that this requirement results in a significant volume of paperwork for facilities to generate and distribute, as well as a substantial administrative workload for Ombudsman offices to receive and review these notices. Based on recent input from interested parties, we are seeking comments on whether residents should be permitted to opt out of having their discharge notice sent to the Ombudsman, and the facility must document the resident's preference in the medical record. We believe that residents and resident representatives that initiate a transfer or discharge may not need or want review of their decisions by Ombudsman officials. This option could increase resident self-determination and privacy, decrease paperwork for LTC facilities, and reduce the number of notices received by Ombudsman offices, while maintaining existing notice requirements for residents and their representatives. In consideration of this idea, we request public comments on the following questions:

- What types of communications occur between LTC facilities and the Ombudsman office for discharges and how is the notice process currently managed?
- What types of training or guidance would LTC facility staff need to properly explain the opt-out option to residents and resident representatives?
- How would LTC facilities document for surveyors to verify that a discharge was initiated by a resident or the resident's representative?
- Are there any unintended consequences to opting out of discharge notices being sent to the Ombudsman? For example, how would LTC facilities ensure that residents understand their rights in relation to notifying the Ombudsman office of their discharge prior to opting out of having a notice sent?

b. Comment Solicitation on Expanding the Scope of Practice of Physician Assistants and Nurse Practitioners

According to the U.S. Census Bureau,[145] the number of Americans over 65 is expected to nearly double, jumping from 54 million in 2019 to 95 million by 2060. With an aging population, we expect an increasing demand for skilled nursing care, and we are aware of concerns regarding access to skilled nursing care and long wait times for admission to LTC facilities. Nearly every nursing home and assisted living community in the United State are facing workforce shortages.[146] The

[145] *https://www.census.gov/topics/population/older-aging.html.*

[146] State of the Long-Term Care Industry. American Health Care Association. National Cetner for Assisted Living. September 2021. Accessed February 2026. *https://www.ahcancal.org/News-*

number of board-certified geriatricians in the US fell from 10,270 in 2000 to 7,413 in 2022;[147] this drop has been further exacerbated by recruitment and retention challenges for specialists involved in geriatrics—the geriatricians, nurses, and home health aides— which face considerable excess demand relative to supply.[148]

In certain cases, Federal statute limits our ability to make changes through regulation. For SNFs, the Act defines a licensed health professional[149] as ''a physician, physician assistant, nurse practitioner, physical, speech, or occupational therapist, physical or occupational therapy assistant, registered professional nurse, licensed practical nurse, or licensed certified social worker, registered respiratory therapist, or certified respiratory therapy technician''. However, the Act also requires that the care of every resident be provided under the supervision of a physician.[150] For Medicaid NFs, the Act allows, at the option of the State, any required physician task in a NF (including tasks which the regulations specify must be performed personally by the physician) to also be satisfied when supervised by a nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with a physician.[151] We note that the Act does not allow for this delegation in SNFs.

The current regulations at § 483.20(a), ''Resident assessment,'' requires physician's orders for the resident's immediate care. The physician is solely responsible for certifying the need for skilled care. Section 483.30, ''Physician services,'' requires that the initial comprehensive visit in a SNF must be performed by a physician. At the option of the physician, required visits in SNFs after the initial visit may alternate between personal visits by the physician and visits by a physician assistant, nurse practitioner, or clinical nurse specialist. Section 483.30(e)(1) through (4), ''Physician delegation of tasks in SNFs,'' lists details of what can be delegated, such as allowing dietary orders and therapy orders to be issued by these professionals with various qualifiers. Section 483.30(f) lists the requirements for performance of physician tasks in NFs. There is a notable difference in what is allowed in Federal regulations regarding physician services for SNFs and NFs. We are requesting comments on expanding the scope of practice of physician assistants and nurse practitioners in SNFs, within our current statutory limitations. Specifically, we request public comments on the following:

- Factors that influence access to care issues for admissions to SNFs.
- The roles that physician assistants and nurse practitioners currently fill and the potential for their use in addressing the identified factors influencing SNF resident access to care.
- Specific examples of collaboration between nursing home physicians and physician assistants and nurse practitioners, and the measurable impact on residents' health outcomes and safety. The roles of physician assistants and nurse practitioners in performing SNF visits following the initial visit by a physician.
- Information about the preferences of residents and their representatives regarding the type of clinician that provides care, such as a physician, physician assistant or nurse practitioner.

Current State and local restrictions that may affect a facility's ability to implement any new flexibilities regarding physician assistant and nurse practitioner services in LTC facilities, and how these restrictions impact resident care quality and access.

### *C. Intermediate Care Facilities for Individuals With Intellectual Disabilities*

Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID) are institutions with four or more beds that serve people with intellectual disabilities or other related conditions. As of January 2026, there are 5,215 ICFs/IID with 55,321 beds.[152] Under section 1902 of the Act, ICFs/IID seeking to be Medicaid providers of services must enter into an agreement with the State Medicaid agency. They must also be certified as meeting federal participation requirements set forth at 42 CFR part 483, subpart I. The CoPs set out the client health and safety protections established by the Secretary, as authorized by § 1905(d)(1) of the Act.

#### 1. Proposal To Remove Staff COVID–19 Vaccine Educate and Offer Requirements (§ 483.460(a)(4)(i) and (ii)))

The COVID–19 PHE placed unprecedented strain on the Nation's healthcare system, including ICFs/IID, which faced severe staffing shortages and limited access to PPE and necessary supplies for infection prevention and control. In ICFs/IID, clients often live in close quarters, and some may not understand the dangers of the virus or be able to independently comply with mitigation measures. Those who need help with activities of daily living may not have been able to maintain their distance from staff and caregivers. During the PHE some facilities struggled to retain staff and some staff working in these facilities may also have had more than one job, putting them at higher risk.[153]

Protecting ICF/IID clients under these conditions required enhanced infection control measures to decrease the spread and impact of infectious diseases within these settings. On May 13, 2021, CMS published an IFC,[154] which revised the health and safety requirements that ICFs/IID must meet to participate in the state Medicaid programs. The IFC established standards at § 483.460 that required ICFs/IID to provide COVID–19 vaccination education to staff and offer COVID–19 vaccines to staff, referred to as the ''educate and offer'' provisions (86 FR 26317 to 26318). The IFC also established similar requirements related to educating and offering COVID–19 vaccinations to clients (86 FR 26318 to 26319).

Building upon the requirement that ICFs/IID must educate their staffs about the COVID–19 vaccine and offer it to them, on November 5, 2021, we published additional COVID–19 staff vaccination requirements in an IFC titled ''Medicare and Medicaid Programs; Omnibus COVID–19 Health Care Staff Vaccination,'' [155] otherwise known as the ''staff vaccination IFC.'' This IFC revised the requirements that most Medicare and Medicaid-certified providers and suppliers were required to meet to participate in the Medicare and Medicaid programs to include requirements regarding development and implementation of policies and

*and-Communications/Press-Releases/Pages/Survey-Nearly-Every-U-S--Nursing-Home-And-Assisted-Living-Community-Is-Facing-A-Workforce-Crisis.aspx.*

[147] Gurwitz JH. The Paradoxical Decline of Geriatric Medicine as a Profession. JAMA. 2023;330(8):693–694. doi:10.1001/jama.2023.11110.

[148] Katherine E.M. Miller, Chase Mulholland Green, Abigail Fassinger, Jennifer L. Wolff. 2025. Long-Term Care Services and Supports Needed for Successful Aging-in-Place: A Critical Review. *Annual Review Public Health*. 46:487–505. *https://doi.org/10.1146/annurev-publhealth-071823-113604.*

[149] Section 1819 (b)(5)(G) [42 U.S.C. 1395i–3].

[150] Section 1819(b)(6).

[151] Section 1919(b)(6).

[152] Centers for Medicare & Medicaid Services. Quality, Certification and Oversight Reports (QCOR), Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID) Provider Reports, Active Provider and Supplier Counts Report, FY 2025. Accessed February 2, 2026. *https://qcor.cms.gov/main.jsp.*

[153] Centers for Medicare & Medicaid Services. ''Medicaid Home | Medicaid.gov.'' *Medicaid.gov,* 22 March 2019, *www.medicaid.gov/.*

[154] 86 FR 26306.

[155] 86 FR 61555.

procedures to ensure COVID–19 vaccination of staff. The previous IFC was aimed at achieving widespread vaccination among ICF/IID staff to protect clients; this IFC required ICFs/IID to establish and implement policies and procedures for COVID–19 vaccination of all staff, including employees; licensed practitioners; students, trainees, and volunteers; and other individuals who provide care, treatment, or other services for the ICF/IID or its clients.

At that time evidence demonstrated unvaccinated healthcare staff presented risks to patient safety across healthcare settings, and that too few healthcare staff were getting vaccinated to reduce those risks. While the requirements established by the staff vaccination IFC were necessary to protect the health and safety of ICF/IID clients at that time, circumstances of the COVID–19 pandemic evolved with the eventual lifting of the PHE.

On June 5, 2023, CMS issued a final rule [156] that, among other things, withdrew the COVID–19 staff vaccination mandate.[157] In this final rule [158] CMS noted declining infection rates and deaths, declining severity, and significant vaccination uptake as important reasons for withdrawing the healthcare staff COVID–19 vaccination provisions.

We find the same reasoning of declining rates, deaths, and severity when examining the necessity and appropriateness of the requirement established that ICFs/IID must educate staff about the COVID–19 vaccine and offer it to them (§ 483.460(a)(4)(i) and (ii)). During the COVID–19 PHE there was value in these requirements as we sought to protect vulnerable clients from the risks of infection with the COVID–19 virus through reduced transmission from facility staff members who dwell in the community and had the potential to contract COVID–19 and spread the infection to vulnerable ICF/IID clients. In light of the declining infection rates and deaths, declining severity, and vaccination uptake that provides a base level of protection, we find that this regulatory focus on staff vaccination for COVID–19 is no longer needed and propose to remove these requirements.

We note that while we are proposing to eliminate the staff COVID–19 education and offer requirements, we would retain the requirements related to continued education and offering of the COVID–19 vaccinations to clients and their representatives, supporting their right to make informed choices and promoting overall quality of life for clients. We would also retain the requirements related to infection control, including providing a sanitary environment, and prohibiting staff that have symptoms or signs of a communicable disease from direct contact with clients and their food. Adherence to proper infection control guidelines, including current CMS infection control requirements, continues to be an effective strategy to prevent COVID–19 cases and deaths. ICF/IID clients continue to be at increased risk of infection and complications from respiratory viruses. For example, one study found that in nursing homes with higher adherence to CDC infection prevention guidelines, including hand hygiene, disinfection, PPE use, and screenings for symptoms and elevated temperature, there were lower incidences of infection with COVID–19 compared to nursing homes with lower adherence. While the study focused on nursing homes, we find it applicable to ICFs/IID in that both share strong similarities as communal living environments with shared dining and activity spaces that facilitate person -to-person spread of infectious diseases, shared ventilation systems for spread of airborne disease, and vulnerable populations for whom the risk of disease may be magnified due to comorbidities. A broader literature review found an association between proper mask use and proper donning of PPE and a lower prevalence of COVID–19 infections. Leading organizations, including the Society for Healthcare Epidemiology of America (SHEA) and the Association for Professionals in Infection Control and Epidemiology (APIC) have also recently released updated guidelines for best practices related to infection prevention and control policies in nursing homes that are an important source of information to help providers protect vulnerable residents and, by extension, vulnerable ICF/IID clients. CMS recognizes these guidelines recommend that healthcare personnel should receive recommended vaccinations or have documented evidence of immunity against vaccine-preventable diseases. Also, the guidelines recommend identifying and implementing multimodal interventions to increase vaccine acceptance by healthcare personnel.

We expect eliminating the staff COVID–19 offer and educate requirements may free up resources that ICFs/IID can use to implement best practices for infection control and prevention. Furthermore, resources will also be made available so that staff can focus more directly on clients for things like assisting with activities of daily living, engaging clients in activities, and delivering care and services in accordance with the medical care plan, if applicable.

Though research demonstrates that ICF/IID clients are highly susceptible to COVID–19 infection because of their comorbidities and close living quarters,[159] the emergency circumstances which occasioned the staff vaccination education provisions no longer exist. However, it is important that the client and the client's representative receive information necessary to make healthcare decisions, including clear information on the benefits and risks of the vaccine. Because individuals in ICFs/IID face a heightened risk of COVID–19 due to comorbidities, close living arrangements, and functional impairments, prevention and coping strategies must account for these limitations. Physical distancing and masking may be difficult for non-ambulatory clients or those with behavioral challenges, making vaccination the most effective protection. Educating clients and their representatives about vaccine benefits and safety is essential to informed decision-making. Offering vaccines to clients directly within facilities addresses mobility barriers and ensures timely access, reducing the risk of severe illness and outbreaks. Clients and their representatives would continue to have the right to refuse the vaccine.

To further streamline and simplify the documentation requirements for clients regarding COVID–19 immunization, we are also proposing to streamline and simplify the regulatory text at § 483.460(a)(4). Specifically, we are proposing to revise the regulatory language at § 483.460(a)(4)(i)–(vi). This revision would streamline the existing six standards into four, with the resulting provisions renumbered as § 483.460(a)(4)(i) through (iv). While the current requirement includes documentation in the client's medical record of each individual dose of the COVID–19 vaccine, the proposed changes would consolidate documentation into two concise elements: education and immunization status. We are proposing to revise the documentation requirements for immunization status to include that the client was either immunized or not

[156] 88 FR 36485.

[157] 86 FR 61555.

[158] 88 FR 36503.

[159] Musumeci M. and Chidambaram P. ''COVID–19 Vaccine Access for People with Disabilities.'' *KFF*. Published March 1, 2021. Accessed February 12, 2026. *https://www.kff.org/medicaid/covid-19-vaccine-access-for-people-with-disabilities/*.

immunized. If the client is not immunized, documentation would be required to indicate if this was due to medical contraindication or refusal.

We invite public comment on the proposed revision of § 483.460(a)(4), and on any alternatives to our approach. Also, we are interested in any suggestions to improve existing requirements, within our statutory authority, where they make providing quality care difficult or less effective. The most useful comments will be those that include data or evidence to support the position, offer suggestions to amend specific sections of the existing regulations, or offer particular additions.

*D. Rural Emergency Hospitals (REHs)*

REHs are a Medicare provider type established in the Consolidated Appropriations Act, 2021 (CAA, 2021; Pub. L. 116–260, Dec. 27, 2020) to address barriers in access to healthcare, particularly emergency services, that result from rural hospital closures. REHs are former CAHs or rural hospitals with not more than 50 beds and do not provide any acute care inpatient services. Rather, they are required to furnish emergency department and observation care through a staffed emergency department 24 hours a day, 7 days a week. They may also provide other specified outpatient medical and health services, as elected by the REH. The average annual length of stay across all services per patient may not exceed 24 hours. As of April 2026, there are 51 currently operating REHs.[160]

Under sections 1866 and 1902 of the Act, REHs seeking to participate in the Medicare program, must enter into an agreement with the Secretary. REHs seeking to be Medicare providers of services must be certified as meeting Federal participation requirements set forth at 42 CFR part 485, subpart E. The Secretary established these CoPs to ensure the health and safety of patients receiving services furnished by an REH under the specific statutory authority set forth in section 1861(kkk) of the Act. Section 1861(kkk)(2)(D)(v) of the Act authorizes the Secretary to issue any regulations necessary to protect the health and safety of patients receiving services at REHs. On November 23, 2022, CMS published a final rule in the **Federal Register** titled ''Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Organ Acquisition; Rural Emergency Hospitals: Payment Policies, Conditions of Participation, Provider Enrollment, Physician Self-Referral; New Service Category for Hospital Outpatient Department Prior Authorization Process; Overall Hospital Quality Star Rating; COVID–19,'' [161] henceforth referred to as ''CY 2022 OPPS/ASC final rule'' which established CoPs for REHs at part 485 subpart E. We propose to revise the existing REH requirements by making technical changes to update outdated information and removing regulatory provisions that implement Federal requirements that are no longer in effect.

1. Technical Change of Cross-Reference at § 485.516(c)(5)

As part of the REH CoPs for emergency services (§ 485.516), we require these facilities to be in compliance with specific CAH Requirements at § 485.618. In 2024, CMS published a final rule that revised the regulations for CAHs [162] and, in doing so, changed the numbering of the section that is referred to in § 485.516(c) of the CoPs for REHs. Specifically, we finalized a new standard entitled ''Emergency Services Readiness'' (89 FR 94488) within the existing Emergency Services CoP for CAHs (§ 485.618(e)) to set clear expectations as well as improve facility readiness in caring for emergency services patients, including pregnant, birthing, and postpartum patients. When placing these regulations in the Code of Federal Regulations, we redesignated § 485.618(e) as (f) and added a new paragraph (e). However, REH regulations at § 485.516(c)(5) contain a cross reference to § 485.618(e), and that cross-reference was not updated when the previous content of § 485.618(e) was redesignated as § 485.618(f). Originally, this cross reference correctly referred to CAH standard for coordination with emergency response systems. With the 2024 CAH regulatory update, it now refers to the standard on emergency service readiness, and this reference is not accurate or appropriate. We propose to correct the cross reference at § 485.516(c)(5) to update the citation from § 485.618(e) to (f), which is where the CAH coordination with emergency response systems requirement is now located.

2. Infection Prevention and Control and Antibiotic Stewardship Programs

During the COVID–19 PHE, CMS, in consultation with the CDC, issued an evolving series of requirements to obtain data through several interim final rules with comment period to understand epidemiological trends. The COVID–19 PHE placed unprecedented strain on the Nation's healthcare system, particularly REHs, which faced severe staffing shortages and limited access to PPE and critical supplies. Protecting patients under these conditions required enhanced visibility into the spread and impact of infectious diseases within these settings. To address this need, CMS, issued infection prevention and control requirements during the PHE to establish data reporting, testing, vaccination, and infection control requirements for Medicare and Medicaid suppliers. The data informed coordination of operations and was especially important to anticipate and prepare for surge conditions. In the 2022 Final Rule, ''Medicare Program; Hospital Outpatient Prospective Payment'' (87 FR 71748, 72293, November 23, 2022), we finalized data reporting requirements within the infection control and prevention requirements for REHs that were similar to the data reporting requirements for hospitals and CAHs at that time at 42 CFR 485.526(e).

a. Proposal To Remove COVID–19 Sunset Requirements (§ 485.526(e) and (g))

The CY 2022 OPPS/ASC final rule requires REHs to electronically report information about COVID–19 and seasonal influenza in a standardized format specified by the Secretary, including the REH's current inventory supplies of any COVID–19-related therapeutics that have been distributed and delivered to the REH and the current usage rate for those therapeutics beginning at the conclusion of the COVID–19 PHE (at § 485.526(e)).

Section 485.526(e) provides that ongoing data reporting requirements would be in effect through April 30, 2024, unless the Secretary specified an earlier end date. Because this reporting requirement has now expired, we propose removing §485.526(e) from the REH CoPs. Additionally, in the CY 2022

[160] *https://data.cms.gov/provider-characteristics/hospitals-and-other-facilities/hospital-enrollments/data?query=%7B%22filters%22%3A%7B%22list%22%3A%5B%7B%22conditions%22%3A%5B%7B%22column%22%3A%7B%22value%22%3A%22PROVIDER+TYPE+TEXT%22%7D%2C%22comparator%22%3A%7B%22value%22%3A%22%3D%22%7D%2C%22filterValue%22%3A%5B%22PART+A+PROVIDER+-+RURAL+EMERGENCY+HOSPITAL+%28REH%29%22%5D%7D%5D%7D%5D%2C%22rootConjunction%22%3A%7B%22value%22%3A%22AND%22%7D%7D%2C%22keywords%22%3A%22%22%2C%22offset%22%3A0%2C%22limit%22%3A10%2C%22sort%22%3A%7B%22sortBy%22%3A%22PROVIDER+TYPE+TEXT%22%2C%22sortOrder%22%3A%22DESC%22%7D%2C%22columns%22%3A%5B%5D%7D* Cecil G. Sheps Center for Health Services Research The University of North Carolina at Chapel Hill. Accessed May 2026.

[161] 87 FR 71748.

[162] 89 FR 93921.

OPPS/ASC final rule, CMS included a COVID–19 staff vaccination requirement in the REH infection prevention and control and antibiotic stewardship program CoP, set forth at § 485.526(g). Until November 4, 2024, REHs were required to develop and implement policies and procedures to ensure that all non-exempt staff were fully vaccinated against COVID–19. Effective November 4, 2024, this vaccination requirement expired. Accordingly, because REHs are no longer required to meet this standard, we are proposing to remove § 485.526(g) relating to the COVID–19 healthcare staff vaccination requirements.

Although we are proposing to remove these expired requirements from the regulations, the prevention and control of infections remain primary goals in REHs and are the responsibility of facilities in their normal day-to-day operations. The current required infection prevention and control program, as described at § 485.526, includes general infection detection, data collection and analysis, monitoring, and evaluation of preventive interventions which must adhere to nationally recognized guidelines. In addition to complying with the robust REH infection prevention and control CoP requirements, facilities may have other measures in place to address infectious disease outbreaks in response to AOs accreditation standards, as well as state and local governments laws.

b. Proposal To Remove REH Data Reporting Requirements During a PHE (§ 485.526(f))

REHs are currently required to report data related to acute respiratory illness and other viral and bacterial pathogens and infectious diseases of pandemic or epidemic potential under a Secretary-declared PHE (§ 485.526(f)). The REH PHE data reporting requirements became effective January 1, 2023, and at this time, exceed the requirements for hospitals and CAHs for certain data elements.[163] Under § 485.526(f)(1), REHs are required to report suspected infections, total deaths attributed to the PHE, vaccine administration data, and key co-morbidities or exposure risk factors related to the disease of interest, which is not currently required for hospitals or CAHs. The data elements for REHs also have a more detailed format than hospitals or CAHs. Specifically, our provisions at § 485.526(f)(2)) require REHs to provide person-level information, including medical record identifier, race, ethnicity, age, sex, residential county and zip code, and relevant comorbidities for affected patients.

The REH designation was created to address concerns about rural hospital closures by giving facilities an option to continue providing emergency and outpatient services without having to maintain inpatient beds. These facilities typically employ a limited staff as they were primarily intended to provide rural areas with emergency services for stabilization and transfer with minimal administrative load. We believe the requirements for data reporting during a PHE are overly burdensome for REHs. Therefore, we propose to remove the data reporting requirements for REHs during a PHE found at § 485.526(f).

We note that we are retaining the requirement for hospitals and CAHs to report data on infectious illnesses during a PHE. As a result, when a patient is stabilized at an REH and subsequently transferred to a hospital or CAH, that patient's relevant data would be captured in the receiving facility's reporting.

We invite public comment on this proposal and on any alternatives to our approach. Also, we are interested in any suggestions to improve existing requirements, within our statutory authority, where they make providing quality care difficult or less effective. The most useful comments will be those that include data or evidence to support the position, offer suggestions to amend specific sections of the existing regulations, or offer particular additions.

3. Proposed Revisions to Physical Environment and Emergency Preparedness Incorporation by Reference (§§ 485.542(g) & 485.544(e))

In the CY 2022 OPPS/ASC final rule (87 FR 72202), the physical environment and emergency preparedness CoPs each include a standard in which CMS incorporated by reference three National Fire Protection Association (NFPA) codes. These requirements, codified at §§485.542(g) and 485.544(e), outline procedures for enforcing updated editions and provide contact information for accessing materials through CMS and the National Archives and Records Administration (NARA). However, the listed CMS contact is no longer current. We propose to remove the outdated CMS contact information and update the NARA contact information for access to the incorporated materials. We would state that the materials incorporated by reference are available for inspection at CMS, located at 7500 Security Boulevard, Baltimore, MD 21244.

We invite public comment on these proposals, and on any alternatives to our approach. Also, we are interested in any suggestions to improve existing requirements, within our statutory authority, where they make providing quality care difficult or less effective. The most useful comments will be those that include data or evidence to support the position, offer suggestions to amend specific sections of the existing regulations or offer particular additions.

*E. Critical Access Hospitals (CAHs)*

A CAH is a Medicare-certified hospital that meets specified criteria required for designation as a CAH by CMS. CAHs were established as a provider-type to help ensure access to health care services in rural communities. The statutory authority for CAHs is set forth in section 1820(e) of the Act and includes statutory authority for the Secretary to issue such criteria as required at section 1820(e)(3) of the Act. Under sections 1866 and 1902 of the Act, CAHs seeking to participate in the Medicare or Medicaid program, respectively, or both, must enter into an agreement with the Secretary or the State Medicaid agency, as appropriate. CAHs seeking to be Medicare and Medicaid providers of services must be certified as meeting Federal participation requirements as set forth at 42 CFR part 485, subpart F. Our CoPs set out the patient health and safety protections established by the Secretary for various types of providers and suppliers.

In accordance with section 1864 of the Act, State surveyors assess CAH compliance with the CoPs as part of the process of determining whether a CAH qualifies for a provider agreement under Medicare. However, under section 1865 of the Act, CAHs can elect to be reviewed instead by private accrediting organizations approved by CMS as having standards that meet or exceed the applicable Medicare standards and survey procedures comparable to those CMS requires for State survey agencies.

Under section 1820(c)(2)(B)(iii) of the Act, as implemented in our regulations at § 485.620(a), a CAH can have no more than 25 beds that may be used for acute care inpatient services or swing-bed services (post-hospital skilled nursing care), except as permitted for CAHs having distinct part units under § 485.647, in which case, beds in the distinct part unit are excluded from the 25-bed limit specified in § 485.620(a). Section 1820(c) of the Act also requires that CAHs be located in a State that has established a Medicare Rural Hospital Flexibility Program and generally must be more than a 35-mile drive on primary

[163] 89 FR 68986.

roads (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital or another CAH. If prior to January 1, 2006, a facility was designated by the State as a ''necessary provider'' of health care services to residents in the area, the facility is exempt from the distance requirements relative to hospitals and other CAHs that are otherwise applicable to CAHs under § 485.610(c). CAHs must provide emergency care services 24 hours a day, 7 days a week and maintain an average annual length of stay of 96 hours or less. They may be granted approval to provide ''swing bed'' post-hospital skilled nursing care, may provide inpatient care to individuals under the care of a hospice, and may operate a psychiatric and/or rehabilitation distinct part unit of up to 10 beds each. CAHs may operate as independent institutions or as part of a larger health care system. As of January 2026, there were approximately 1,400 CAHs.[164]

1. Proposals To Amend Certain Status and Location Requirements (§ 485.610(c) and (e))

Section 1820(c)(2)(B)(i)(I) of the Act, codified into the CoPs at § 485.610(c)(1), requires that a CAH be located more than a 35-mile drive (or a 15-mile drive on secondary roads or mountainous terrain) from a hospital or another CAH. Section 4201 of the Balanced Budget Act of 1997 (Pub. L. 105–33) established the CAH designation to help reduce the financial risks faced by rural hospitals and to improve health care access in rural areas. CAHs are acute care facilities that provide outpatient, emergency, and limited inpatient services in communities that cannot support a full-service hospital. To achieve this, Medicare reimburses CAHs a reasonable cost-based reimbursement for their services. Under section 1820(c)(2)(B) of the Act, CAHs must meet location-related requirements that aim to limit designation to facilities serving geographically isolated communities and support appropriate distribution of hospital services. In addition, 1820(c)(2)(E) of the Act authorizes CAHs to establish psychiatric and rehabilitation units as distinct parts of the CAH.

Since 2004, the Medicare program requires hospitals seeking CAH designation to be located more than 35 miles from the nearest similar hospital.[165] However, the regulatory text at § 485.610(c) did not specify which types of hospitals are relevant to that distance determination, resulting in uncertainty regarding the application of this requirement. In 2013, the HHS Office of Inspector General (OIG) released a report entitled ''Most Critical Access Hospitals Would Not Meet the Location Requirements If Required to Re-Enroll in Medicare'' (OEI–05–12–00080),[166] which found that approximately 64 percent of CAHs would not meet the distance requirement if they were required to re-enroll in Medicare. The report also found that CMS may not have the authority to revoke the CAH designation from most of these facilities based on failure to meet the distance requirement, as a majority of these CAHs are designated as ''necessary providers'' and are therefore exempt from the distance requirement as noted in section 1820(h)(3) of the Act. The OIG report also recommended that CMS periodically reassess CAHs for compliance with the location-related CoPs. In response, CMS began evaluating its policies concerning the definitions of several key concepts used in enforcing the CAH regulations at § 485.610, including which types of hospitals should be considered when determining whether a hospital applying for CAH status has met the applicable distance requirement under § 485.610(c)(1) and (e)(2), as the regulation does not specify which hospital types are relevant to that determination. Following this evaluation, CMS published a Survey and Certification letter on February 12, 2016 (S&C–16–08–CAH),[167] which was later revised on September 2, 2016, clarifying that distance eligibility determinations must be based on the proximity of the nearest hospital furnishing comparable acute care services, and that psychiatric hospitals, rehabilitation hospitals, and long-term care hospitals (LTCHs) would not considered ''like hospitals'' for the purpose of determining CAH eligibility. CMS has since expired S&C–16–08–CAH and replaced it with QSO–26–15–CAH, ''Critical Access Hospital (CAH) Evaluation of Compliance with the Rural and Distance Requirements,'' issued August 21, 2026.[168] QSO–26–15–CAH reaffirms the ''like hospital'' exclusions established under S&C–16–08–CAH and provides CMS with a process for evaluating a CAH's necessary provider status. CMS believes it is appropriate to revise § 485.610(c)(1) and (e)(2) to make permanent existing policy clarifying how the CAH distance requirement is applied. We propose to amend the regulations at § 485.610(c)(1) to codify our policy that CAHs would need to be located more than a 35-mile drive on primary roads (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from an acute care hospital or another CAH. Consistent with current CMS guidance on evaluating CAH compliance with the distance requirements, we are also proposing to add a new standard at § 485.610(c)(3) to clarify that, for the purposes of paragraph (c)(1) and (e)(2), an acute care hospital means a hospital as defined under section 1861(e) of the Act, and does not include a psychiatric hospital as defined under section 1861(f) of the Act, a long-term care hospital as described at section 1886(d)(1)(B)(iv) of the Act, or a rehabilitation hospital as described under section 1886(d)(1)(B)(ii) of the Act. We are also proposing to add rural emergency hospital (REH) as described under section 1861(kkk)(2) of the Act, to this exclusion because REHs do not provide acute inpatient care services and therefore would not be considered acute care hospitals for purposes of the location requirements under § 485.610(c)(1) and (e)(2). Therefore, these facilities would not be considered as ''like or similar'' hospitals when evaluating compliance with the location requirements. A CAH designated as a necessary provider on or before December 31, 2005, would still maintain its necessary provider designation after January 1, 2006.

We also propose to amend § 485.610(e)(2), which currently requires that if a CAH (or a necessary provider CAH) operates an off-campus provider-based location, excluding an RHC as defined in § 405.2401(b), but including a department or remote location, as defined in § 413.65(a)(2), or an off-campus distinct part psychiatric or rehabilitation unit, as defined in § 485.647, that was created or acquired on or after January 1, 2008, the off-campus facility must also be located more than a 35-mile drive (or, in the

[164] Centers for Medicare & Medicaid Services. Quality, Certification and Oversight Reports (QCOR), Hospital provider reports, CAHs only, Active Provider and Supplier Counts Report, FY 2025. Accessed February 2, 2026. *https://qcor.cms.gov/main.jsp.*

[165] 69 FR 49107.

[166] Levinson, Daniel. Department of Health and Human Services Office of Inspector General. ''Most Critical Access Hospitals would not meet the location requirements if required to re-enroll in Medicare.'' 2013, *https://oig.hhs.gov/oei/reports/oei-05-12-00080.pdf.*

[167] *Critical Access Hospital (CAH) Recertification Checklist for Evaluation of Compliance with the Location and Distance Requirements.* Centers for Medicare and Medicaid Services, 12 February 2016.

[168] *Critical Access Hospital (CAH) Evaluation of Compliance with the Rural and Distance Requirements.* Centers for Medicare and Medicaid Services, 21 August 2026.

case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital or another CAH. We propose to codify the existing CMS policy and clarify that CAHs would continue to meet these location requirements if the off-campus provider-based location or off-campus distinct part unit was located more than a 35-mile drive on primary roads (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from an *acute care* hospital or another CAH. As with the proposed revision to (c)(1), psychiatric hospitals, LTCHs, rehabilitation hospitals, and REHs would not be considered acute care hospitals and therefore would not be treated as ''like or similar'' hospitals when evaluating compliance with the location requirements. Codifying this policy would confirm that proximity to a specialty hospital does not, by itself, affect compliance with the CAH distance requirement, and would ensure consistent location determinations, including in cases where specialty hospitals are co-located on CAH campuses. Aligning the regulations with established policy will ensure uniform application of the distance requirement nationwide, provide certainty for CAHs and survey agencies, and reduce administrative burden. Most importantly, clarifying that only acute care hospitals and CAHs are included in distance determinations will help safeguard the continued availability of essential health care services in the rural communities served by these CAHs.

In February 2026, section 241 of Division B, Title II, of the Consolidated Appropriations Act, 2026 (Pub. L. 119–75) (''CAA 2026''), established that certain CAHs that received termination notices within a specific time frame for failure to meet distance requirements could remain CAHs or re-enroll, as applicable. Specifically, Section 241 of the CAA 2026 states that CMS may not apply the statutory distance requirement at section 1820(c)(2)(B)(i)(I) of the Act to facilities that had a CAH provider agreement and were designated and certified as CAHs as of January 1, 2024, and received a notification letter from CMS between December 1, 2024, and January 1, 2026, indicating noncompliance with the CAH distance requirement at § 485.610(c)(1) or § 485.610(e)(2). For these facilities, CMS is prohibited from enforcing the distance requirement.

Section 241 further reads that, in cases where a provider agreement for such a facility was terminated on or after December 1, 2024, but prior to the date of enactment of CAA 2026 (February 2, 2026), solely because the facility did not meet the distance requirement under section 1820(c)(2)(B)(i)(I) of the Act, the Administrator must recertify the facility as a CAH and reinstate its provider agreement. Furthermore, section 241 clarifies that this provision does not prevent the Administrator from taking other enforcement actions, including terminating a provider agreement, if a facility is found to be out of compliance with federal requirements unrelated to the distance requirement.

To implement section 241 of CAA 2026, we propose to amend the regulations at § 485.610(c)(1) and (e)(2) to add a qualifying statement to each standard stating that a CAH described in section 241 of CAA 2026 will not be subject to the distance requirements of that paragraph. For CAHs that qualify under section 241, we view the exemption from the distance requirement as not being time-limited and as applying to all future distance reviews. The statutory text does not contain a sunset clause or fiscal year limitation, and the provision's reinstatement mechanism for terminated provider agreements appears to provide an ongoing exemption for the defined affected facilities.

CMS performed a detailed analysis to identify how many CAHs would be subject to the exemption from the distance requirement, as outlined in section 241 of CAA 2026. Through this review, CMS determined that four facilities met the necessary criteria; they were designated as CAHs as of January 1, 2024, and received a notification letter from CMS during December 1, 2024 through January 1, 2026, indicating that the facility no longer met the distance requirements under section 1820(c)(2)(B)(i)(I) of the Act, or was actually terminated in that time period.

CAHs often serve as the primary, and sometimes the only source of emergency and acute inpatient care in their communities. By allowing qualifying facilities to retain or regain their CAH status despite no longer meeting the distance requirement relative to other hospitals and CAHs, section 241 of CAA 2026 supports continued access to potentially critical services. Maintaining access to these services protects patient health and safety and promotes continuity of care in underserved areas.

### 2. Proposal To Remove Emergency Services Readiness Staff Training (§ 485.618(e)(2))

In November 2024, as part of the final rule, ''Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs, Including the Hospital Inpatient Quality Reporting Program; Health and Safety Standards for Obstetrical Services in Hospitals and Critical Access Hospitals; Prior Authorization; Requests for Information; Medicaid and CHIP Continuous Eligibility; Medicaid Clinic Services Four Walls Exceptions; Individuals Currently or Formerly in Custody of Penal Authorities; Revision to Medicare Special Enrollment Period for Formerly Incarcerated Individuals; and All-Inclusive Rate Add-On Payment for High-Cost Drugs Provided by Indian Health Service and Tribal Facilities'' (''CY 2025 OPPS/ASC final rule'') [169] CMS finalized new CoPs for CAHs that offer obstetrical (OB) services. Prior to the CY 2025 OPPS/ASC final rule, CMS had not established CoPs specifically for OB services. Rather those services fell within the scope of broader CoPs applicable to hospitals, including the QAPI requirements. Separate from the CoPs, CMS had also addressed maternal health through sub-regulatory guidance,[170] [171] hospital quality measures, and initiatives such as the Birthing-Friendly Hospital designation.

In the CY 2025 OPPS/ASC final rule, CMS finalized revisions to the CoP related to emergency readiness for CAHs that provide emergency services (§ 485.618(e)(2)), added maternal health QAPI requirements (§ 485.641(d)(4) and (e)(2), and added baseline standards for the organization, staffing, and delivery of OB care, including staff training on evidence-based maternal health practices (§ 485.649). In this section we discuss the proposed changes to the emergency services CoP. Revisions to the CAH QAPI program CoP and Obstetrical services CoP are discussed in sections II.E.3. and II.E.4. of this proposed rule, respectively.

In the CY 2025 OPPS/ASC final rule, we finalized emergency services readiness staff training requirements for CAHs (89 FR 94592 to 94593). As of July 1, 2025, § 485.618(e)(2) requires CAHs to train applicable staff annually on the protocols and provisions implemented pursuant to the emergency services

[169] 89 FR 93912.

[170] Centers for Medicare and Medicaid Services. *State Operations Manual Appendix A -Survey Protocol, Regulations and Interpretive Guidelines for Hospitals Transmittals for Appendix A.* 2024, *https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_a_hospitals.pdf.* Accessed 31 July 2026.

[171] Center for Clinical Standards and Quality . '' QSO–22–05-Hospitals (ADVISORY) .'' *Centers for Medicare & Medicaid Services,* 7 Dec. 2021, *https://www.cms.gov/files/document/qso-22-05-hospitals.pdf.*

readiness requirements at § 485.618(e). Specifically, in accordance with the complexity and scope of services offered by the facility, the CAH must have adequate provisions and protocols to meet the emergency needs of its patients. These protocols must be consistent with nationally recognized and evidence-based guidelines for the care of patients with emergency conditions, including but not limited to patients with OB emergencies, complications, and immediate post-delivery care. The CAH's governing body is responsible for identifying and documenting which staff must complete training on emergency services readiness protocols and procedures. Additionally, the CAH must document in their personnel records that the training was successfully completed and demonstrate staff knowledge on emergency services readiness topics. Further, the CAH must use findings from their QAPI programs to inform staff training needs and any additions, revisions, or updates to training topics on an ongoing basis.

In the CY 2025 OPPS/ASC final rule, CMS disagreed with commenters who argued that the emergency services readiness staff training requirements at § 485.618(e)(2) were duplicative of existing CoPs (89 FR 94472). CMS is now reconsidering that position in light of changed circumstances, including the issuance of E.O. 14219 and E.O. 14192, which direct agencies to reduce regulatory burdens, and input received through the 2025 deregulatory RFI.[172] Commenters stated that this requirement is duplicative, as most CAHs have internal standards and protocols to ensure compliance with nationally accepted guidelines for emergency care and readiness including OB emergencies, complications, immediate post-delivery care, and other patient health and safety events. Upon reflection, CMS agrees that the combination of existing CoP requirements (including those for QAPI under § 485.641), EMTALA requirements, AO accreditation standards, specialty board certification requirements, and nationally recognized clinical resources provides a sufficient framework to ensure staff competency in emergency services readiness without the need for a separate, prescriptive annual training requirement. This determination is further supported by the role of state licensing boards, which require clinicians to meet continuing education and competency standards for licensure renewal, as well as private-sector patient safety organizations that advance national clinical readiness and safety practices.

CMS acknowledges that CAHs were required to undertake compliance efforts since the July 1, 2025, effective date of § 485.618(e)(2); however, CMS has determined that the ongoing annual compliance burden, particularly for small and rural CAHs with limited staffing and financial resources, outweighs the incremental benefit of retaining this requirement given the existing structure of other applicable regulations, AO standards, board certifications, EMTALA requirements, and QAPI requirements. Specifically, the compliance costs associated with the emergency services readiness staff training requirements, estimated in the CY 2025 OPPS/ASC final rule,[173] are more than $1.73 billion and 16.4 million hours of staff time over a 10-year period, translating to approximately $173 million and 1,640,108 staff hours annually.

The financial pressures facing rural CAHs further underscore the need for this reconsideration. Rural hospitals are experiencing significant and worsening financial challenges that threaten patient access to care, including emergency services. Between 2010 and May 2026, 51 CAHs either closed completely or ended inpatient services but continue to provide some health care services (for example, primary care, skilled nursing care, long term care). Between 2024 and May 2026, five CAHs closed completely or ended inpatient services to convert to other services.[174] Additionally, since 2023, 23 CAHs have converted to REHs, reflecting a broader trend of rural facilities restructuring to reduce services in response to financial pressures.[175] According to the North Carolina Rural Health Research Program's financial distress index, a model that assesses rural hospital vulnerability across financial performance, government reimbursement, organizational traits, and market characteristics,[176] there are currently 86 rural hospitals in the highest financial risk category and an additional 329 are in the mid-highest risk category.[177] For CAHs already experiencing financial strain, the recurring annual cost associated with implementing, documenting, and maintaining separate staff training requirements is an additional burden, further worsening existing financial constraints. The financial challenges rural hospitals and CAHs face may impact access to care as shown by expanding ambulance and health care deserts.[178] These pressures are also reflected in the absence of hospital-based obstetric services in 60 percent of rural counties, underscoring the consequences of financial distress in rural communities.[179] The compounding financial and operational challenges CAHs experience highlight the disproportionate burden of retaining a requirement that CMS has determined is duplicative of similar regulations, AO accreditation standards, specialty board certifications, and EMTALA requirements. Removing this staff training requirement may allow clinicians to spend more time with patients and prioritize providing high-quality patient care, while maintaining flexibility in how hospitals ensure staff competency and reducing regulatory compliance expenditures.

Existing requirements for CAHs in other subsections of § 485.618 require CAHs to have adequate provisions and protocols to meet the emergency needs of patients. Further, CAHs may incorporate emergency services readiness and staff competency activities into their QAPI programs under § 485.641, which requires CAHs to evaluate and improve the quality of all services furnished, including emergency and OB services. Considering the duplicative nature of these requirements, and in alignment with both E.O. 14192 and E.O. 14219,

[172] Centers for Medicare & Medicaid Services. ''Unleashing Prosperity Through Deregulation of the Medicare Program: Request for Information.'' *CMS.gov,* 2025, *www.cms.gov/medicare-regulatory-relief-rfi.* Accessed September 2025.

[173] 89 FR 94545 to 94546.

[174] ''Rural Hospital Closures.'' *Cecil G. Sheps Center for Health Services Research, www.shepscenter.unc.edu/programs-projects/rural-health/rural-hospital-closures/.* Accessed 21 May 2026.

[175] ''Rural Emergency Hospitals.'' *The Cecil G. Sheps Center for Health Services Research, www.shepscenter.unc.edu/programs-projects/rural-health/rural-emergency-hospitals/.* Accessed 28 May 2026.

[176] Malone, Tyler L, et al. ''An Updated Model of Rural Hospital Financial Distress.'' *The Journal of Rural Health,* vol. 41, no. 2, 3 Oct. 2024, *onlinelibrary.wiley.com/doi/full/10.1111/jrh.12882, https://doi.org/10.1111/jrh.12882.* Accessed 27 May 2026.

[177] Malone, Tyler, et al. ''Rural Hospital Financial Distress: Relative Risk in 2025.'' North Carolina Rural Health Research Program, Nov. 2025, *www.ruralhealthresearch.org/publications/1742.* Accessed 28 May 2026.

[178] Jonk, Y., Milkowski, C., Croll, Z., & Pearson, K. (2023). Ambulance Deserts: Geographic Disparities in the Provision of Ambulance Services [Chartbook]. University of Southern Maine, Muskie School, Maine Rural Health Research Center.

[179] Interrante JD, O'Hanlon K, Kozhimannil KB. Availability of Hospital-Based Obstetric Services in the United States by County, 2010–2023: A State-by-State Report. University of Minnesota Rural Health Research Center. January 2026. *https://rhrc.umn.edu/publication/availability-of-hospital-based-obstetric-services-in-the-united-states-by-county-2010-2023-a-state-by-state-report/.*

we are proposing to remove the emergency services readiness staff training requirement at § 485.618(e)(2). This change would streamline regulatory requirements while preserving patient safety, allowing clinicians to spend more time delivering high-quality care to patients.

In meeting the emergency services CoP requirements at § 485.618 that would remain in place after removal of the emergency services readiness staff training requirements, CAHs may rely on AO standards, voluntary certification programs, and nationally recognized clinical resources that include staff training and competency expectations related to emergency services readiness. AOs may have staff training requirements pertaining to emergency services readiness for patients with critical illnesses. For example, The Joint Commission (TJC) offers facility certification programs in managing critical illnesses, such as heart attacks and stroke, through its comprehensive heart attack and stroke centers programs in collaboration with the American Heart Association and American Stroke Association.[180] [181]

Additionally, professional health care societies offer facility credentialing opportunities and free resources to improve emergency services readiness. The American College of Emergency Physicians (ACEP) offers a geriatric ED accreditation program, with the aim of promoting best clinical practices for older adults, coordinating care more efficiently, and reducing the cost of care.[182] ACEP also offers an ED accreditation program to establish transparency and improve patient care through the implementation of evidence-based policies and practices.[183] EDs also have access to free educational resources such as the American College of Obstetricians and Gynecologists (ACOG's) toolkit for OB emergencies in non-obstetric settings and the AIM Obstetric Emergency Readiness Kit, including guidance for rural facilities to improve their OB readiness.[184] [185] CMS also recognizes that risk-appropriate care, a strategy to ensure that pregnant women and infants receive the right care in the right place at the right time, is an important framework for rural CAHs, including those without dedicated OB services.[186] Under this approach, healthy patients can safely deliver in their communities, while complex pregnancies are delivered in hospitals with the personnel and resources to support higher risk conditions. Rural hospitals and CAHs, including those without dedicated OB services, may find it beneficial to ensure that providers have the skills necessary to stabilize and transport, or potentially deliver, a high-risk pregnancy, and are encouraged to explore the range of training resources available to support obstetric emergency preparedness in non-obstetric settings. Similarly, the National Pediatric Readiness Project, developed in partnership with ACEP, the Emergency Nurses Association (ENA), and the American Academy of Pediatrics) empowers EDs nationwide to improve their ''pediatric readiness'' or capability to care for acutely ill and injured children through free assessment and toolkit resources.[187]

In addition, CAHs commonly rely on existing specialty board certification and continuing education requirements to ensure that emergency services staff are qualified and prepared to deliver care in accordance with acceptable standards of practice, consistent with § 485.618. Notably, specialty board certification is a key component of physician education and required by a majority of hospital-based employers.[188] For example, physicians can pursue board certification in emergency medicine from organizations such as the American Board of Emergency Medicine (ABEM) or the Board of Certification in Emergency Medicine (BCEM).[189] [190] Emergency Medicine board certification requires physicians to demonstrate and maintain knowledge of key emergency topics, including OB emergencies.[191] ACEP also offers Continuing Medical Education (CME) such as, through conferences, online modules, seminars in best practice updates for managing common and critical emergency conditions and requires its members to earn 150 CME hours every 3 years.[192] [193] The Board of Certification of Emergency Nursing offers nurses credentialing as a certified emergency nurse (CEN), while the ENA offers nurses continuing education courses in managing critical patients, including pediatrics, obstetrics, geriatrics, and trauma.[194] The extensive nature of these resources and the nature of hospital expectations for clinician training would continue to drive improvements in clinician training in the absence of the emergency services staff training requirements that we propose to remove from the hospital regulations. CAHs retain the flexibility to provide staff training on emergency services readiness topics as they determine appropriate based on their patient population, institutional needs, and medical staff recommendations.

3. Proposal To Remove OB QAPI Requirements (§ 485.641)(d)(4) and (e)(2))

On September 30, 2019, CMS published the ''Medicare and Medicaid Programs; Regulatory Provisions To Promote Program Efficiency, Transparency, and Burden Reduction; Fire Safety Requirements for Certain Dialysis Facilities; Hospital and Critical Access Hospital (CAH) Changes To Promote Innovation, Flexibility, and Improvement in Patient Care'' final rule (84 FR 51732), which finalized new CAH QAPI requirements.[195] These new

[180] ''Cardiac Certification.'' *www.jointcommission.org, www.jointcommission.org/what-we-offer/certification/certifications-by-setting/hospital-certifications/cardiac-certification/advanced-cardiac/comprehensive-heart-attack-center/.* Accessed 4 February 2026.

[181] ''Stroke Certification.'' *www.jointcommission.org, www.jointcommission.org/what-we-offer/certification/certifications-by-setting/hospital-certifications/stroke-certification/.* Accessed 4 February 2026.

[182] ''Accreditation Programs.'' American College of Emergency Physicians, *www.acep.org/patient-care/accreditation-programs.* Accessed 4 February 2026.

[183] ''Accreditation Programs.'' American College of Emergency Physicians, *www.acep.org/patient-care/accreditation-programs.* Accessed 4 February 2026.

[184] ''Obstetric Emergencies in Nonobstetric Settings.'' *www.acog.org, www.acog.org/programs/obstetric-emergencies-in-nonobstetric-settings.* Accessed 4 February 2026.

[185] ''AIM | Alliance for Innovation on Maternal Health.'' Saferbirth.org, *https://saferbirth.org/.* Accessed 4 February 2026.

[186] CDC. ''CDC Levels of Care Assessment Tool (CDC LOCATe®).'' *Maternal Mortality Prevention,* 13 February 2026, *www.cdc.gov/maternal-infant-health/php/cdc-locate/index.html#cdc_toolkit_main_purpose-risk-appropriate-care.* Accessed 28 May 2026.

[187] ''National Pediatric Readiness Project.'' Emergency Medical Services for Children Innovation and Improvement Center (EIIC), *https://emscimprovement.center/domains/pediatric-readiness-project/.* Accessed 4 February 2026.

[188] Freed, Gary L. ''Use of Board Certification and Recertification in Hospital Privileging.'' Archives of Surgery, vol. 144, no. 8, 14 Aug. 2009, pp. 746–746. JAMA Network,, *https://doi.org/10.1001/archsurg.2009.28.* Accessed 27 March 2025.

[189] ''ABEM.'' American Board of Emergency Medicine, 12 Nov. 2024, *www.abem.org/.* Accessed 4 February 2026.

[190] ''Emergency Medicine Board Certification | ABPS.'' American Board of Physician Specialties, 7 October 2025, *www.abpsus.org/specializations/emergency-medicine.* Accessed 4 February 2026.

[191] ''MyEMCert Study Points Abdominopelvic Module.'' American Board of Emergency Medicine, August 2025, *www.abem.org/wp-content/uploads/2024/07/Abdominopelvic-Study-Points.pdf.* Accessed 4 February 2026.

[192] ''ACEP26—Chicago, Illinois—October 5–8, 2026.'' Acep.org, ACEP's Scientific Assembly, 2026, *www.acep.org/sa.* Accessed 4 February 2026.

[193] ''Continuing Medical Education.'' American College of Emergency Physicians, *www.acep.org/education/cme.* Accessed 4 February 2026.

[194] ''CEN—Certified Emergency Nurse Specialization.'' Board of Certification for Emergency Nursing, *https://bcen.org/cen/.* Accessed 4 February 2026.

[195] 84 FR 51785.

requirements replaced the long standing ''Periodic evaluation and quality assurance review'' CoP,[196] to reflect then-current industry standards that utilized the QAPI model to assess and improve patient care. The CAH QAPI program CoP (§ 485.641) requires CAHs to develop, implement, and maintain an ongoing, CAH-wide, and data-driven program that is, in part, appropriate to the complexity of the CAH's organization and services and involves all departments and services. The program must also use measures to analyze and track performance, and set priorities that it considers high-volume, high-risk services or problem-prone areas, focus on measures related to improved health outcomes and desired patient outcomes, and operate under the oversight and accountability of the CAH's governing body.

In the CY 2025 OPPS/ASC final rule,[197] we finalized additional QAPI requirements for CAHs that offer OB services (89 FR 94593). Effective January 1, 2027, CAHs that offer OB services are required to have their OB leadership participate in the facility's QAPI program (§ 485.641(d)(4)(i)) and, where a State, local, or tribal maternal mortality review committee (MMRC) exists, the facility must have a process for incorporating publicly available MMRC data and recommendations into its QAPI program (§ 485.641(d)(4)(ii)).

Additionally, § 485.641(e)(2) requires that effective January 1, 2027, CAHs that offer OB services must utilize their QAPI programs to assess and improve health outcomes and disparities among OB patients on an ongoing basis. Specifically, once these requirements are effective the facility at a minimum will be required to: (1) analyze data and quality indicators by diverse subpopulation as determined by the facility; (2) measure, analyze, and track outcomes and disparities in processes of care, services, and outcomes among OB patients; (3) analyze and prioritize patient health outcomes and disparities, develop and implement actions to improve patient health outcomes and disparities, measure results, and track performance to ensure improvements are sustained when disparities exist among OB patients; (4) and conduct at least one measurable performance improvement project that focuses on improving health outcomes and maternal health disparities annually.

This proposal to remove OB QAPI requirements at § 485.641(d)(4) and (e)(2) would promote efficiency and reduce waste, consistent with the E.O. 14219 and E.O. 14192. As part of regulatory reviews conducted in response to these E.O.s, CMS received input through the 2025 deregulatory RFI[198] from interested parties. Commenters, including physician organizations, medical associations, and rural health advocates, specifically raised concerns about the OB QAPI requirements at § 485.641(d)(4) and (e)(2), as well as the broader OB services CoPs (§ 485.649) finalized in the CY 2025 OPPS/ASC final rule. Commenters indicated that these requirements were overly burdensome and costly CAHs and expressed concern that compliance costs could contribute to the closure of labor and delivery units, which would worsen access to maternity care and potentially exacerbate maternal health disparities.

CMS acknowledges that in the CY 2025 OPPS/ASC final rule, we disagreed with comments asserting that the OB QAPI requirements were duplicative of existing CoPs and concluded that uniform baseline requirements were necessary to ensure quality maternal care across all participating facilities (89 FR 94483). CMS is now proposing to change that position. Upon further consideration, including input received through the 2025 deregulatory RFI and the policy priorities reflected in E.O. 14219 and E.O. 14192, CMS has reassessed the burden imposed by the OB-specific QAPI requirements and the quality improvement those requirements would achieve beyond what was previously already required under the existing, broadly applicable QAPI CoPs at § 485.641. In particular, CMS now finds that the existing QAPI CoPs, which require CAHs to maintain an effective, ongoing, facility-wide, data-driven program that measures, analyzes, and tracks quality indicators, including adverse patient events, across all services provides a sufficient foundation for quality oversight of OB care, without the need for OB-specific requirements. In consideration of the above, CMS is proposing to remove the OB QAPI requirements at § 485.641(d)(4) and (e)(2) for CAHs that offer OB services. CAHs would continue to be required to comply with the remaining QAPI requirements at § 485.641.

CMS also recognizes the compliance costs associated with the OB QAPI requirements. As further discussed in section III.K. of this proposed rule, the current requirements are expected to cost CAHs $34,398,850 and 203,280 hours of staff time over a 10-year period, or $3,439,885 and 20,328 staff hours annually. This burden may pose a disproportionate burden on CAHs, potentially contributing to the closure of labor and delivery units and thereby worsening access to maternity care in underserved communities. CAHs may have begun taking steps toward compliance with the OB QAPI requirements finalized in the CY 2025 OPPS/ASC final rule, which are not effective until January 1, 2027. CMS has considered these efforts toward achieving compliance and, given that the requirements have not yet taken effect, expects the disruption to CAHs from this proposed change in position to be limited. Although it is unlikely that this proposed rule will be finalized before January 1, 2027, we would request that our surveyors conducting surveys after that date focus on those CoPs that are not potentially subject to imminent revision. CMS recognizes and affirms the importance of high-quality OB-focused QAPI programs in improving maternal health outcomes and reducing maternal mortality and morbidity. While we are proposing to remove the OB-specific requirements at § 485.641(d)(4) and (e)(2), we strongly encourage CAHs that offer OB services to prioritize maternal health as part of their existing QAPI programs. Furthermore, nothing in these proposals prohibits CAHs from establishing and maintaining policies and procedures that go beyond the minimum standards set forth in the CoPs. CAHs are encouraged to exercise this flexibility to ensure they are meeting the unique needs of their patient populations.

Furthermore, HHS has several existing quality initiatives related to maternal health, including CMS' Birthing-Friendly designation and State-based National Perinatal Quality Collaboratives (PQCs) supported by the Centers for Disease Control (CDC).[199] The Birthing-Friendly Hospital Designation (hereinafter referred to as ''the Designation''), was created to identify hospitals and CAHs that demonstrate the delivery of high-quality maternal care and a commitment to improving maternal health outcomes (87 FR 49284 through 49290).[200] The Designation serves as a quality-driven mechanism to incentivize hospitals and CAHs to adopt and sustain evidence-based maternal health practices, and is

[196] 58 FR 30658.

[197] 89 FR 93912.

[198] ''Medicare Regulatory Relief | CMS.'' *Cms.gov,* 2025, *www.cms.gov/medicare-regulatory-relief-rfi, https://www.cms.gov/files/document/unleashing-prosperity-through-deregulation-medicare-program-request-information.pdf.* Accessed September 2025.

[199] ''Birthing-Friendly Hospitals and Health Systems.'' *CMS Provider Data,* Centers for Medicare & Medicaid Services, *https://data.cms.gov/provider-data/birthing-friendly-hospitals-and-health-systems.* Accessed 31 March 2026.

[200] 87 FR 48780.

one of several tools CMS is leveraging to advance maternal health outcomes. CMS intends to explore, in future rulemaking, opportunities to expand the Designation and similar quality-based programs as a primary vehicle for reducing maternal mortality and morbidity, and we invite public comment on how such programs could be structured or expanded to address maternal health disparities. CMS is also actively refining the Designation program, including through a recent Request for Information (RFI) in the FY 2027 IPPS/LTCH proposed rule (91 FR 19597, April 14, 2026),[201] which sought public input on updates to designation criteria, alignment with other Federal and state maternal health quality initiatives, and strategies to increase hospital and CAH participation, particularly among rural and safety-net hospitals.

While the Designation operates at the facility level, state-based PQCs complement this effort by advancing standardized best practices at the state and regional level, serving as another tool for advancing maternal health. As of March 2026, there are 52 State- and territory-based PQCs,[202] of which 36 are funded by the CDC.[203] Through Federal grants and cooperative agreements with the CDC and/or funding and support from State and local governments, PQCs have achieved notable improvements in maternal health and safety, including in severe pregnancy complications.[204] For example, the Illinois Perinatal Quality Collaborative launched the Severe Maternal Hypertension Initiative helped raise timely treatment rates for sever hypertension from 41 percent to 87 percent within 2 years.[205] Together, this regulatory approach ensures flexibility and reduces burden while maintaining strong support for maternal and infant health.

CMS acknowledges that U.S. maternal mortality remains elevated relative to peer nations and that the majority of pregnancy-related deaths are considered preventable. According to data from MMRCs in 45 states, 85.7 percent of pregnancy-related deaths occurring in 2022 were preventable, with clinical skill and quality of care, lack of continuity of care, and knowledge identified as the most common contributing factors.[206] MMRC prevention recommendations were directed at the provider level (32.2 percent), facility level (18.6 percent), and system level (38.0 percent),[207] underscoring the importance of facility-level responsiveness to MMRC findings. Comprehensive strategies for improving maternal health quality, such as engaging with State PQCs, utilizing AIM resources, and seeking the CMS Birthing-Friendly designation, can significantly enhance outcomes in maternal health. CMS encourages CAHs that offer OB services to incorporate maternal health quality improvement activities, including review of publicly available MMRC data and recommendations where available, into their existing QAPI programs under § 485.641.

4. Proposal To Remove OB Services Staff Training (§ 485.649(c))

In the CY 2025 OPPS/ASC final rule,[208] we finalized OB services staff training requirements for CAHs. Effective January 1, 2027, section 485.649(c) requires CAHs to ''develop policies and procedures to ensure that relevant staff are trained on select topics for improving the delivery of maternal care.'' The training topics must reflect the scope and complexity of the services offered within the facility, including facility-identified, evidence-based best practices and protocols. CAHs will also be required to use findings from their QAPI programs to inform staff training needs and any additions to the training topics on an ongoing basis and provide relevant new staff with initial training. In addition, the governing body will be required to identify and document which staff must complete an initial training and subsequent biennial (every 2 years) training. Additionally, the CAH must document in the staff personnel records that the training was successfully completed and must be able to demonstrate staff knowledge on the aforementioned topics.

As part of regulatory review conducted in response to the E.O. 14219 and E.O. 14192, CMS solicited and received interested parties' input through the 2025 deregulatory RFI.[209] Commenters expressed several concerns about the OB services CoP staff training requirements at § 485.649(c). Several commenters requested that CAHs and rural hospitals be exempt from the new OB services and QAPI requirements, noting REHs are already exempt and that CAHs similarly require flexibility given their unique operational constraints. Commenters also raised concerns about the requirement that the governing body identify and document which staff must complete training on maternal care protocols, suggesting that decisions regarding the frequency, content, and scope of staff training are more appropriately made at the facility leadership level and that prescriptive training requirements take staff away from direct patient care while increasing the cost of care. More broadly, commenters expressed concern that the staff training requirements, as currently designed, are highly unlikely to reduce maternal mortality or morbidity while significantly increasing administrative burden, and that they risk exacerbating access to care challenges, particularly in rural and underserved areas, by contributing to CAHs and rural hospitals reducing or discontinuing OB services. Several commenters also noted that the requirements are duplicative of standards CAHs and hospitals are already held to under existing requirements, including the Emergency Medical Treatment and Labor Act (EMTALA), accreditation organization (AO) standards, emergency services requirements (§ 485.618), QAPI requirements (§ 485.641), and specialty board certification and continuing education requirements.

CMS previously considered similar concerns in the CY 2025 OPPS/ASC final rule (89 FR 94480 to 94483). At that time, we concluded that the patient safety benefits of the staff training requirements outweighed the operational and financial burdens on CAHs, and that existing AO standards and CME requirements did not fully substitute for the specific, QAPI-informed, facility-level training we were establishing. We are now revising both

[201] 91 FR 19312.

[202] ''National Network of Perinatal Quality Collaboratives.'' The National Institute for Children's Health Quality, National Institute for Children's Health Quality, *https://nichq.org/projects/national-network-of-perinatal-quality-collaboratives/.* Accessed 30 March 2026.

[203] ''State Perinatal Quality Collaboratives.'' Centers for Disease Control and Prevention, 15 May 2024, *https://www.cdc.gov/maternal-infant-health/pqc/state-pqcs.html.* Accessed 24 September 2025.

[204] ''Perinatal Quality Collaboratives.'' Centers for Disease Control and Prevention, 15 May 2024, *https://www.cdc.gov/maternal-infant-health/pqc/index.html.* Accessed 24 September 2025.

[205] Centers for Disease Control and Prevention. ''PQC Impacts: Reducing Pregnancy Complications From High Blood Pressure.'' *Maternal Infant Health,* 20 May 2024, *https://www.cdc.gov/maternal-infant-health/pqc/success-stories-illinois.html.*

[206] CDC. ''Pregnancy-Related Deaths: Data from Maternal Mortality Review Committees.'' *Maternal Mortality Prevention,* 28 August 2025, *www.cdc.gov/maternal-mortality/php/data-research/mmrc/index.html?cove-tab=4.* Accessed 28 May 2026.

[207] ''Pregnancy-Related Deaths: Data from Maternal Mortality Review Committees.'' *Maternal Mortality Prevention,* 28 Aug. 2025, *www.cdc.gov/maternal-mortality/php/data-research/mmrc/index.html?cove-tab=5.* Accessed 28 May 2026.

[208] 89 FR 93912.

[209] ''Medicare Regulatory Relief | CMS.'' *Cms.gov,* 2025, *https://www.cms.gov/medicare-regulatory-relief-rfi.* Accessed September 2025.*https://www.cms.gov/files/document/unleashing-prosperity-through-deregulation-medicare-program-request-information.pdf.* Accessed September 2025.

of those conclusions given the deregulatory directives set forth in E.O. 14219 and E.O. 14192, the additional input received through the 2025 deregulatory RFI, and a reassessment of the relative costs and benefits of the requirement. Upon further review, and consistent with concerns raised by commenters through the 2025 deregulatory RFI and the CY 2025 OPPS/ASC final rule, we find that the staff time and administrative costs associated with § 485.649(c), when added to existing financial and workforce pressures, could affect some CAHs decisions to continue providing OB services at their current level, particularly in areas with limited access to maternity care. We further find that existing AO accreditation standards, board certification requirements, and voluntary professional society training opportunities together provide a robust and sufficient foundation for ensuring staff competency in OB care, such that the incremental benefit of the additional CoP requirement does not justify its associated burden. Specifically, the compliance costs associated with the OB services staff training requirement for CAHs, estimated in the CY 2025 OPPS/ASC final rule,[210] are more than $28.1 million and 205,200 hours of staff time over a 10-year period across all CAHs, translating to approximately $2.8 million and 20,520 staff hours annually. Due to these concerns, and to reduce unnecessary regulatory burden while preserving patient safety, we are proposing to remove the OB services staff training requirement at § 485.649(c). We also note that, since the requirement at § 485.649(c) does not take effect until January 1, 2027, CAHs are not yet required to comply, which limits reliance interests. To the extent that any CAHs have already begun investing resources in implementing these requirements in anticipation of the effective date, we acknowledge those efforts and note that the training infrastructure developed may continue to serve facilities under existing AO standards and voluntary initiatives. As noted previously, although it is unlikely that this proposed rule will be finalized before January 1, 2027, we would request that our surveyors conducting surveys after that date focus on those CoPs that are not potentially subject to imminent revision. CMS recognizes and affirms the critical importance of high-quality, evidence-based OB staff training programs in improving maternal health outcomes and reducing maternal mortality and morbidity. While we are proposing to remove the requirement at § 485.649(c), we strongly encourage CAHs to continue investing in these activities. CAHs have the flexibility to exceed the health and safety standards set forth by CMS by establishing additional policies and procedures as needed to address the specific needs of their patients.

If the proposed changes are finalized, CAHs that provide OB services would still need to continue to meet all applicable CoPs related to the organization of services, staffing, delivery of care, and emergency preparedness to ensure safe, high-quality care for pregnant, birthing, and postpartum patients. In meeting these ongoing requirements, CAHs accredited by a CMS-approved accrediting organization would continue to comply with the standards of their AO, which may include staff competency and readiness to safely care for pregnant and postpartum patients. AOs have staff training requirements pertaining to maternal health. For example, TJC requires facilities to provide role-specific education to all staff and providers who treat pregnant and postpartum patients on their OB hemorrhage procedure (Standard PC.06.01.01 EP 4) and to develop written, evidence-based procedures for managing pregnant and postpartum patients with severe hypertension/preeclampsia procedures (Standard PC.06.03.01 EP 3). Under TJC standards, this education must occur at orientation, whenever there are changes to the processes or procedures, or at least every 2 years (Standard PC.06.01.01 EP 4, Standard PC.06.03.01 EP 3). Facilities must also conduct drills at least annually to determine system issues, followed by a team debrief (Standard OC.06.01.01 EP 5).[211]

CAHs accredited by TJC may voluntarily seek assessment and confirmation of their maternal care capabilities through TJC's ''Maternal Levels of Care Verification'' program, developed in collaboration with ACOG.[212] The program evaluates whether a facility has the expertise, equipment, and resources necessary to provide risk-appropriate care. It also helps CAHs identify and address capability gaps, clarify which patients they are equipped to manage and when transfer is appropriate, and strengthen collaborative relationships with other facilities, supporting broader efforts to reduce maternal mortality and severe maternal morbidity.

Additionally, CAH clinicians may choose to pursue board certification to demonstrate their expertise and commitment to their specialty and evidence-based medicine. Medical specialty board certification is a key component of physician education and required by a majority of hospital-based employers.[213] Although certification requires an investment of time and resources, this process may enhance physicians' employment opportunities, professional standing, and increase patient trust. CAHs may also support board certification as part of their credentialing and quality improvement activities, as it can assist in verifying physician qualifications, meeting accreditation standards, and promoting high-quality patient care.

In addition to the AO standards and board certification, several professional health care societies offer training opportunities related to improving management of OB emergencies to protect the health of mothers. Specifically, ACOG's ''Emergencies in Clinical Obstetrics'' course covers a variety of OB emergencies including breech vaginal delivery, shoulder dystocia, postpartum hemorrhage, and teamwork and communication.[214] Further, ACOG provides CME for physicians and health care professionals practicing obstetrics and gynecology through eModules, conferences, simulations, courses, and webinars.[215] The American Academy of Family Physicians' (AAFP) ''Advanced Life Support in Obstetrics (ALSO) Program'' equips the entire pregnancy care team with skills to effectively manage OB emergencies and positively impact maternal outcomes.[216]

Patient advocacy groups and nursing associations also offer maternal health educational opportunities. March of

[210] 89 FR 94542 to 94543.

[211] ''Comprehensive Accreditation Manual for Hospitals.'' The Joint Commission, 1 July 2025, *https://acrobat.adobe.com/id/urn:aaid:sc:VA6C2:843eea61-ae7f-4a8f-b413-fb52d44317b7.* Accessed 4 February 2026.

[212] ''Maternal Levels of Care Verification.'' *www.jointcommission.org, www.jointcommission.org/what-we-offer/verification/maternal-levels-of-care-verification/.* Accessed 4 February 2026.

[213] Freed, Gary L. ''Use of Board Certification and Recertification in Hospital Privileging.'' Archives of Surgery, vol. 144, no. 8, 14 Aug. 2009, pp. 746–746. JAMA Network, *jamanetwork.com/journals/jamasurgery/fullarticle/405203, https://doi.org/10.1001/archsurg.2009.28.* Accessed 27 March 2025.

[214] ''Emergencies in Clinical Obstetrics (ECO).'' *American College of Obstetricians and Gynecologists (ACOG), www.acog.org/education-and-events/simulations/eco.* Accessed 4 Feb. 2026.

[215] ''Continuing Medical Education Program.'' *American College of Obstetricians and Gynecologists (ACOG), www.acog.org/education-and-events/cme-program.* Accessed 4 Feb. 2026.

[216] ''Advanced Life Support in Obstetrics (ALSO) Program.'' *American Academy of Family Physicians (AAFP),* 2020, *www.aafp.org/cme/programs/also.html.* Accessed 4 February 2026.

Dimes offers several educational programs that include continuing nursing education (CNE) and CME credits in maternal health and provide peer-reviewed and clinically relevant content.[217] Additionally, the American Nurses Association (ANA) supports professional development by offering resources and opportunities for nurses to enhance their skills and knowledge in various nursing specialties, including obstetrics.[218] [219] [220] The Association of Women's Health, Obstetric, and Neonatal Nurses (AWHONN) offers the ''Obstetric Patient Safety: OB Emergencies Workshop'' to disseminate best practices to help clinicians identify, assess, and manage the care for patients with obstetric emergencies.[221] We believe that this robust set of external resources and standards can be used by hospitals to comply with the existing CoPs related to the organization of services, staffing, delivery of care, and emergency preparedness to ensure safe, high-quality care for pregnant, birthing, and postpartum patients in the absence of the specific OB services staff training requirement that we are proposing to remove.

We invite the public to comment on this revision of these requirements, and on any alternatives to our approach. We are also interested in any suggestions to improve existing requirements, within our statutory authority, where they make providing quality care difficult or less effective. Additionally, we seek comments on whether and how such training and quality improvement initiatives could be more effectively advanced through the Birthing-Friendly hospital designation program or similar voluntary, incentive-based frameworks, rather than through the CoPs. The most useful comments will be those that include data or evidence to support the position, offer suggestions to amend specific sections of the existing regulations, or offer particular additions.

5. Requirements for Patient's Rights for Birth Tissue Collection for CAHs (Proposed § 485.649(c))

a. Background on Birth Tissues Uses

Birth tissues are solely generated as a direct result of pregnancy, labor, and delivery and may be discarded, retained by the patient, stored, donated, banked for potential future medical use, and/or transferred to a third party for research or commercial purposes. These tissues can include umbilical cord blood, umbilical cord tissue, umbilical veins, placenta, amniotic membrane, chorionic membrane, amniotic fluid, and Wharton's jelly.[222] Currently, the vast majority of birth tissue—approximately 96 percent- is disposed of following delivery.[223] If intended for future medical purposes, such tissue must be collected promptly and handled in a manner designed to minimize contamination.[224] For our analysis, it is helpful to separate our discussion of the collection of cord blood from consideration of other birth tissues.

Cord blood is the most commonly collected birth tissue for future medical use (approximately 110,000 collections annually, or about 3 percent of births, with 75 to 80 percent stored in private banks).[225] It is also the most researched and regulated birth tissue, at both the Federal and State level. Cord blood is unique in that families can pursue either public or private cord banking. Public cord blood banking has an established role in hematopoietic stem cell transplantation for certain malignant, hematologic, immunologic, and metabolic disorders.[226] Public cord banking is free to the family as part of a national transplant registry. HRSA oversees the C.W. Bill Young Cell Transplantation Program and the National Cord Blood Inventory.[227] These programs were established under the Stem Cell Therapeutic and Research Acts to expand donor and cord blood availability to fund and coordinate the collection, banking, and distribution of cord blood units to increase access for transplantation and research.[228] Yet only approximately 180 facilities participate in public cord banks nationwide due to costs associated with collection, processing, and storage.[229] Conversely, private cord banks allow families to retain exclusive access to their stored cord blood for potential future personal or family use with collection and storage costs paid out of pocket by the family, which can total several thousand dollars initially, followed by annual storage costs of several hundred dollars.[230] [231] [232]

Professional organizations have emphasized the importance of accurate information, informed consent, and conflict-of-interest disclosure in cord blood banking. ACOG states that public cord blood banking is the recommended method of obtaining cord blood for transplantation, immune therapies, or other medically validated indications. and that routine private cord blood banking is not supported by available evidence and that ''there is no current evidence to support the use of an autologous umbilical cord blood sample in regenerative medicine.'' [233] The American Academy of Pediatrics has similarly noted that public cord blood banking is highly regulated, while private banking may be costly and rarely used for treatment, and has recommended ethical and operational standards addressing informed consent, financial disclosures, and conflicts of interest.[234] The American Medical Association (AMA) Code of Medical Ethics states that physicians who provide OB care should be prepared to inform pregnant women of options regarding cord blood donation or storage and potential uses, and should obtain informed consent before the onset of

[217] ''Continuing Education Courses.'' Marchofdimes.org, 2024, *www.marchofdimes.org/our-work/health-professionals/continuing-education-courses*. Accessed 4 February 2026.

[218] American Nurses Association. ''About ANA.'' American Nurses Association, 2025, *www.nursingworld.org/ana/about-ana/ www.nursingworld.org/ana/about-ana/*. Accessed 4 February 2026.

[219] American Nurses Association. ''About ANA.'' American Nurses Association, 2025, *www.nursingworld.org/ana/about-ana/ www.nursingworld.org/ana/about-ana/*. Accessed 4 February 2026.

[220] ''Continuing Education for Nurses (CE) | ANA Enterprise.'' American Nurses Association, 2024, *www.nursingworld.org/continuing-education/ www.nursingworld.org/continuing-education/*. Accessed 4 February 2026.

[221] ''Getting Started with OPS.'' Association of Women's Health, Obstetric and Neonatal Nurses, *www.awhonn.org/education/hospital-products/ops/getting-started-with-ops/www.awhonn.org/education/hospital-products/ops/getting-started-with-ops/*. Accessed 4 February 2026.

[222] The gelatinous connective tissue that protects vessels within the umbilical cord.

[223] *https://pmc.ncbi.nlm.nih.gov/articles/PMC3477280/.*

[224] *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking.*

[225] *https://www.consumeraffairs.com/health/cord-blood-banking-statistics.html.*

[226] *https://publications.aap.org/pediatrics/article/140/5/e20172695/37866/Cord-Blood-Banking-for-Potential-Future.*

[227] Health Resources and Services Administration, Donation and Transplantation Statistics, Blood Stem Cell, *https://bloodstemcell.hrsa.gov/data/donation-and-transplantation-statistics* (last visited June 2026).

[228] *https://bloodstemcell.hrsa.gov/about/legislation.*

[229] *https://pmc.ncbi.nlm.nih.gov/articles/PMC3477280/.*

[230] *https://publications.aap.org/pediatrics/article/140/5/e20172695/37866/Cord-Blood-Banking-for-Potential-Future.*

[231] *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking.*

[232] *https://www.cordbloodbanking.com/banking/cost/.*

[233] American College of Obstetricians and Gynecologists, Committee Opinion No. 771, Umbilical Cord Blood Banking (Mar. 2019), *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking.*

[234] William T. Shearer et al., Cord Blood Banking for Potential Future Transplantation, 140 Pediatrics e20172695 (2017), *https://publications.aap.org/pediatrics/article/140/5/e20172695/37866/Cord-Blood-Banking-for-Potential-Future.*

labor whenever feasible when participating in collection.[235]

Data on collection rates of other birth tissue (non-cord blood) for future medical uses are limited due to a lack of standardized national data. Parent's Guide to Cord Blood, a patient advocacy group, estimates approximately100,000 placentas are collected by birth tissue procurement organizations (BTPOs) each year and distributed to research and/or commercial entities.[236] Unlike cord blood, there is no public banking infrastructure for other birth tissues. The Food and Drug Administration (FDA) regulates such tissues either under Section 361 of the Public Health Service Act (PHSA) and 21 CFR part 1271 [237] or under Section 351 of the PHSA and relevant sections of the Federal Food, Drug and Cosmetic Act.[238] These tissues are often marketed to the public in a misleading manner and without following applicable statutory and/or regulatory requirements.[239]

Regenerative medicine products derived from human cells or tissues, including stem cells, umbilical cord blood, amniotic tissue, and related products that meet all of the criteria in 21 CFR 1271.10(a) are subject only to regulation under section 361 of the PHS Act and the regulations in 21 CFR part 1271. If such a product does not meet all the criteria set out in 21 CFR 1271.10(a), and the establishment that manufactures the HCT/P does not qualify for any of the exceptions listed in 21 CFR 1271.15, the HCT/P will be regulated under section 351 of the PHS Act and/or the FD&C Act, and applicable regulations, including 21 CFR part 1271, and FDA approval will generally be required.[240] Specifically, the FDA issues warning letters to companies regarding the marketing of unapproved biological products and regarding manufacturing and quality system deficiencies.[241] [242] Additionally, FDA has stated that unapproved regenerative medicine therapies can pose serious safety risks. Adverse events associated with the use of unapproved regenerative medicine products have included bacterial infections, blindness, tumor formation, inflammatory reactions, and other harms.[243] [244] [245] These regulations, company communications, and public safety communications provide additional context regarding FDA's oversight of regenerative medicine products, including birth tissues, and the potential risks associated with products that do not comply with applicable statutory and regulatory requirements.

Investigative reporting has also described commercialization of birth tissues and the potential for donations made in connection with childbirth to enter supply chains for unapproved or unproven products. In a 2019 investigation, *The New Yorker* and *ProPublica* reported that some patients who donated birth tissue understood the donation to be for a beneficial purpose but did not recall the details of the donation process and described a broader market for birth tissue products used in unproven commercial uses, often without families' awareness.[246] [247]

National data on the number of placentas or other birth tissues released to or taken home by families each year is not available. The limited available evidence consists primarily of small surveys of hospital/pathology practices and non-national studies of placentophagy or community birth populations.[248] [249] [250] We are aware that mothers and families may have significant cultural, religious, spiritual, or personal interests in birth tissues, especially the placenta and umbilical cord.[251] Although birth tissues are often treated as medical waste within health care settings, scholarly literature describes numerous traditions and cultural practices, in the United States and internationally, involving the retention, burial, preservation, or other uses of birth tissue following childbirth.[252] Scholars have further observed that patient preferences regarding the disposition of birth tissues are not always reflected in institutional policies or informed consent practices, and that families may face inconsistent policies or practices when seeking to retain their placentas and other birth tissues.[253] [254] One limited survey in 2013 found that 61 percent of hospitals allow for placenta release to families, and most hospitals had an interdisciplinary policy supporting it.[255]

b. Need for New CAH Standards

Section 1820(e)(3) of the Act authorizes the Secretary to establish additional requirements necessary for the health and safety of patients served by Medicare-and Medicaid-participating CAHs. Existing CAH CoPs establish the framework for protecting patient rights, promoting informed decision-making, and ensuring accurate medical and clinical record documentation. Together, the requirements safeguard patient health and safety and promote quality care for all patients in Medicare-and Medicaid-participating CAHs. Specifically, patient rights CoPs for CAHs at § 485.614 (a) and (b) provide that patients or their representatives have the right to make informed decisions regarding their care, including being informed of their health status, being involved in care planning and

[235] American Medical Association, Code of Medical Ethics Opinion 6.1.5, Umbilical Cord Blood Banking, *https://code-medical-ethics.ama-assn.org/ethics-opinions/umbilical-cord-blood-banking.*

[236] *https://parentsguidecordblood.org/en/news/its-morning-your-c-section-and-someone-wants-you-donate-your-placenta.*

[237] 21 CFR part 1271 includes requirements related to collection, processing, storage, and distribution of certain HCT/Ps (including placenta, amniotic membrane, and cord tissue).

Section 361 of the Public Health Service Act, 42 U.S.C. § 264; Section 351 of the Public Health Service Act, 42 U.S.C. § 262; 21 C.F.R. part 1271; Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301 et seq.

[239] Food and Drug Administration, Consumer Alert on Regenerative Medicine Products Including Stem Cells and Exosomes, *https://www.fda.gov/vaccines-blood-biologics/consumers-biologics/consumer-alert-regenerative-medicine-products-including-stem-cells-and-exosomes.*

[240] *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/regulatory-considerations-human-cells-tissues-and-cellular-and-tissue-based-products-minimal.*

[241] *https://www.fda.gov/vaccines-blood-biologics/safety-availability-biologics/patient-and-consumer-warning-about-potential-serious-risks-harm-following-use-unapproved-products.*

[242] *https://www.fda.gov/vaccines-blood-biologics/safety-availability-biologics/public-safety-notification-exosome-products.*

[243] *https://www.fda.gov/vaccines-blood-biologics/safety-availability-biologics/patient-and-consumer-warning-about-potential-serious-risks-harm-following-use-unapproved-products.*

[244] Food and Drug Administration, Important Patient and Consumer Information About Regenerative Medicine Therapies (June 3, 2021), *https://www.fda.gov/vaccines-blood-biologics/consumers-biologics/important-patient-and-consumer-information-about-regenerative-medicine-therapies.*

[245] *https://www.fda.gov/vaccines-blood-biologics/safety-availability-biologics/public-safety-notification-exosome-products.*

[246] Caroline Chen, The Birth-Tissue Profiteers, The New Yorker and ProPublica (May 7, 2019), *https://www.newyorker.com/news/news-desk/the-birth-tissue-profiteers.*

[247] Mathilde Cohen, The Law of Placenta, 31 Yale Journal of Law and Feminism 337 (2020).

[248] *https://journals.sagepub.com/doi/10.2350/13-05-1338-OA.1.*

[249] *https://pubmed.ncbi.nlm.nih.gov/29722066/.*

[250] Although Cohen's analysis draws on international case studies, including examples from Brazil, the Department cites the article because it addresses ethical, legal, and commercial issues associated with birth tissue procurement and use that have received comparatively limited attention in the U.S. literature. The Department relies on the article for its general discussion of these issues and not as evidence of the prevalence or characteristics of practices in the United States.

[251] Mathilde Cohen, The Law of Placenta, 31 Yale Journal of Law and Feminism 337 (2020).

[252] Mathilde Cohen, The Law of Placenta, 31 Yale Journal of Law and Feminism 337 (2020).

[253] Mathilde Cohen, The Law of Placenta, 31 Yale Journal of Law and Feminism 337 (2020).

[254] *https://parentsguidecordblood.org/en/news/your-placenta-rights-under-us-state-laws.*

[255] *https://journals.sagepub.com/doi/10.2350/13-05-1338-OA.1.*

treatment, and being able to request or refuse treatment. The CAH clinical records CoP at § 485.638(a)(4)(i)) requires, for each patient receiving healthcare services, a record that includes, as applicable, evidence of properly executed informed consent forms. However, there are no existing CoPs related specifically to the collection of birth tissues.

This differs from the regulatory framework applicable to organs and tissues collected for transplantation. For example, § 485.643 establishes specific requirements for organ, tissue, and eye procurement, including requirements related to CAH's agreements with organ procurement organizations, tissue banks, and eye banks and policies governing the donation process. Of note, hospitals are not required to have a relationship with birth tissue procurement organizations or birth tissue banks. Organs and tissues collected for transplantation are therefore subject to an established regulatory framework and associated donation and consent process. The existing CAH CoPs do not establish comparable requirements specifically addressing the collection and disposition of birth tissues following a live birth, including circumstances in which tissues may be retained by the patient or collected, donated, transferred, stores, or used for purposes other than transplantation.

We believe that decisions involving the collection, storage, donation, banking, transfer, or release, or discarding of birth tissues may implicate important patient interests and rights and therefore warrant additional transparency and informed decision-making protections. Unlike many other biological materials generated during the course of medical care, birth tissues may have unique cultural, religious, personal, or familial significance to patients and their families.[256] At the same time, birth tissues may also have medical, research, or other uses that can involve their collection or transfer to entities outside of the hospital. These characteristics distinguish birth tissues from both biological materials routinely discarded in the course of medical care and organs and tissues collected through established transplantation and donation processes. Therefore, families giving birth at CAHs may reasonably wish to understand whether such tissues will be discarded, available for them to retain, used for research purposes, transferred to third parties, stored for future use, or otherwise utilized in commercial activities.

Moreover, because of the concerns discussed previously about inappropriate clinical use and profiteering, transparency is particularly important when a CAH participates in a program or arrangement through which birth tissues may be donated, transferred, banked, stored, or used by a third party and/or for commercial purposes. We believe that patients have the right to the information necessary to make an informed decision about consenting to these uses of personal birth tissues and biological materials associated with their deliveries.

CMS understands that many CAHs may already have policies around informed consent and allow patients to request retention or release of birth tissues, subject to State law, infection prevention and control requirements, and clinical circumstances.[257] However, practices may vary, and patients may not know whether, when, or how to make such a request. Some CAHs may rely on general consent forms or internal policies governing the handling and disposal of medical waste that do not clearly inform patients about possible collection, transfer, storage, donation, commercial use, or disposition of birth tissues, or about the options available to request retention. Variation in these processes can create uncertainty for patients, staff, and CAHs.

We believe that establishing new requirements to address these variations would strike the appropriate balance between improving transparency, creating consistent patient expectations and ensuring that no CAH is compelled to collect, bank, donate, or release tissues in circumstances that would be unsafe, unlawful, or inconsistent with clinical care.

c. Proposed Scope and Definition of Birth Tissues (§ 485.649(c))

Mothers who give birth in CAHs that furnish OB services should have baseline protections regarding informed decision-making, documentation, and safe handling of their birth tissues when the hospital engages in birth tissue collection, storage, donation, banking, transfer, or release. To advance this goal, we propose to add new standards at § 485.649(c). As noted earlier in this section, we are proposing to remove the current requirements at § 485.649(c) and replace them with new standards that build on the CoPs for obstetrical services. These new standards address informed consent for birth tissue collection and patient requests for retention or release of birth tissues.

We propose to add a new standard to the OB Services CoP at § 485.649(c), titled ''Birth tissue collection.'' Facilities that furnish obstetrical services vary widely in their involvement with birth tissues. For example, some CAHs are deeply involved in birth tissue activities, including operating or sponsoring public cord blood donation programs, contracting with third-party collection or tissue procurement entities, or facilitating private banking arrangements. Others have more limited involvement, such as occasionally receiving requests to retain or release birth tissues to the patient for cultural, religious, or personal uses or to a private third-party for personal future medical uses, research, or donation, even where no formal relationship exists between the CAH and the third party. To account for this variation, the proposed standard would apply to only those CAHs that furnish obstetrical services and participate in one or more activities related to birth tissues including collection, storage, donation, banking, transfer, or release to patients. For purposes of this standard, we interpret participation to include hospital-sponsored, hospital-operated, or hospital-facilitated activities, that is, any instance in which the CAH's personnel, premises, policies, or processes are used in connection with the collection, packaging, storage, transfer, banking, donation, or release birth tissues. Facilities that do not engage in any of these activities would not be subject to the proposed standard.

Furthermore at § 485.649(c), we propose to define ''birth tissues'' to capture the materials most commonly associated with live childbirth that may be collected, retained, stored, donated, banked, transferred, or released for personal, clinical, research, and/or commercial purposes. For purposes of this proposed rule, birth tissue is limited to tissue or biological material obtained in connection with labor and delivery resulting in a live birth. This proposal does not apply to tissue or biological material obtained in other clinical circumstances. Specifically, we propose to define ''birth tissue'' as ''human cells, tissues, and cellular and tissue-based products obtained during or immediately following labor and delivery, (including cesarean-section delivery), such as umbilical cord blood, umbilical cord tissue, placenta, amniotic membrane, amniotic fluid,[258]

[256] Mathilde Cohen, The Law of Placenta, 31 Yale Journal of Law and Feminism 337 (2020).

[257] *https://journals.sagepub.com/doi/10.2350/13-05-1338-OA.1.*

[258] CMS acknowledges that the inclusion of amniotic fluid within ''birth tissues'' definition

and other tissues or biological materials associated with live childbirth.'' This definition is intended to avoid gaps in patient protections that could arise if the rule addressed only one category of birth tissue, such as cord blood, while other tissues were collected, transferred, released, or disposed of under less transparent processes. This definition is also intended to be flexible enough to accommodate changes in collection practices and terminology over time. Importantly, our definition is not intended to conflict with or alter FDA definitions or classifications of human cells, tissues, and cellular or tissue-based products (HCT/Ps) under FDA authorities or other similar FDA terminology, which remain controlling for purposes of FDA regulation.[259]

Similarly, CMS' definition of birth tissues is not intended to conflict with or alter NIH's definitions or policies as it relates to this or similar topics. Lastly, we note that nothing in this proposal limits or impairs a family's ability to receive their stillborn child for the purposes of holding, mourning, or making funeral arrangements. Such activities are regulated under State and local law, and hospital specific policies.[260] Furthermore, such scenarios are beyond the scope of this regulation, which applies only to live births.

d. Proposals for Informed Consent (§ 485.649(c)(1))

At proposed § 485.649(c)(1), we would require that the CAH ensure that it obtains informed consent from the patient or the patient's representative prior to the collection, storage, donation, transfer, banking, or release to patients of birth tissues, consistent with the CAH's scope of services and role in those activities. The consent must be documented consistent with the clinical records requirements at § 485.638(a)(4)(i).

Consistent with the phrase ''scope of services and role in those activities'' in proposed § 485.649(c)(1), the obligations under this proposal would be tailored to the specific activities in which the hospital participates. The proposal would not require CAHs to offer new services, to purchase or provide new equipment, or initiate or sponsor a collection program, private banking arrangement, or other birth tissue collection program. Rather, it would require only that when a hospital furnishes obstetrical services and participates in a covered birth tissue activity, the hospital maintains appropriate consent, documentation, policies, procedures, and safe handling processes commensurate with its scope of services and role in that activity. For example, a hospital that operates a public cord blood collection program would be expected to ensure that its consent process includes the information and disclosures applicable to public donation. In contrast, a hospital that does not participate in a public cord blood collection program and is only collecting birth tissue in response to an individual patient's request for release of a placenta for personal or cultural reasons would be expected to document the request and release decision consistent with its policies and provide safe handling instructions.

We propose that the informed consent process include, as applicable, six categories of information: (1) a description of the birth tissues to be collected; (2) the intended use, including commercial and research uses, of the birth tissues; (3) disclosure of any third-party involvement and conflicts of interest; (4) information regarding risks, limitations, and infection prevention and quality control considerations; (5) notice that a patient's refusal to provide informed consent will not affect access to care or treatment; (6) and any other information required under applicable Federal or State law. These elements establish a baseline and are not intended to prescribe a single consent form or process for all CAHs or activities. For example for relevant research purposes, HHS' Federal Policy for the Protection of Human Subjects (also known as the Common Rule; codified at 45 CFR part 46 (Authority: 5 U.S.C. 301; 42 U.S.C. 289(a); 42 U.S.C. 300v–1(b)) [261] [262] may also apply, such as Institutional Review Board (IRB) review, additional informed consent requirements, and specific protections for pregnant women, fetuses, and neonates (subparts B and D), inclusive of certain birth tissues such as the placenta.[263] CMS acknowledges the importance of research related to birth tissues [264] [265] and views this proposed rule as in alignment with the Common Rule and not as a replacement for such standards. This proposed rule would therefore defer to Common Rule standards related to exempted or waived research activities. Additionally, facilities retain the flexibility to adapt their consent processes to reflect their specific scope of services and patient needs in alignment with local, State, and Federal law and regulations.

Birth tissues may move through complex supply chains and may have research, clinical, manufacturing, or commercial value. We propose at § 485.649(c)(1)(i) and (ii) requirements for disclosure to ensure that patients and families fully understand how collected tissues may be transferred to a third party, processed into a product, sold, used in research, banked for future use, or discarded if quality criteria are not met. Patients must be informed if a

differs from FDA's definition of Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/P). Namely, that amniotic fluid is not an HCT/P for FDA regulatory purposes. See 21 CFR 1271.3(d)(3). See also FDA's July 2020 guidance entitled ''Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue-Based Products: Minimal Manipulation and Homologous Use'' (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/regulatory-considerations-human-cells-tissues-and-cellular-and-tissue-based-products-minimal*), on page 15 states ''Secreted body fluids (*e.g.,* amniotic fluid) are generally not considered HCT/Ps'' per the definition of HCT/P in 21 CFR 1271.3(d). However, CMS for its regulatory purposes includes amniotic fluid within its definition of ''birth tissue'' based on current practices regarding collection of such material and the CMS definition is not intended to incorporate FDA's definition in 1271.

[259] FDA regulations define human cells, tissues, or cellular or tissue-based products (HCT/Ps) as articles containing or consisting of human cells or tissues that are intended for implantation, transplantation, infusion, or transfer into a human recipient. See 21 CFR 1271.3(d). FDA does not define or use the term ''birth tissue'' in 21 CFR part 1271, its 2007 Donor Eligibility Guidance (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/eligibility-determination-donors-human-cells-tissues-and-cellular-and-tissue-based-products*), or its Minimal Manipulation/Homologous Use guidance (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/regulatory-considerations-human-cells-tissues-and-cellular-and-tissue-based-products-minimal*). In January 2025, FDA issued draft guidance entitled ''Recommendations for Determining Eligibility of Donors of Human Cells, Tissues, and Cellular and Tissue-Based Products (HCT/Ps)'' (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/recommendations-determining-eligibility-donors-human-cells-tissues-and-cellular-and-tissue-based*). This document uses the term ''gestational cells or tissues.'' Differences may exist between FDA's definitions of HCT/Ps and ''gestational cells or tissues'' and CMS' definition of ''birth tissues,'' as CMS is not intending to incorporate FDA's definition into this rulemaking. CMS chose to define and use the term ''birth tissue'' because it is already familiar to tissue establishments and to hospitals that contract with them. Since this proposed CoP would regulate facility-patient interactions, as well as facility policies, documentation, and processes related to informed decision-making and the safe release of birth tissues, CMS chose terminology that is familiar to the affected industry.

[260] *https://stacks.cdc.gov/view/cdc/80634/cdc_80634_DS1.pdf.*

[261] *https://www.hhs.gov/ohrp/regulations-and-policy/regulations/common-rule/index.html.*

[262] *https://www.hhs.gov/ohrp/regulations-and-policy/regulations/45-cfr-46/index.html.*

[263] *https://www.ecfr.gov/current/title-45/subtitle-A/subchapter-A/part-46/subpart-B/section-46.206.*

[264] *https://www.nichd.nih.gov/sites/default/files/inline-files/STILLBIRTH_WG_REPORT_03152023.pdf.*

[265] *https://pubmed.ncbi.nlm.nih.gov/36180175/*'' *https://pubmed.ncbi.nlm.nih.gov/36180175.*

hospital and/or third party will be financially compensated for the procurement, facilitation, transfer, end use or other activity regarding collected tissues. Providing this information supports patient autonomy and empowers the patient to make a decision that reflects the patient's values and preferences.

We propose at § 485.649(c)(1)(iii) to require disclosure of (both not-for-profit and for-profit) third-party involvement and conflicts of interest. ACOG and AMA both recognize the importance of conflict-of-interest disclosure in cord blood banking.[266] Disclosure is particularly important when a hospital, practitioner, or other staff member has a financial contractual, ownership, employment, research, or other business relationship with a third party that could reasonably be viewed as influencing the presentation of delivery options to the patient (such as recommending a cesarean-section over a vaginal delivery) or when such a relationship could result in profit from the processing and sale of birth materials. Patients must receive sufficient information to understand third-party involvement and potential conflicts when they are making decisions about birth tissues associated with their deliveries. These components of the informed consent as required at proposed § 485.649(c)(1)(i) through (vi) are consistent with general informed consent principles and with professional guidance that emphasizes disclosure of financial interests.[267]

We propose at § 485.649(c)(1)(iv) to require information regarding risks, limitations, infection prevention, and quality control considerations. Depending on the activity, relevant information could include the possibility that collection may not be feasible because of maternal or neonatal clinical circumstances, that a specimen may fail to meet volume or quality criteria, that stored birth tissues may not be clinically useful in the future, or that releasing tissue for personal handling may involve infection prevention and storage considerations.

We also propose at § 485.649(c)(1)(v) that the patient be informed that refusal to provide informed consent will not affect access to care or treatment. Patients in labor or experiencing obstetrical emergencies may be vulnerable to time pressure or perceived pressure from clinicians, hospital staff, or third parties. Equally, the patient's decision to request collection or release of birth tissues does not obligate the hospital to provide services that are unsafe, unavailable, or inconsistent with State law or hospital policy. This is consistent with patient exercise of rights at § 485.614(b)(2).

We recognize that timing of consent in the labor and delivery context can be challenging. As previously discussed, the proposed requirements apply to birth tissue obtained during or immediately following labor and delivery resulting in live birth. The timing of the informed consent process does not alter the scope of tissues subject to this proposal. Prenatal education and consent are preferable when feasible, especially for planned donation or banking arrangements, but patients in labor may present without prior knowledge of their options or make key requests at admission or after delivery. Under these proposals, CAHs retain flexibility to design processes that are consistent with clinical practice, patient needs, State law, and the CAH's role provided that consent is obtained before the applicable birth tissue activity occurs whenever possible, and that collection or release activities does not interfere with clinical care (for example, pathologic examination of the placenta). Patient safety takes precedence in high-acuity or emergent circumstances.

Finally, we also recognize that, in some circumstances, a patient may independently arrange with a third-party tissue bank, private bank, courier, or other entity and may ask the hospital solely to accommodate collection or release. In such cases, the hospital is not expected to become an expert in the third party's products, business practices, marketing claims, or downstream uses. The hospital should have a process, consistent with its policies, to document the patient's request; confirm, as appropriate to the CAH's role, that the patient has provided authorization or evidence of the applicable third-party consent; and document the actions taken by the CAH to accommodate, accommodate subject to reasonable conditions, delay, limit, or deny the request based on clinical circumstances, infection prevention, and legal requirements. This approach supports patient choice while ensuring that the CAHs obligations remain proportional to the CAH's actual role and involvement. We note that FDA regulates human cells, tissues, and cellular-tissue based products, including birth tissues.

e. Proposed Policies and Procedures for Cultural, Religious, or Personal Uses (§ 485.649(c)(2))

At § 485.649(c)(2), we propose to require the CAH to have written policies and procedures that permit patients to request retention or release of birth tissues for cultural, religious, or personal reasons, consistent with State law and the CAH's infection prevention and control program requirements under § 485.640. Such policies and procedures would not require patients to provide justification or documentation for their respective cultural, religious, or personal reasons. We propose this requirement because requests for retention or release may arise in routine deliveries, scheduled cesarean deliveries, emergent deliveries, or other clinical contexts, and families and staff need clear procedures for safe, consistent collection and release of birth tissues.

The proposed policies and procedures would address four core topics. First, policies must address processes for patient requests for retention or release of birth tissues. We expect CAHs to specify how and when a patient or representative may make a request, who is responsible for receiving and documenting the request, what forms or authorizations must be completed, and how the hospital will communicate decisions regarding release to the patient. CAHs should design processes that are easily understandable and accessible for their patient population and align with clinical operations.

Second, the policies and procedures must address safe handling, packaging, storage, and release practices of birth tissues. For example, we expect CAHs to identify the personnel responsible for handling birth tissues, provide appropriate containers or packaging as needed in alignment with safe handling, clearly label each tissue container or package as appropriate, accommodate tissue storage pending release as requested by the patient, establish chain-of-custody or handoff processes where needed, and implement protocols for any circumstances requiring consultation with infection prevention personnel, pathology, risk management, or clinical leadership. These procedures should reflect the type of tissue, the intended use, the clinical circumstances, and the CAH's infection prevention and control program. Third,

[266] American College of Obstetricians and Gynecologists, Committee Opinion No. 771, Umbilical Cord Blood Banking (Mar. 2019), *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking;* American Medical Association, Code of Medical Ethics Opinion 6.1.5, Umbilical Cord Blood Banking, *https://code-medical-ethics.ama-assn.org/ethics-opinions/umbilical-cord-blood-banking.*

[267] American College of Obstetricians and Gynecologists, Committee Opinion No. 771, Umbilical Cord Blood Banking (Mar. 2019), *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking.*

we propose that policies and procedures must address circumstances under which retention or release may be limited or denied, including infection prevention and control concerns, biohazard risks, certain clinical conditions, emergency cases, or other applicable legal requirements, as discussed below:

• Infection Prevention and Control Concerns and Biohazard Risks

Suspected or confirmed infection, contamination, or other biohazard concerns may create unacceptable risks that warrant limiting or denying retention or release. Occupational Safety and Health Administration (OSHA) classifies human blood, certain body fluids, and unfixed human tissues and organs as potentially infectious materials.[268] Because placental and related birth tissues may contain blood and other biological material, CAHs would need to implement handling and packaging procedures to protect patients, staff, and others from potential exposure to bloodborne pathogens (for example, HIV, hepatitis B, hepatitis C, or other infectious agents).[269] CAHs must have processes to address safe handling, packaging, storage, and release when patients request retention or release of birth tissues. CAHs should also identify circumstances in which release may be limited or denied due to infection prevention and control concerns consistent with the CAH's infection prevention and control program under § 485.640.

• Certain Clinical Conditions

Retention or release may also be limited when tissue is needed for pathology review or other clinically appropriate diagnostic evaluation. Placental pathology may assist in the evaluation of adverse maternal, fetal, or neonatal outcomes, including fetal growth restriction, stillbirth,[270] infection, congenital abnormalities, preterm birth, placental insufficiency, maternal hypertensive disorders, or other complications of pregnancy and delivery. CAHs should identify in their policies the clinical circumstances under which retention for diagnostic purposes would take precedence over patient's requests for release. To the extent possible, patient requests should take precedence over circumstances under which hospitals may want to retain the placenta or other birth tissues for elective evaluation, research, or other purposes. Unless there are circumstances such as infection prevention concerns or a need for the hospital to retain the birth tissue for appropriate diagnostic evaluation, the patient's autonomy over their biological materials associated with their delivery should be prioritized.

• Emergency Cases

Patient safety takes precedence in all emergency circumstances in which staff cannot safely collect, process, or release birth tissues due to emergent patient care needs. Collection, storage, donation, banking, transfer, or release activities of birth tissues should not delay emergency care, interfere with the clinical management of labor and delivery, or alter medically appropriate obstetric or neonatal practice.[271] [272] A hospital would not be expected to delay necessary clinical intervention to complete a birth tissue consent process or collection activity, and failure to collect birth tissue due to emergent clinical circumstances would not, by itself, constitute noncompliance. To the extent necessary, such consents may be obtained following resolution of the emergency and stabilization of the patient's condition.

• Other Applicable Legal Requirements

Retention, testing, handling, or disposition of birth tissue may also be limited or governed by applicable Federal, State, Tribal, territorial, or local law (see discussion of relevant state laws in Section II. A.5.). By defining these criteria in advance, CAHs provide patients and staff with clear expectations and transparent and consistent processes. These proposed requirements are intended to complement, not interfere with, a CAH's existing authority to retain birth tissues when clinically appropriate or otherwise required by law.

Fourth, at § 485.649(c)(2)(i)(D), we propose that the policies and procedures must address staff education regarding the CAH's procedures for responding to patient requests. This education is intended to be focused and practical. Staff who may receive or respond to requests to know how to identify the applicable policy, document the request, process the request safely and within their scope of services, and provide safe handling instructions when tissue is released.

Lastly, we propose at § 485.649(c)(2)(ii) that the hospital provide patients who request retention or release of birth tissues with instructions for safe handling, transport, storage, and disposition of the tissues, as applicable. These instructions should be understandable, practical, and tailored to the birth tissue and release context. For example, instructions might address the need to maintain tissue in a leak-proof container, avoid exposure to other patients or staff, refrigerate or otherwise store tissue as directed, use appropriate personal protective measures, or comply with applicable local disposition requirements. The proposed requirement would not require CAHs to supervise the patient's use after release, but it does require the hospital to provide instructions that support safe decision-making at the point of release.

In summary, these proposed requirements are intended to operate alongside, not in place of, other existing Federal and State authorities. FDA regulates human cells, tissue and cellular and tissue-based products (HCT/Ps) either under section 361 of the Public Health Service Act and 21 CFR part 1271 or under section 351 of the PHS Act and relevant sections of the FD&C Act as well as applicable regulations. HCT/Ps that do not meet the criteria to be regulated solely under section 361 of the Public Health Service Act and 21 CFR part 1271 are regulated as drugs, devices, and/or biological products.[273] FDA has issued guidance on minimal manipulation and homologous use. FDA also has taken compliance and enforcement actions addressing unapproved HCT/Ps, including products derived from birth tissues.

The proposed CoPs at § 485.649(c) occupies a narrower and distinct role, regulating the facility-patient interaction, facility policies, documentation, and processes for informed decision-making and safe release in Medicare and Medicaid participating CAHs. Nothing in this

[268] OSHA Bloodborne Pathogens Standard, 29 CFR 1910.1030. *https://www.osha.gov/laws-regs/regulations/standardnumber/1910/1910.1030.*

[269] *https://www.cdc.gov/pregnancy-hiv-std-tb-hepatitis/php/screening/index.html.*

[270] *https://www.acog.org/clinical/clinical-guidance/obstetric-care-consensus/articles/2020/03/management-of-stillbirth.*

[271] American College of Obstetricians and Gynecologists, Committee Opinion No. 771, Umbilical Cord Blood Banking (Mar. 2019), *https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2019/03/umbilical-cord-blood-banking.*

[272] American Medical Association, Code of Medical Ethics Opinion 6.1.5, Umbilical Cord Blood Banking, *https://code-medical-ethics.ama-assn.org/ethics-opinions/umbilical-cord-blood-banking.*

[273] Food and Drug Administration, Regulatory Considerations for Human Cells, Tissues, and Cellular and Tissue-Based Products: Minimal Manipulation and Homologous Use; Guidance for Industry and Food and Drug Administration Staff (July 2020), *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/regulatory-considerations-human-cells-tissues-and-cellular-and-tissue-based-products-minimal.*

proposal determines whether any product is lawfully marketed or subject to FDA premarket review. Rather the purpose of the CoPs is to protect patient health and safety and to ensure that quality care is furnished to all patients in Medicare-participating CAHs. In accordance with section 1864 of the Act, State surveyors assess CAH compliance with the conditions as part of the process of determining whether a hospital qualifies for a provider agreement under Medicare. Alternatively, under section 1865 of the Act, CAHs can elect to be reviewed instead by private accrediting organizations approved by CMS as having standards that meet or exceed the applicable Medicare standards and survey procedures comparable to those CMS requires for State survey agencies. Examples of survey and enforcement activities include review of facility policies and procedures, auditing of patient medical records, and interviewing facility leadership and staff.

We invite public comments on proposed § 485.649(c), including the scope of CAHs and activities to which the standard should apply; the proposed definition of birth tissues; the proposed informed consent standard; and the proposed policies and procedures for cultural, religious, or personal uses.

*F. Adoption of the 2024 Edition of the Life Safety Code (National Fire Protection Association (NFPA) 101) and the 2024 Edition of the Health Care Facilities Code (National Fire Protection Association (NFPA) 99)*

1. Background

a. Overview

CMS' oversight of Medicare and Medicaid-certified facilities includes ensuring the health and safety of patients, which involves establishing physical environment and fire safety standards. Building safety system standards are highly complex, technical, and beyond the expertise of CMS as a regulatory body. The National Fire Protection Association (NFPA) convenes technical experts with a vast breadth and depth of fire and building safety expertise to establish consensus-based standards, such as the Life Safety Code (LSC) (NFPA 101) and the Health Care Facilities Code (HCFC) (NFPA 99), and CMS adopts these standards by following the requirements for incorporation by reference. The LSC is a compilation of fire safety requirements for new and existing buildings and establishes minimum requirements for building design, construction, operation, and maintenance necessary to protect people from fire and related hazards. It is updated and published every 3 years.[274] HCFC is a compilation of requirements for the installation, inspection, testing, maintenance, performance and safe practices for facilities, material, equipment and appliances and is updated and published every 3 years by NFPA.

CMS adopts LSC and HCFC provisions through rulemaking. The Administrative Procedure Act (5 U.S.C. 553) requires CMS to follow notice-and-comment rulemaking before adopting, amending, repealing regulations. Since LSC and HCFC are incorporated into Federal regulations, updating to a newer edition constitutes a regulatory change which must go through rulemaking. The process typically begins when the NFPA issues a new edition of the LSC or HCFC, reflecting updated knowledge, best practices, and safety technologies. CMS then evaluates the provisions of the new codes to determine their applicability and impact on health care facilities that participate in Medicare and Medicaid programs. The LSC and HCFC provisions adopted by CMS establish minimum requirements for fire protection and support the emergency preparedness requirements for health care facilities. The codes adopted by CMS encompass critical areas that include, but are not limited to: building construction, fire detection and suppression systems, alarm and communication systems, electrical systems, medical gas and vacuum systems, and gas and electrical equipment. Compliance with the LSC and HCFC not only supports Federal health and safety requirements but also promotes consistency across facilities, reinforces fire emergency readiness, and upholds CMS' commitment to protecting the well-being of all occupants. The LSC and HCFC codes adopted by CMS in the CoPs apply to hospitals, LTC facilities, CAHs, REHs, ASCs, ICFs/IID, hospice inpatient care facilities, PACE centers, RNHCIs and ESRD facilities.

Participation in Medicare or Medicaid requires most provider and supplier types to be certified by CMS as meeting the Medicare Conditions of Participation (CoPs). The statutory basis for incorporating NFPA's LSC and HCFC into the regulations governing Medicare and, where applicable, Medicaid providers and suppliers rests on the authority of the Secretary general rulemaking authority as set forth at sections 1102 and 1871 of the Act, and more specifically the ''health and safety'' provisions applicable to each provider and supplier type, empowering the Secretary to issue regulations necessary for providing health care services, or more specifically for the health and safety of patients. In addition to these rulemaking authorities, sections 1819(d)(2)(B) and 1919(d)(2)(B) of the Act explicitly require Medicare and Medicaid LTC facilities to meet the provisions of the LSC, as specified by the Secretary in regulation.

On May 4, 2016 (81 FR 26872), we published a final rule, ''Fire Safety Requirements for Certain Health Care Facilities'' [275] that adopted the 2012 edition of the NFPA LSC and the 2012 edition of the HCFC, with the exception of chapters 7, 8, 12 and 13, which were not adopted. As such, facilities are currently required to comply with the 2012 editions of each code as part of the Medicare and Medicaid fire safety requirements. However, since the NFPA published the 2012 editions of the LSC and HCFC, there have been advances in safety and technology, and changes made to the LSC and HCFC. Newer buildings are typically built to comply with newer versions of the LSC and HCFC because State and local jurisdictions, as well as some accreditation programs, may adopt and enforce new versions of the code as they become available. This can result in confusion since, for example, a health care facility that was constructed or renovated in 2025 would likely be required by its State and local authorities to comply with a more recent edition of the LSC and HCFC, while also being required to comply with the 2012 edition of the LSC and HCFC to meet the CMS-established regulatory requirements. Additionally, in accordance with E.O. 14192 and E.O. 14219, CMS solicited and received interested parties' input through the 2025 deregulatory RFI.[276] Commenters stated that complying with two different editions of the LSC and HCFC at the same time can create conflicts, duplications, and inconsistencies that increase construction and compliance costs without any fire safety or patient care benefits. They also stated that since the publication of the 2012 edition of the LSC and HCFC, there have been significant advancements in technology, improved inspection, testing, and maintenance strategies and updated

[274] ''NFPA 101 Standard Development.'' National Fire Protection Association. *https://www.nfpa.org/codes-and-standards/nfpa-101-standard-development/101.* Accessed 5 February 2026.

[275] 81 FR 26872.

[276] ''Medicare Regulatory Relief | CMS.'' *Cms.gov,* 2025, *www.cms.gov/medicare-regulatory-relief-rfi. https://www.cms.gov/files/document/unleashing-prosperity-through-deregulation-medicare-program-request-information.pdf.* Accessed September 2025.

building design standards that have lessened the burden of managing health care facilities without compromising patient safety.

We believe that adopting the 2024 edition of the LSC (NFPA 101) and 2024 edition of the HCFC (NFPA 99), would simplify and modernize the construction and renovation process for affected health care providers and suppliers, reduce compliance-related burdens, and allow for more resources to be used for patient care.

b. Waivers

Specific provisions of the adopted NFPA codes may be waived by CMS, either based on facility-specific needs and circumstances or based on widely applicable variances. First, consistent with statutory authorities, the regulations have historically included Secretarial waiver authority to grant waivers of some provisions of the LSC and HCFC in facility-specific instances. For example, section 1861(e)(9) of the Act allows CMS the authority to determine which requirements are necessary for hospitals in general, based on the discretion implicit within the ''health and safety'' rules. By comparison, sections 1819(d)(2)(B)(i) and 1919(d)(2)(B)(i) of the Act explicitly allow CMS to grant LSC waivers for LTC facilities if such waivers do not adversely affect health and safety. State agencies or CMS-approved accreditation organizations (AO) may recommend a waiver; however, only CMS may grant them. Accordingly, all LSC and HCFC waiver requests recommended for approval by State agencies or AOs must be forwarded to CMS for consideration. A waiver may be granted for a specific LSC or HCFC requirement if we determine that—(1) the waiver would not adversely affect patient/staff health and safety; and (2) if meeting the requirement in question would place an unreasonable hardship on the facility. In cases where a facility has been cited for a LSC or HCFC deficiency during a survey, the provider or supplier may request a waiver recommendation from its State survey agency or CMS-approved AO as part of their certification survey plan of correction. The plan of correction is a written response that a facility must submit to the surveyor after deficiencies are identified. The State survey agency or AO reviews the request and makes a recommendation to CMS. CMS reviews the waiver request and the recommendation, along with any supporting evidence and makes the final decision. CMS would not grant a waiver if patient health and safety is compromised. The LSC recognizes alternative systems, methods, or devices approved as equivalent by the authority having jurisdiction as being in compliance with the LSC. CMS, as the authority having jurisdiction over certification, will determine equivalency through the waiver approval process.

c. Regulatory History

On January 10, 2003, we published a final rule ''Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities,'' [277] adopting the 2000 edition of the LSC. In that final rule, we required that all affected facilities meet the provisions of the 2000 edition of the LSC, with the exception of the code's permission for facilities to utilize roller latches on corridor doors in buildings that are fully protected by a sprinkler system. Regardless of its permissibility in the LSC, it was and remains in our position that roller latches on corridor doors are a safety hazard under all circumstances and we prohibit their use on corridor doors in all Medicare and applicable Medicaid facilities.

On September 22, 2006, we published a final rule ''Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities'' [278] to allow certain health care facilities to place alcohol-based hand rub (ABHR) dispensers in exit corridors under specified conditions. Alcohol-based hand rubs are part of hand hygiene strategies used by health care facilities to improve infection prevention and control efforts.[279]

This rule also required that LTC facilities, at a minimum, install battery-powered single station smoke alarms in resident rooms and common areas if their buildings were not fully sprinklered, or if the building did not have system-based smoke detectors. The smoke alarm policy was based on a Government Accountability Office (GAO) report entitled ''Nursing Home Fire Safety: Recent Fires Highlight Weaknesses in Federal Standards and Oversights,'' which examined two 2003 fires that resulted in 31 total resident deaths. The report specifically cited requiring smoke detectors in these facilities as one way to strengthen the requirements. On August 13, 2008, we published a final rule ''Medicare and Medicaid Programs; Fire Safety Requirements for Long Term Care Facilities, Automatic Sprinkler Systems'' [280] to require all LTC facilities to install automatic sprinkler systems throughout their buildings in accordance with the technical provisions of the 1999 edition of NFPA 13, *Standard for the Installation of Sprinkler Systems,* and to test, inspect, and maintain sprinkler systems in accordance with the technical requirements of the 1998 edition of NFPA 25, *Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems.* The August 2008 final rule required all LTC facilities to be equipped with sprinkler systems by August 13, 2013. This rule was also in response to the July 2004 GAO report on nursing home fire safety. On May 12, 2014 CMS published a final rule, ''Part II Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction'' [281] that allowed CMS to grant extensions of up to 2 years to the effective date of the sprinkler requirement for LTC facilities that were building a replacement facility or undergoing major modifications.

While the LSC is a set of fire protection and safety standards that addresses some aspects of accessibility in covered facilities, CMS must emphasize that the LSC is not an accessibility code, and compliance with the LSC does not ensure compliance with the requirements of section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, Sept. 26, 1973) or the Americans with Disabilities Act (ADA) (Pub. L. 101–336, July 26, 1990). State and local government entities, including health care facilities, are required to comply with section 504 of the Rehabilitation Act of 1973 and Title II of the ADA. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against individuals with disabilities in programs and activities that receive Federal financial assistance, while Title II of the ADA prohibits discrimination against individuals with disabilities by State and local governments, requiring all public services, programs, and activities to be accessible. Places of public accommodation such as nursing homes and hospitals are required to comply with Title III of the ADA. Title III of the ADA prohibits discrimination based on disability in public accommodations and commercial facilities, requiring businesses and nonprofit service providers to ensure equal access to their goods, services, and facilities. For more information about the Americans with Disabilities Act (ADA), visit the

[277] 68 FR 1374.

[278] 71 FR 55326.

[279] ''Hand Hygiene in Healthcare Settings''. Centers for Disease Control and Prevention. 18 Mar. 2024, *https://www.cdc.gov/infection-control/hcp/hand-hygiene/.* Accessed 05 February 2026.

[280] 73 FR 47075.

[281] 79 FR 27106.

Department of Justice's ADA website at *https://www.ada.gov* or call 1–800–514–0301 (voice) or 1–833–610–1264 (TTY). For information about Section 504 of the Rehabilitation Act as it applies to recipients of HHS Federal financial assistance, visit the HHS Office for Civil Rights website at *https://www.hhs.gov/ocr.*

2. Proposed Provisions

a. Categorical Waiver Authority

As previously noted, CMS is required to use a notice-and-comment rulemaking process to adopt new editions of the LSC and HCFC, which can be a lengthy process. The NFPA updates each of its codes every 3 years, however, each new edition of the LSC and HCFC may not contain enough significant changes to warrant undergoing the rulemaking process. In the past, CMS has issued public notices in the form of sub-regulatory memoranda related to categorical waivers that permit greater provider flexibility by proactively granting them approval to comply with specific provisions from newer editions of the LSC or HCFC. A categorical waiver is narrowly focused on a single change in a newer edition of a code and is typically a faster alternative to rulemaking, which is used to adopt a newer edition of the LSC and HCFC in their entirety.

We are proposing to codify CMS' authority to issue categorical waivers in the regulatory text of each affected provider type. CMS may evaluate specific provisions of the code, determine that a waiver would arguably apply to all similarly situated facilities, and permit the use of specific provisions of a newer edition of the LSC or HCFC only when the provision would provide an equal or superior means of ensuring patient safety as compared to the provisions of the code editions adopted in regulation at that time. A facility that wishes to use a categorical waiver would have to formally elect to do so and document their decision. Waiver approval in these instances would be subject to CMS' review of documentation maintained by the facility, verification of the applicability of the waiver, and confirmation that the terms and requirements of the waiver have been implemented by the facility. Providers and suppliers that have formally elected and documented their decision to utilize a categorical waiver and are complying with the categorical waiver conditions would not be cited for non-compliance with the specific waived provisions of the edition of the LSC or HCFC adopted by regulation. In most cases such verification of compliance occurs when an onsite survey of the facility is conducted. We would clarify that in those cases where we have issued a prior public notice providing for a categorical waiver, a State survey agency or AO (as applicable) is not required to submit an advance recommendation to CMS for such a waiver to be approved.

b. Incorporation by Reference

In this rule we propose to incorporate by reference the following NFPA codes:

- The 2024 edition of the LSC (NFPA 101), issued August 25, 2023;
- The 2024 edition of the HCFC (NFPA 99), issued August 25, 2023, with the exception of Chapter 7, 8, 12, and 13 (see the discussion in paragraph (h) of this section);
- Tentative Interim Amendment (TIA)-24–1 to NFPA 99, issued August 25, 2023;
- TIA–24–2 to NFPA 99, issued August 25, 2023 and;
- The 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A), issued April 22, 2024.

The materials that we propose to incorporate by reference would be reasonably available to interested parties for inspection at CMS, 7500 Security Boulevard, Baltimore, MD 21244. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169–7471, *www.nfpa.org,* 1–800–344–3555. If any later changes in this edition of the Code are considered for incorporation by reference, CMS would publish appropriate notice in the **Federal Register**.

The 2024 edition of the LSC (NFPA 101) provides minimum requirements, with due regard to function, for the design, operation and maintenance of buildings and structures for safety to life from fire. Its provisions also aid life safety in similar emergencies.

The 2024 edition of the HCFC (NFPA 99), (including TIAs 24–1 and 24–2), with the exception of chapters 7 (Information Technology and Communications Systems), 8 (Plumbing), 12 (Emergency Management), and 13 (Security Management) provides minimum requirements for health care facilities for the installation, inspection, testing, maintenance, performance, and safe practices for facilities, material, equipment, and appliances, including secondary hazards associated with the primary hazards (see the discussion in paragraph (h) of this section); TIA 24–1 and TIA 24–2 include targeted revisions and clarifications to health care facility requirements.

The 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) is a guide that provides alternative methods to achieve compliance with LSC (NFPA 101). It is to be used in conjunction with the LSC (NFPA 101), not as a substitute.

c. Content Overview of the 2024 Edition of the LSC (NFPA 101)

The 2024 edition of the LSC (NFPA 101) includes new provisions that are vital to the health and safety of patients and staff. Our intention is to ensure that patients and staff continue to experience the highest possible degree of fire safety. As in previous sections of this proposed rule, the general term ''patient(s)'' refers to patient, clients, residents and all other terms used to describe the type of individuals receiving services in each facility type discussed in this section.

The following updated general requirements from the 2024 edition of the LSC (NFPA 101) apply to all occupancy chapters of the code unless otherwise stated, including what the LSC terms ''Health Care Occupancies (HCOs)'', ''Ambulatory Health Care Occupancies'' (AHCOs) and ''Residential Board and Care Occupancies'' (RBCOs). We propose to adopt the entirety of requirements of the 2024 edition of the LSC (NFPA 101) (with one exception, addressed in section II.F.1(e)). In this section we highlight some specific requirements that represent a significant change from the 2012 edition of the LSC or additions that constitute new requirements. Each of these changes and additions is discussed in detail in the following paragraphs. This section is not intended to represent a comprehensive list of requirements.

(1) Updated Requirements for Greater Alignment With Building/Fire Codes

NFPA revised the requirements in other NFPA documents (for example, NFPA 72, National Fire Alarm and Signaling Code) to better align with the requirements of the 2024 edition of the LSC (NFPA 101) which we believe will greatly reduce conflicts between design and construction standards and operational compliance requirements. By providing a clear and unified set of standards, jurisdictions could adopt the codes without modification, which in turn would reduce conflicts that might arise between the NFPA standards and State and local fire code requirements.

(2) New Integrated System Testing Requirements—Section 9.11.4

NFPA 4, Standard for Integrated Fire Protection and Life Safety System Testing, is currently referenced at section 9.11.4 of the LSC for high rise HCOs and AHCOs. Section 9.11.4 requires that the system test plans be set in place to test all integrated fire and life safety systems and how they work together. Currently, they are tested individually. Integrated testing will ensure systems are working end-to-end. For example, fire alarm systems must be able to control elevators. Fire alarm testing confirms that a signal is sent to the elevator controller, but it does not verify that the elevator responds and performs its required functions. In many buildings, the fire alarm system and the elevator controller are maintained by different vendors and tested under separate standards; however, NFPA 4 requires the facility to develop and implement a plan for integrated testing to verify that these systems function together as intended. This coordination is critical in health care settings where patients often cannot self-evacuate. By confirming that all interconnected systems work in sequence, NFPA 4 helps keep evacuation routes safe, maintain a safe environment, and support staff in moving or protecting patients during a fire or other emergencies. The new provision, Integrated Fire Protection and Life Safety System Testing for high-rise buildings at section 11.8.9, requires testing to be conducted in accordance with 9.11.4.2 and NFPA 4. Both new and existing high-rise buildings will be required to adhere to NFPA 4 for integrated testing. New high-rise buildings shall be required to conduct their integrated testing prior to issuance of a certificate of occupancy. Existing high-rise buildings shall conduct their integrated testing at intervals not exceeding 10 years unless otherwise specified in an integrated system test plan in accordance with NFPA 4.

(3) New Definition of Gross Floor Area (HCOs and AHCOs)—Sections 3.3.24.2.2 and 3.3.24.2.3

The new definition of ''gross floor area'' no longer requires the inclusion of stairs and shafts within the boundary of smoke compartments or suites to be included in the area calculation, thus changing the way in which the size of these areas are calculated. Revisions to suite size calculations relax requirements regarding the extent of smoke detection, the use of quick-response sprinklers, and direct supervision of occupants by trained staff. Gross floor area now takes into account outside walls and fire walls of a building and walls that bound an occupancy or incidental use area. Gross floor area excludes floor openings for atriums and communicating spaces. A specific definition for HCOs and AHCOs was added to clarify smoke compartment calculations. For HCOs and AHCOs, gross floor area does not deduct stairs, elevator shafts, or service shafts but still excludes atrium and communicating space openings. We believe the changes will continue to provide safe refuge for patients in health care structures who cannot self-evacuate during a fire or emergency.

(4) New Non-Required Fire Door/Frame Does Not Require Inspections—Section 4.6.12.4

Facilities have been required to perform annual fire door inspections even when they are located in barriers that are not required to have a fire-resistance rating, as the doors were interpreted to be a life safety feature ''obvious to the public.'' The 2024 edition of the LSC (NFPA 101), Section 4.6.12.4 states that doors and door frames located in barriers that are not required to have a fire-resistance rating under the life safety plans are also no longer required to comply with NFPA 80, *Standard for Fire Doors and Other Opening Protectives.* This change would alleviate the annual inspection and testing requirement of the door assembly and would remove the need to modify door labels to avoid the annual inspection and testing requirement. This change would reduce the burden on facilities by no longer requiring compliance with NFPA 80 for non-required fire doors and frames.

(5) New Security and Communications Systems Allowed in Stairs Requirements—Section 7.1.3.2.1(9)(c)

Section 7.1.3.2.1(9)(c), permits penetrations into an exit enclosure for security and communication systems, provided the pathways are installed in metal conduit. The new provision for means of egress at 7.1.3.2.1(9)(c) allows penetrations into *and* openings through an exit enclosure assembly for security and communication systems as long as they are installed in a metal conduit. This provision would enhance patient safety by ensuring that critical security and communication systems serving exit enclosures remain operational during an emergency.

d. New and Existing Health Care Occupancies—Chapter 18 and 19

The 2024 edition of the LSC (NFPA 101) introduces several important new provisions in Chapter 18, New Health Care Occupancies, and Chapter 19, Existing Health Care Occupancies, as discussed in the sections that follow immediately in this rule. We have provided the LSC citation and a description of the updated 2024 requirements at the beginning of each section discussed.

In the 2024 edition of the LSC (NFPA 101), a ''Health Care Occupancy'' is defined as any facility that provides inpatient care for four or more patients. However, CMS does not apply this LSC standard with respect to patient census numbers. Unless specifically noted, the requirements, conditions of participation, and conditions for coverage for all Medicare and Medicaid-participating health care providers and suppliers subject to these rules would apply on a facility basis, regardless of the size of the facility or the facility's patient census. These basic requirements are established to ensure a core level of safety and quality for all patients, regardless of where they receive health care services. We believe that patients in small facilities should be assured of the same level of fire safety as those in larger facilities. Therefore, we propose that this definition would be inapplicable to Medicare and Medicaid-certified facilities because all HCOs that provide care to one or more patients would be required to comply with the relevant requirements of the 2024 edition of the LSC (NFPA 101).

(1) New Alternate Care Sites (ACS) Requirements—Sections 18.1.1.1.10, 19.1.1.1.10

The 2024 edition of the LSC includes a new definition for ''alternate care site'' (ACS) (3.3.16). An ACS is defined as a building, structure, or portion thereof not currently being used for health care that is temporarily reoccupied, converted, constructed, or relocated for health care use during an urgent need in capacity to provide additional capability for an affected community. This provision permits the use of an ACS for health care during an urgent need to provide additional capability for communities. New and existing HCOs may allow an ACS to temporarily convert to an HCO with an approved fire emergency plan and comply with alternate construction, design, protection, operational, and occupancy classification requirements. The associated provisions are intended to address urgent surges in demand and ensure that affected communities have safe, code-compliant capacity during times of public health emergencies or other crises.

(2) New Clarity Around Suite Requirements—Sections 18/19.2.5.7.2.2 & 18/19.2.5.7.3.1and 18/19.2.5.7.2.4 & 18/19.2.5.7.3.3

Suite size and egress requirements have been clarified to make sure that requirements can be applied and enforced correctly. In both new and existing Health Care Occupancies, the requirements for means of egress from sleeping and non-sleeping suites (Sections 18/19.2.5.7.2.2 and 18/19.2.5.7.3.1) now allow additional options for providing a single exit access door in suites that would otherwise require two exit access doors. One of the exit access doors shall be permitted to be either an exit stair, exit passageway, exit door to the exterior or another suite (separated by corridor requirements in Chapters 18 and 19). The 2024 edition of the LSC (NFPA 101) also provides clarified guidance for HCOs on travel distance requirements within patient care sleeping and non-sleeping suites (Sections 18/19.2.5.7.2.4 and 18/19.2.5.7.3.3).

(3) New Requirements for Hazardous Areas—Sections 18.3.2.1.3 and 19.3.2.1.5

Requirements were added for new and existing HCOs regarding hazardous areas. Rooms used as sterile core areas supporting operating rooms and anesthetizing areas shall be considered hazardous areas and be protected by smoke partitions unless provided with automatic extinguishing systems; walls that limit the transfer of smoke; and doors with self-closing or automatic-closing devices. This is a patient safety requirement to ensure that hazardous areas are protected appropriately.

(4) New Carbon Monoxide (CO) Detector Requirements—Sections 18.3.2.5.3(15)/18.3.4.6

The 2024 edition of the LSC (NFPA 101) includes a new definition for CO alarms (3.3.14.1). CO alarms, whether single- or multiple-station, alert facility occupants to the presence of unsafe levels of CO within the facility. The 2024 edition of the LSC now requires facilities to have CO detection and warning equipment in accordance with NFPA 72, National Fire Alarm and Signaling Code, to enhance patient safety. Requirements for CO detection were added for cooking facilities open to the corridor, to ceilings of rooms containing fuel-burning appliances or fireplaces, and within 36 inches of the first air vent from fuel-burning heating, ventilation and air-conditioning (HVAC) systems in new HCOs. In addition, requirements for CO detection were also added where new residential board and care facilities that have communicating garages, fuel-burning appliances, or fuel burning fireplaces. Effective with the 2024 edition of the LSC (NFPA 101), new HCOs are required to have CO detection and warning equipment provided in accordance with NFPA 72 to increase patient safety. The new requirements apply to locations in facilities with fuel-burning appliances, fuel burning fireplaces, fuel burning HVAC systems, and attached garages.

(5) New Requirements for Coded Announcements Permitted for Fire Alarm Notification Appliances—Sections 18/19.3.4.3.1 & 20/21.3.4.3.1.2

Instead of fire alarm notification appliances (loud horns and strobe lights) that need to be activated, facilities are permitted to use coded announcements to staff. This should improve patient experience as the alarm notification appliances can startle patients and only signal something is wrong without providing context, while coded announcements support a patient-centered care environment. The fire alarm notification systems still need to be tested at intervals but not as frequently activated during fire drills. New and existing HCOs and new and existing AHCOs have revised the occupant notification requirements at sections 18/19.3.4.3.1 & 20/21.3.4.3.1.2 of the LSC (NFPA 101) to permit the omission of notification appliances in patient care spaces. The requirement is applicable where alarm notification would adversely affect patient care and the private operating mode (the mode in which only staff or key personnel responsible for initiating and directing emergency actions are notified) is utilized in accordance with NFPA 72, National Fire Alarm and Signaling Code.

(6) New Requirements for Subdivision of Building Spaces—Sections 18.3.7.1 and 19.3.7.1, 20.3.7.2 and 21.3.7.2

New and existing HCOs smoke compartment maximum size has increased to 40,000 square feet where the building is protected by quick-response or listed residential sprinklers, sleeping rooms are configured for only one patient or contain no sleeping rooms, and the maximum travel distance from any point to reach a door in the required smoke barrier does not exceed 200 feet. In existing hospitals, standard-response sprinkles are permitted to continue to be used in approved existing sprinkler systems where quick-response and residential sprinklers were not listed for use at the time of installation. This requirement allows for new and existing HCOs to have more flexibility with the designs of hospital smoke compartments.

(7) New Increased Maximum Allowable Sizes for Soiled Linen and Trash Receptacles Requirements—Sections 18/19.7.5.7.1/.2

The 2024 edition of the LSC (NFPA 101) states the maximum allowable size of soiled linen and trash receptacles not located in hazardous area enclosures increased from 32 gallons to 64 gallons. This modification made the requirement consistent with the threshold for a room storing soiled linen or trash to be considered a hazardous area. Additionally, the 2018 edition of the LSC (NFPA 101) removed the restriction limiting the capacity of containers within any 64-square-foot area, thus improving flexibility for environmental services staff. The container density criteria requirements from Sections 18/19.7.5.7.1/.2 were removed from new and existing HCOs and AHCOs. Also, the capacity for soiled linen or trash collection receptacles increased from 32 gallons to 64 gallons and they are required to be located in a hazardous area when not attended. Two exceptions apply to receptacles used solely for the purpose of recycling of clean waste or patient records awaiting destruction, which have a maximum capacity of 96 gallons and are required to be labeled and listed in accordance with FM Approvals 6920/6921. FM (Factory Mutual) Approval is a certification system that verifies the performance and safety of products and systems.

(8) Requirements for High-Rise Building Containing HCOs

The 2012 edition of the LSC (NFPA 101), which was adopted in the CMS final rule titled, *Medicare and Medicaid Programs; Fire Safety Requirements for Certain Health Care Facilities,*[282] required existing HCOs in a high rise building to be fully sprinklered. The LSC allowed for a 12-year phase-in period for compliance., which began on the day of publication of the final rule. Considering the CMS adoption of the 2012 edition of the LSC (NFPA 101), became effective on July 5, 2016, high-rise buildings containing existing HCOs (for example, hospitals, LTC facilities, inpatient hospice) must be compliant by July 5, 2028. Requiring existing HCOs in high-rise buildings to be fully sprinklered improves patient safety by providing rapid, automatic fire suppression close to the source of ignition. In health care settings, many patients cannot self-evacuate, so

[282] 81 FR 26872.

delaying or containing to allow time for the relocation or protection of patients. This requirement would remain unchanged.

e. Roller Latches—Sections 18.3.6.3.9.1 and 19.3.6.3.5

As previously stated, on January 10, 2003, we published a final rule in the **Federal Register** (68 FR 1374) adopting the 2000 edition of the LSC. In that final rule, we required that all affected facilities meet the provisions of the 2000 edition of the LSC, with certain exceptions. One of the exceptions to the 2000 edition of the LSC is the code's use of roller latches on corridor doors in buildings that are fully protected by a sprinkler system. A roller latch is a type of door latching mechanism to keep a door closed. Through fire investigations, roller latches have proven to be an unreliable door latching mechanism requiring extensive maintenance to operate properly. Many roller latches in fire situations failed to provide adequate protection to residents in their rooms during an emergency. Roller latches that are not properly maintained may be a danger to the health and safety of patients and staff. In addition, we found through our online survey, certification, and reporting (OSCAR) system data report that doors that include roller latches are consistently one of our most cited deficiencies. In fact, in skilled nursing facilities roller latches in corridor doors are consistently the number one cited deficiency under the life safety requirements.

The 2024 edition of the LSC (NFPA 101) requires corridor doors to be provided with a means for keeping the door closed that is acceptable to the authority having jurisdiction. The LSC permits roller latches capable of keeping the door fully closed if a force of 5 pounds is applied at the latch edge or roller latches in fully sprinklered buildings.

Regardless of its permissibility in the LSC, it was and remains our position that roller latches on corridor doors are a safety hazard under all circumstances and CMS prohibits their use on corridor doors. Therefore, we propose to continue prohibiting the use of roller latches in existing and new HCOs for corridor doors, excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the LSC.

f. New and Existing Ambulatory Health Care Occupancies—Chapters 20 and 21 [283]

In this section we describe select new provisions in Chapter 20, ''New Ambulatory Health Care Occupancies'' and Chapter 21, ''Existing Ambulatory Health Care Occupancies,'' of the 2024 edition of the LSC (NFPA 101). This discussion is intended to provide a high -level overview of the changes and additions from the 2012 edition that we have determined to be the most impactful to patient safety and enhancing provider flexibility, and most relevant to provider compliance interests. We have provided the LSC citation and a description of each selected requirement at the beginning of each section discussed.

The 2024 edition of the LSC (NFPA 101) defines an ''Ambulatory Health Care Occupancy'' as a facility capable of treating 4 or more patients simultaneously on an outpatient basis. However, CMS does not apply any patient census standard to its enforcement of the LSC regulations. The CMS regulations, including the LSC as incorporated by reference, apply to a regulated facility regardless of its size. CMS regulations for ASCs at *https://www.ecfr.gov/current/title-42/section-416.4442* CFR 416.44 require that all ASCs meet the provisions applicable to AHCOs, regardless of the number of patients served. We believe that hospital outpatient surgical departments are comparable to ASCs and thus propose that they should also be required to meet the provisions applicable to AHCOs in chapters 20 and 21 of the LSC (NFPA 101), regardless of the number of patients served.

(1) New Coded Announcements Permitted for Fire Alarm Notification Appliances Requirements—Sections 20/21.3.4.3.1.2

Instead of needing to activate fire alarm notification appliances (loud horns and strobe lights), facilities are permitted to use coded announcements to staff. This should improve patient experience as the alarm notification appliances can startle patients and only signal something is wrong without providing context, while the coded announcements support a patient-centered care environment. The fire alarm notification system still needs to be tested at intervals but not as frequently activated during fire drills. New and existing HCOs and new and existing AHCOs have revised the occupant notification requirements at section 20/21.3.4.3.1.2 of the LSC (NFPA 101) to permit the omission of notification appliances in patient care spaces. The requirement is applicable where alarm notification would adversely affect patient care and the private operating mode (the mode in which only staff or key personnel responsible for initiating and directing emergency actions are notified) is utilized in accordance with NFPA 72, National Fire Alarm and Signaling Code.

(2) New Carbon Monoxide (CO) Detectors Requirements—Section 20.3.4.5

The 2024 edition of the LSC (NFPA 101) includes a new definition for CO alarms (3.3.14.1). CO alarms, whether single- or multiple-station, alert facility occupants to the presence of unsafe levels of CO within the facility. The 2024 edition of the LSC now requires facilities to have CO detection and warning equipment in accordance with NFPA 72, National Fire Alarm and Signaling Code, to enhance patient safety. Requirements for CO detection were added for cooking facilities open to the corridor, to ceilings of rooms containing fuel-burning appliances or fireplaces, and within 36 inches of the first air vent from fuel-burning HVAC systems in new HCOs. In addition, requirements for CO detection were also added where new residential board and care facilities that have communicating garages, fuel-burning appliances, or fuel burning fireplaces. Effective with the 2024 edition of the LSC (NFPA 101), new AHCOs are now required to have CO detection and warning equipment provided in accordance with NFPA 72 to increase patient safety. The new requirements apply to locations in facilities with fuel-burning appliances, fuel burning fireplaces, fuel burning HVAC systems, and attached garages.

(3) New Requirements for the Subdivision of Building Spaces—Sections 20.3.7.2 and 21.3.7.2

New and existing AHCOs smoke compartment maximum size has increased to 40,000 square feet (3720 square meters) where the building is protected throughout by an automatic sprinkler system. This requirement allows for design flexibility and reduces burden.

[283] Ambulatory Health Care Occupancies include ambulatory surgical centers (ASC), Hospital Outpatient Surgical Departments, end-stage renal disease (ESRD) Facilities, rural emergency hospitals (REHs). This could also include separated sections of buildings that meet the LSC definition of an Ambulatory Health Care Occupancy and are separated in accordance with the LSC (for example, Hospital Emergency Room).

(4) New Increased Maximum Allowable Sizes for Soiled Linen and Trash Receptacles Requirements—Sections 20/21.7.5.5.1/.2

The 2024 edition of the LSC (NFPA 101) states the maximum allowable size of soiled linen and trash receptacles not located in hazardous area enclosures increased from 32 gallons to 64 gallons. This modification made the requirement consistent with the threshold for a room storing soiled linen or trash to be considered a hazardous area. Additionally, the 2018 edition of the LSC (NFPA 101) removed the restriction limiting the capacity of containers within any 64-square-foot area, thus improving flexibility for environmental services staff. The container density criteria requirements from sections 18/19.7.5.7.1/.2 and 20/21.7.5.5.1/.2 were removed from new and existing HCOs and AHCOs. Also, the soiled linen or trash greater than 64 gallons (an increase from 32 gallons) are required to be located in a hazardous area when not attended. Two exceptions apply to receptables used solely for the purpose of recycling clean waste or patient records awaiting destruction, which may have a maximum capacity of 96 gallons and must be labeled and listed in accordance with FM Approvals 6920/6921. FM Approval is a certification system that verifies the performance and safety of products and systems.

(5) New Requirements for High-Rise Buildings—Section 21.4.3.1

The 2024 edition LSC includes a provision requiring existing high-rise buildings containing AHCOs to be protected throughout a complete, approved, supervised automatic sprinkler system within 12 years of the adoption of the Code. This requirement improves patient safety throughout an existing high rise building that contains an AHCO.

(6) Removal of Requirement: Doors to Hazardous Areas—Section 20.3.2.1/21.3.2.1

We propose to remove an obsolete requirement for ambulatory surgical centers (ASCs) at § 416.44(b)(6) regarding doors to hazardous areas. ASCs were required to be in compliance with this requirement by July 5, 2017. All existing and new ASCs must meet this requirement pursuant to the LSC; therefore, continuing to specify this requirement in our regulations is redundant and no longer necessary.

g. New and Existing Residential Board and Care Occupancies (RBCOs)—Chapters 32 and 33 [284]

The 2024 edition of the LSC (NFPA 101) classifies ''board and care'' as a facility ''used for lodging or boarding of 4 or more patients not related to the owners or operators by blood or marriage, for the purpose of providing personal care services.'' However, CMS does not apply any patient census standard to its enforcement of its regulations, including the regulation that incorporates the LSC by reference. As such, CMS will continue to enforce the LSC for residential board and care occupancies of all sizes. We note that the only CMS-regulated facilities that would be subject to these provisions would be intermediate care facilities for individuals with intellectual disabilities (ICFs/IID), whose health and safety standards are regulated under 42 CFR part 483, subpart I.

The following are new key provisions that appear in the 2024 edition of the LSC (NFPA 101) for Chapter 32, ''New Residential Board and Care Occupancies'' (RCBOs) and Chapter 33, ''Existing Residential Board and Care Occupancies.'' We are providing the LSC citation and a description of the requirement at the beginning of each section discussed.

(1) New Carbon Monoxide (CO) Detectors Requirements—Sections 32.2.3.4.4/32.3.3.4.9

A definition of CO alarm extracted from NFPA 72, National Fire Alarm and Signaling Code, was added to support new requirements. Requirements for CO detection were added for cooking facilities open to the corridor, to ceilings of rooms containing fuel-burning appliances or fireplaces, and within 36 inches of the first supply air register from fuel-burning HVAC systems in new health care occupancies. In addition, requirements for CO detection were also added where new residential board and care facilities that have communicating garages (garage space that directly connects with another portion of the building through a doorway, passage, or a common wall), fuel-burning appliances, or fuel burning fireplaces. Certain exceptions apply to New RBCOs for unattached garages, open parking structures, and mechanically ventilated attached garages. NFPA 101 extracted the definition (located in section 3.3.14.1) from NFPA 72 to align with the new requirements. New RBCOs are now required to have CO detection and warning equipment provided in accordance with NFPA 72 to increase patient safety.

(2) New Cooking Facilities Requirements—Sections 32.3.3.8 and 33.3.3.8

The 2024 edition of the LSC (NFPA 101) added exceptions for new *large* RBCOs—defined as facilities providing sleeping accommodations for more than 16 residents—that exempt certain cooking facilities from protection as commercial cooking equipment in accordance with NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations. The changes provide greater flexibility for cooking facilities designed for residential use in RBCOs, removing the need for them to meet full commercial kitchen fire protection standards. In addition, these same requirements and exceptions now apply to existing large RBCOs, except where the cooking installations are approved existing installations. Those approved installations are permitted to remain in service in accordance with section 9.2.3. The exceptions added for RBCOs in the 2024 edition of the LSC (NFPA 101) will provide additional patient safety and reduce burden.

(3) New Requirements for Portable Fire Extinguishers—Section 33.3.3.5.7

The 2024 edition of the LSC (NFPA 101) has revised the portable fire extinguishers requirements in large (meaning sleeping accommodations for more than 16 residents) existing RBCOs to be provided throughout rather than only near hazardous areas. There was no change to the portable fire extinguisher requirements in new RBCOs. These revised requirements will provide additional patient safety.

(4) Removal of Obsolete Requirements

We are proposing to remove two obsolete requirements for ICFs/IID. At § 483.470 (j)(1)(iv) and § 483.470 (j)(5)(iv), ICFs/IID were required to be in compliance with the requirements regarding sprinklers and heat detection systems in attics on and after July 5, 2019. All existing and new ICFs/IID must meet this requirement pursuant to the LSC; therefore, continuing to specify this requirement in our regulation is redundant and no longer necessary.

h. 2024 Edition of the Health Care Facilities Code (NFPA 99)

The 2024 edition of the HCFC (NFPA 99) addresses requirements for both health care occupancies and ambulatory care occupancies and serves as a

[284] Facilities deemed to be ICFs/IID would fall under the Residential Board and Care Occupancies (RBCOs) per the NFPA.

resource for those who are responsible for protecting health care facilities from fire and associated hazards. The purpose of this Code is to provide minimum requirements for the installation, inspection, testing, maintenance, performance, and safe practices for health care facility materials, equipment and appliances. The HCFC is a compilation of documents that have been developed over a 40-year period by NFPA and is intended to be used by those persons involved in the design, construction, inspection, and operation of health care facilities, and in the design, manufacture, and testing of appliances and equipment used in patient care areas of health care facilities. It provides information on various subjects, such as medical gas and vacuum systems, electrical systems, electrical equipment, and gas equipment. The HCFC applies specific requirements in accordance with the results of a risk-based assessment methodology. A risk-based approach allows for the application of requirements based upon the types of treatment and services being provided to patients or residents rather than the type of facility in which they are being performed.

To ensure the minimum level of protection afforded by the HCFC is applicable to all patient and resident care areas within a health care facility, CMS is proposing to incorporate by reference the 2024 edition of the NFPA 99 with the exception of chapters 7 (Information Technology and Communications Systems for Health Care Facilities); 8 (Plumbing); 12 (Emergency Management); and 13 (Security Management). We are not proposing to incorporate these chapters as we believe they are not within the scope of the CoPs and CfCs. In the following section, we describe selected provisions from the 2024 edition of the NFPA 99 that we have determined as the most significant in terms of patient health and safety. We are providing the HCFC citation and a description of the requirement at the beginning of each section discussed. The first three chapters of NFPA 99 address the administration of the HCFC, the referenced publications, and definitions.

(1) New Auxiliary Connection Requirements—Section 5.1.3.5.14

This new section of the 2024 edition of the NFPA 99 provides requirements for medical gases and vacuum systems to have auxiliary connections which allow emergency supply through a temporary source such as a truck in instances where there is an issue with the primary supply or where system maintenance requires shutdown of the source. This requirement provides additional patient safety features for health care facilities.

(2) New Oxygen Central Supply Systems Using Concentrator(s) Requirements—Section 5.1.3.9

This new section allows oxygen central supply systems to use an oxygen concentrator as one of the supply sources. Oxygen concentrators are engineered assemblies that concentrate oxygen from air to provide medical grade oxygen. This is a new form of technology allowed for health care facilities and provides additional patient safety.

(3) New Medical Gas, Vacuum, and Waste Anesthetic Gas Disposal Systems Requirements—Sections 5.1.10.1.4 and 5.1.10.2.1

This change allows for new piping corrugated medical tubing (CMT) material and is now permitted for medical gas, vacuum, and waste anesthetic gas disposal systems. CMT is flexible copper tubing that is externally coated with non-metallic fire-retardant sheath. Previously, only rigid copper tubing was allowed. Copper tubing cannot be bent and is typically brazed together, which is a specialized and labor-intensive process. CMT is typically provided in longer lengths than rigid copper tubing, is flexible requiring less cutting and fittings, and does not need to be brazed, making it more efficient and economical to install. In particular, CMT is beneficial for facilities undergoing renovations in reducing costs and time when an old system is taken out of service. This change would reduce burden, provide a new form of technology, and provide additional patient safety. This provision would enhance patient safety by lowering the risk of gas leaks, ensuring more reliable delivery of oxygen and medical gases to patients, and minimizing interruptions to critical gas and vacuum services.

(4) New Electrical Maintenance Program—Section 6.9

A new section has been added to NFPA 99 that includes requirements and prescriptive intervals for electrical system components that must undergo routine inspection, maintenance, and testing. It also consolidates existing requirements and guidance that were previously located in several sections of the code so that facilities can find a comprehensive list of minimum requirements for such a program. These requirements will reduce burden and provide patient safety by preventing electrical system failures that could disrupt patient care.

(5) New Health Care Microgrids—Section 6.10

NFPA 99 now permits normal and emergency power to be supplied by sources other than a generator or battery system, including a health care microgrid system (HCMS). HCMSs are small-scale personalized electrical networks with intelligent controls that can operate independently, or in tandem with a large-scale electric grid. The power sources for an HCMS can be provided or supplemented by a combination of alternative technologies such as fuel cells, solar panels, wind turbines, and energy storage systems. Microgrids provide a small-scale electrical network option that is tailored to each facility's needs. They are able to operate independently or with a larger electric grid. CMS issued a categorical waiver memo in March 2023 (QSO–23–11–LSC) to waive requirements in the 2012 edition of NFPA 99 that essential electric systems must be supplied by a generator or battery system, thus allowing for health care facilities to choose microgrids as a supply for essential electric systems when a microgrid best meets the needs of the facility. In proposing to adopt the 2024 edition of the NFPA 99, QSO–23–11–LSC could be rescinded as it would no longer be necessary.

(6) New Heliports Requirements—Section 16.8

A new requirement was added that references NFPA 418, Standard for Heliports, which establishes minimum fire safety requirements for the design, construction, maintenance, and operation of heliports.

i. Fire Safety Evaluation System (FSES, NFPA 101A)

On May 4, 2016, we published a final rule titled ''Fire Safety Requirements for Certain Health Care Facilities,'' adopting the 2012 edition of the LSC (NFPA 101). One of the references in the LSC is NFPA 101A, Guide on Alternative Approaches to Life Safety, also known as the Fire Safety Evaluation System (FSES). NFPA 101A is based on the most current LSC (NFPA 101) edition; therefore, it is published after NFPA 101.

The FSES is a scoring system in which points are scored based on predetermined criteria related to a facility's zone location, containment, extinguishment, and people movement. A facility that achieves a passing score on the FSES would be considered to meet the fire safety requirements for

Medicare and Medicaid certification and recertification in lieu of compliance with the LSC exactly as it is written. The FSES allow for flexibilities in the application of LSC standards to ensure equivalent fire safety protection when alternate materials, designs, or construction techniques are used in a particular facility. In 2017, CMS adopted the 2013 edition of the NFPA 101A by issuing a memo (QSO–17–15–LSC) [285] to permit the FSES option as an alternative approach to meeting the requirements of the LSC (NFPA 101) for health care occupancies and board and care occupancies. However, some LTC facilities that utilized the 2013 edition of the NFPA 101A to determine compliance with the containment, extinguishment and people movement requirements of the LSC were no longer able to achieve a passing score on the FSES due to a change in scoring methodology. To address this issue, in the August 2022 final rule (87 FR 47502), we finalized changes to § 483.90(a)(1)(iii) to allow LTC facilities that were Medicare or Medicaid-certified before July 5, 2016, and that had previously used the FSES to determine equivalent fire protection levels, to use the mandatory values from the 2001 edition of the FSES to meet the applicable requirements. This allowed existing LTC facilities that previously met the FSES requirements to continue to do so without incurring substantial financial burden to modify their construction type, while preserving the health and safety of residents and staff.

As we propose to adopt the 2024 edition of the LSC (NFPA 101), we are also proposing to adopt the 2025 edition of NFPA 101A. We propose to offer hospitals, LTCs, CAHs, ICFs/IID, hospice inpatient care facilities, PACE centers, and RNHCIs the option to use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) as a method to demonstrate compliance with the provisions of the 2024 edition of the LSC (NFPA 101). Additionally, the 2024 edition of the LSC the NFPA revised the requirements in such a way that, when applying the FSES standards to achieve equivalent compliance with the LSC standards, affected LTC facilities would now achieve a passing FSES score and be considered compliant with the CMS requirements. Therefore, we propose to remove the obsolete requirements set forth at § 483.90(a)(1)(iii). We have determined that the updated mandatory point value scoring contained within the 2025 edition of the NFPA 101A would allow the appropriate degree of flexibility for LTC facilities while assuring resident and staff safety.

j. Adoption of the 2022 Edition of the Standard for Emergency and Standby Power System (NFPA 110), the 2022 Edition of the Standard for the Installation of Sprinkler Systems (NFPA 13), and the 2023 Edition of the Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (NFPA 25)

(1) Incorporation by Reference

In this rule we are proposing to incorporate by reference the following supporting standards, which are referenced by the 2024 edition of the LSC and HCFC:

- The 2022 edition of the Standard for Emergency and Standby Power Systems, NFPA 110, issued April 8, 2021;
- The 2022 edition of the Standard for the Installation of Sprinkler Systems, NFPA 13, issued April 15, 2021; and
- The 2023 edition of the Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, NFPA 25, issued September 1, 2022.

The materials that we propose to incorporate by reference would be reasonably available to interested parties and can be inspected at CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD 21244. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169–7471, 1–800–344–3555. If any later changes in this edition of the Code are considered for incorporation by reference, CMS would publish appropriate notice in the **Federal Register**.

k. 2022 Edition of the Standard for Emergency Standby Power Systems (NFPA 110)

The 2022 edition of the Standard for Emergency Standby Power Systems (ESPS) (NFPA 110) addresses performance requirements for emergency and standby power systems. These systems provide an alternate source of electrical power in buildings when the normal electrical power source fails. Emergency power systems are made up of several components that need to work together to make sure electrical power is restored. These include power sources, transfer equipment, controls, supervisory equipment, and accessory equipment needed to supply electrical power to the selected circuits. In addition, the 2024 edition of the NFPA 101 and NFPA 99 identifies the 2022 edition of ESPS (NFPA 110) as a mandatory reference, which establishes requirements for the installation, maintenance, operation, and testing of emergency and standby power systems Therefore, CMS is proposing to replace references to the 2010 edition of the ESPS (NFPA 110), including TIAs to chapter 7, issued August 6, 2009, with an incorporation by reference of the 2022 edition of the ESPS (NFPA 110), issued April 8, 2021. In the following section, we describe selected provisions that represent a significant change from the 2010 edition of the ESPS (2010) or additions that constitute new requirements.

(1) Chapter 5 Emergency Power Supply (EPS): Energy Sources, Converters, and Accessories

This chapter establishes requirements for the selection, installation, and operating conditions of energy sources (such as generators), temperature maintenance, fuel storage, and associated accessories that together make up the EPS.

Section 5.6.9.9, Generators, Exciters, and Voltage Regulators, specifies that the generator instrument panels for Level 1 applications must provide a voltage-adjusting feature to allow ±5 percent voltage adjustment and an AC kW or kVA meter to show total generator load. This requirement ensures that operators have immediate access to critical generator performance data for safe and effective monitoring during emergency operations.

(2) Chapter 7 System Design and Environmental Considerations

This chapter introduces enhanced clarity and requirements regarding the installation environment and service accessibility for Emergency Power Supply Systems (EPSS).

Section 7.2.6.1 mandates that generator sets installed in outdoor enclosures must provide a minimum of 0.9 meters (36 inches) of working space from the outside edge of the enclosure for inspection, repair, maintenance, cleaning, or replacement, or enough space to fully open all hinged doors, whichever is greater. This codifies best practices in system accessibility and safety, ensuring that maintenance personnel have unobstructed access to critical equipment components for reliable EPSS operation.

Section 7.13.5 provides comprehensive requirements for the acceptance testing of fuel cell–based Emergency Power Supply Systems

[285] ''Use of Fire Safety Evaluation System (FSES), National Fire Protection Association (NFPA 101A)''. *CMS.gov,* 2023, *https://www.cms.gov/files/document/17-15-lsc-revised.pdf.* Accessed April 2026.

(EPSS). This section mandates on-site acceptance testing protocols tailored to the unique operational characteristics of fuel cell technologies. It specifies that the EPSS must perform within the standard's limits, with compliance determined through a sequence of tests that simulate actual load conditions and system transfer responses. Key provisions include testing all fuel cell units with building load, documenting start-up timings, unit response, and all transfer switch operations. The tests also require at least 1.5 hours of continuous operation with either building or simulated loads. All voltage, frequency, amperage, and timing data must be recorded, and safeties specified to be verified on-site per manufacturer recommendations.

l. 2022 Edition of the Standard for the Installation of Sprinkler Systems (NFPA 13)

The 2022 edition of the Standard for the Installation of Sprinkler Systems (NFPA 13) provides the minimum requirements for the design, installation, and testing of automatic sprinkler systems to achieve a reasonable degree of protection for life and property from fire. In addition, the 2024 edition of the NFPA 101 and NFPA 99 identifies the 2022 edition of NFPA 13 as a mandatory reference. Therefore, CMS is proposing to incorporate by reference the 2022 edition of the Edition of the Standard for the Installation of Sprinkler Systems (NFPA 13) issued April 15, 2021, to replace the currently required 1999 edition of the code.

In the following section, we describe selected provisions that represent a significant change from the 1999 edition of the NFPA 13 or additions that constitute new requirements.

(1) Chapter 19, Design Approaches

Chapter 19, Design Approaches, provides comprehensive requirements for determining water demand and design approaches for spray sprinklers, detailing both hydraulic calculation and pipe schedule methods to address occupancy hazard fire control.

Section 19.2.3, Water Demand Requirements—Hydraulic Calculation Methods, governs water demand requirements using hydraulic calculation methods for occupancy hazard fire control. This section clarified and streamlined approaches for hydraulic calculations, distinguishing it from the pipe schedule method. It now emphasizes clearer requirements and organization for determining water demand, enhancing consistency and usability for design professionals in applying the hydraulic calculation method to extra hazard occupancies and other scenarios where appropriate.

(2) Chapter 30 Existing System Modifications

Chapter 30, Existing System Modifications, consolidated all requirements related to modifications of existing sprinkler systems into a single chapter. The requirements of this chapter apply if a system is being modified, added to, or repaired. This chapter provides clear and unified guidance improving both compliance and usability for system modifications. Previously approved or existing systems shall be allowed to remain in use as installed.

m. 2023 Edition of the Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (NFPA 25)

The 2023 edition of the Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (NFPA 25) establishes the minimum requirements for the periodic inspection, testing, and maintenance of water-based fire protection systems to ensure their operational readiness and provide a reasonable degree of protection for life and property from fire. In addition, the 2024 edition of the NFPA 101 and NFPA 99 identifies the 2023 edition of the NFPA 25 as a mandatory reference. Therefore, CMS is proposing to incorporate by reference the 2023 Edition of the Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (NFPA 25), issued September 1, 2022, to replace the currently required 1998 edition of the code.

In the following section, we describe selected provisions that represent a significant change from the 1998 edition of the NFPA 25 or additions that constitute new requirements.

(1) Section 8.1.1.2 Fire Pump Inspection, Testing and Maintenance

Section 8.1.1.2 requires that the minimum frequency of inspection, testing, and maintenance for fire pumps must follow both the manufacturer's recommendations and Table 8.1.1.2, which summarizes these required activities and their frequencies. Table 8.1.1.2 is more comprehensive, including new items and maintenance tasks, expanded references to specific section numbers, and consolidated maintenance tasks with clear frequencies, that is, weekly, monthly, quarterly, annually, etc. The table separates ''Inspection,'' ''Test,'' and ''Maintenance'' items, streamlining responsibilities and tracking requirements.

(2) Section 14.2.1 Assessment of Internal Condition of Piping

Section 14.2.1 addresses the requirements for assessing the internal condition of piping in water-based fire protection systems for the presence of foreign organic and inorganic material (for example, corrosion or obstruction). The assessment must be conducted at intervals specified in sections 14.2.1.1 (typically every 5 years) or per 14.2.1.2 (as conditions warrant). Various acceptable methods are described, including physically opening/inspecting main ends or branch lines at strategic locations most susceptible to corrosion or blockage; use of alternative non-invasive methods; assessing during major system work (for example, renovations, draining for repairs).

n. Removal of the Outside Window or Door Requirements

The 2000 edition of the LSC required that every health care occupancy patient sleeping room shall have an outside window or outside door, with new health care occupancies having an allowable sill height not to exceed 36 inches above the floor with certain exceptions. This requirement no longer existed in the 2012 edition of the LSC; however, CMS believed that outside doors and windows were necessary for the health and safety of patients and decided to retain the requirement.

On May 4, 2016, we published a final rule titled ''Fire Safety Requirements for Certain Health Care Facilities,'' which required hospitals, CAHs, and RNHCIs, LTCs facilities, and hospice inpatient care facilities to have outside windows and doors in every patient sleeping areas. Interested parties have expressed concerns about their ability to comply with this requirement. Additionally, the 2024 edition of the LSC does not include this requirement as an essential life safety feature; therefore, we propose to remove the outside window and door requirements for hospitals, CAHs, RNHCIs, LTC Facilities, and hospice inpatient care facilities.

We note that LTC facilities would continue to be required to provide at least one window to the outside in residents' bedrooms in accordance with the longstanding requirement at newly redesignated § 483.90(e)(1). While we are maintaining this outside window requirement, we believe it continues to impose a lower burden on providers than what was required in the outside window and door requirements at § 483.90(a)(7), which contained more

prescriptive specifications (for example, window sill height requirement).

Additionally, we propose to remove obsolete regulatory provisions regarding outside widows for ICFs/IID. The current requirements at § 483.470(b)(2) state that bedrooms below grade level (that is, below ground level) in an ICF/IID must have a window that can be used as a second means of escape. The window must be no more than 44 inches above the ground unless the facility is surveyed under the HCO chapter of the LSC, in which case the window must be no more than 36 inches above the floor. ICFs/IID must meet outside window requirements pursuant to the LSC; therefore, continuing to specify this requirement in our regulations is redundant and no longer necessary.

3. Provisions of the Proposed Regulations

This section details the specific regulatory changes for each applicable provider and supplier. Due to the similar content and structure of the regulations for the various providers and suppliers, most of the information presented repeats for each provider and supplier type.

a. Religious Nonmedical Health Care Institutions: Condition of Participation: Life Safety From Fire (§ 403.744) and Condition of Participation: Building Safety (§ 403.745)

We propose the following for Religious Nonmedical Health Care Institutions:

- We propose to revise § 403.744(a)(1)(i) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 with references to the 2024 edition of the LSC (NFPA 101) applying the requirements within the provisions detailed in section II.F.1. of this proposed rule.
- We propose a technical change to § 403.744(a)(1)(ii) to update the corridor latching requirements. We are clarifying that we continue to prohibit the use of roller latches for corridor doors excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the LSC and expand the prohibition on inadequate latching hardware to include any device—not just roller latches.
- We propose to add a new requirement at § 403.744(a)(1)(iii) to allow RCNHIs the option to use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) as a method to show compliance with the provisions of the 2024 edition of the LSC (NFPA 101).
- We also propose to remove the requirement at § 403.744(a)(6) related to having an outside window or door for all patient sleeping rooms and a 36-inch windowsill requirement for buildings constructed after July 5, 2016.
- We propose a technical change to § 403.744(b)(1) to update the regulatory language pertaining to the waiver process. We are clarifying that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency.
- We propose a technical change to § 403.744(b)(2) to update the regulatory language pertaining to the State fire and safety code exemption. We are clarifying that CMS, at the discretion of the Secretary, may accept a State's fire and safety code in lieu of the LSC if CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in RNHCIs.
- We propose adding a requirement at § 403.744(b)(3) to establish that if CMS determines that a specific updated provision of the LSC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (c)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise § 403.744(c) by replacing references the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 with references to the 2024 edition of the LSC (NFPA 101) and adding reference to the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A).
- We also propose a technical change at § 403.744(c) to update CMS contact information.
- We propose to revise § 403.745(a) by replacing references to the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 24–1 and TIA 24–2.
- We propose to retain the requirement at § 403.745(b) that Chapters 7, 8, 12, and 13 of the HCFC do not apply to RNHCIs.
- We propose to revise § 403.745(c) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We also propose to add a new requirement § 403.745(d) to establish that if CMS determines that a specific updated provision of the HCFC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise proposed § 403.745(e) by replacing references to the 2012 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the HCFC (NFPA 99).
- We also propose a technical change at § 403.745(e) to update CMS contact information.

b. Ambulatory Surgery Centers: Condition for Coverage: Environment (§ 416.44)

We propose the following for Ambulatory Surgery Centers:

- We propose to revise § 416.44(b)(1) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 with references to the 2024 edition of the LSC (NFPA 101).
- We propose a technical change to § 416.44(b)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We propose a technical change to § 416.44(b)(3) to update the regulatory language pertaining to the State fire and safety code exemption. We are clarifying that CMS, at the discretion of the Secretary, may accept a State's fire and safety code in lieu of the LSC if CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in ASCs.
- We propose to add a new requirement § 416.44(b)(4) to if CMS determines that a specific updated

provision of the LSC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (f)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

- We propose to remove an obsolete requirement at § 416.44(b)(6) regarding doors to hazardous areas, as ASCs are required to meet this requirement pursuant to the LSC, and therefore is redundant and no longer necessary.
- We propose to revise § 416.44(c) by replacing references to the 2012 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of HCFC (NFPA 99) including Tentative Interim Amendments TIA 24–1 and TIA 24–2.
- We propose to retain the requirement at § 416.44(c)(1) that Chapters 7, 8, 12, and 13 of the HCFC do not apply to ASCs.
- We propose to revise § 416.44(c)(2) to update the regulatory language pertaining to the waiver process. We are clarifying that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We propose to add a new requirement § 416.44(c)(3) to establish that if CMS determines that a specific updated provision of the HCFC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (f)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise § 416.44(f) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and the 2012 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and HCFC (NFPA 99), respectively.
- We also propose a technical change at § 416.44(f) to update CMS contact information.

c. Hospice Care: Condition of Participation: Hospices That Provide Inpatient Care Directly (§ 418.110)

We propose the following for Hospices:

- We propose to revise § 418.110(d)(1)(i) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 with references to the 2024 edition of the LSC (NFPA 101).
- We propose a technical change to § 418.110(d)(1)(ii) to update the corridor latching requirements. We are clarifying that we continue to prohibit the use of roller latches for corridor doors excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code and expand the prohibition on inadequate latching hardware to include any device—not just roller latches.
- We propose to add a new requirement at § 418.110(d)(1)(iii) to allow inpatient hospice facilities the option to use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) as a method to show compliance with the provisions of the 2024 edition of the LSC (NFPA 101).
- We propose a technical change to § 418.110(d)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We propose a technical change to § 418.110(d)(3) to update the regulatory language pertaining to the State fire and safety code exemption. We are clarifying that CMS, at the discretion of the Secretary, may accept a State's fire and safety code in lieu of the LSC if CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in hospices.
- We propose adding a requirement at proposed § 418.110(d)(4) to establish that if CMS determines that a specific updated provision of the LSC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (q)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We also propose to remove the requirement at § 418.110(d)(6), which require an outside window or door for all patient sleeping rooms and a 36-inch window sill requirement for buildings constructed after July 5, 2016. Hospices would continue to be required to provide a ''home-like atmosphere'' in accordance with the longstanding requirements at § 418.110(f).
- We propose to revise § 418.110(e) by replacing references to the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 24–1 and TIA 24–2.
- We propose to retain the requirement at § 418.110(e)(1) that Chapters 7, 8, 12, and 13 of the HCFC do not apply to hospice inpatient care facilities.
- We propose to revise § 418.110(e)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We also propose to add a requirement § 418.110(e)(3) to establish that if CMS determines that a specific updated provision of the HCFC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (q)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise § 418.110(q) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and HCFC (NFPA 99) and adding reference to the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A).
- We also propose a technical change at § 418.110(q) to update CMS contact information.

d. Programs of All-Inclusive Care for the Elderly (PACE): Condition of Participation: Physical Environment (§ 460.72)

We propose the following for PACE centers:

- We propose to revise § 460.72(b)(1)(i) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 with references to the 2024 edition of the LSC (NFPA 101).
- We propose a technical change to § 460.72(b)(1)(ii) to update the corridor latching requirements. We are clarifying that we continue to prohibit the use of roller latches for corridor doors excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code and expand the prohibition on inadequate latching hardware to include any device—not just roller latches.
- We propose to add a new requirement at § 460.72(b)(1)(iii) to allow PACE centers the option to use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) as a method to show compliance with the provisions of the 2024 edition of the LSC (NFPA 101).
- We propose a technical change to § 460.72(b)(2)(i) to update the regulatory language pertaining to the State fire and safety code exemption. We are clarifying that CMS, at the discretion of the Secretary, may accept a State's fire and safety code in lieu of the LSC if CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in PACE centers.
- We propose a technical change to § 460.72(b)(2)(ii) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We propose adding a requirement at proposed § 460.72(b)(2)(iii) to establish that if CMS determines that a specific updated provision of the LSC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise § 460.72(d) by replacing references to the 2012 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the HCFC (NFPA 99) including TIA 24–1 and TIA 24–2.
- We propose to retain the requirement at § 460.72(d)(1) that Chapters 7, 8, 12, and 13 of the HCFC do not apply to PACE centers.
- We propose to revise § 460.72(d)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We also propose adding a requirement at § 460.72(d)(3) to establish that if CMS determines that a specific updated provision of the HCFC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise § 460.72(e) by replacing references with the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99), respectively, and adding reference to the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A).
- We also propose a technical change at § 460.72(e) to update CMS contact information.

e. Hospitals: Condition of Participation: Emergency Preparedness (§ 482.15) and Physical Environment (§ 482.41)

We propose the following for Hospitals:

- We propose to revise § 482.15(e) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5, and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99), respectively, and replacing references to the 2010 edition of the ESPS (NFPA 110) with references to the 2022 edition of the ESPS (NFPA 110). We also propose a technical change at § 482.15(e) by adding the phrase ''install and maintain'' to clarify that hospitals must both establish and continuously upkeep their emergency and standby power systems on an ongoing basis. Additionally, we propose to replace the term ''emergency generator'' and ''emergency generators'' throughout paragraphs (e)(1), (e)(2), and (e)(3) with the term ''emergency power supply''.
- We propose to revise § 482.15(h) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5, and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99), respectively, and replacing references to the 2010 edition of the ESPS (NFPA 110) with references to the 2022 edition of the ESPS (NFPA 110).
- We also propose a technical change at § 482.15(h) to update CMS contact information.
- We propose to revise § 482.41(b)(1)(i) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 with references to the 2024 edition of the LSC (NFPA 101). There can be multiple occupancy classifications within a single hospital. Therefore, multiple chapters of the code may be applied to a single hospital in accordance with the Multiple Occupancies provisions in 18.1.3 and 19.1.3 of the LSC (NFPA 101).
- We also propose that hospital outpatient surgical departments are comparable to ASCs and thus should be required to meet the provisions applicable to AHCO chapters.
- We propose a technical change to § 482.41(b)(1)(ii) to update the corridor latching requirements. We are clarifying that we continue to prohibit the use of roller latches for corridor doors excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code and expand the prohibition on inadequate latching hardware to include any device—not just roller latches.
- We propose to add a new requirement at § 482.41(b)(1)(iii) to allow hospitals the option to use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) as a method to show compliance with

the provisions of the 2024 edition of the LSC (NFPA 101).

- We propose a technical change to § 482.41(b)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We propose a technical change to § 482.41(b)(3) to update the regulatory language pertaining to the State fire and safety code exemption. We are clarifying that CMS, at the discretion of the Secretary, may accept a State's fire and safety code in lieu of the LSC if CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in hospitals.
- We propose adding a requirement at proposed § 482.41(b)(4) to establish that if CMS determines that a specific updated provision of the LSC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We also propose to remove the requirement at § 482.41(b)(9), which requires an outside window or door for all patient sleeping rooms, a 36-inch window sill requirement for buildings constructed after July 5, 2016, and a 60-inch window sill requirement for special nursing care areas in new occupancies.
- We propose to revise § 482.41(c) by replacing references to the 2012 edition of the and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5, and TIA 12–6 with references to the 2024 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 24–1, and TIA 24–2.
- We propose to retain the requirement at § 482.41(c)(1) that states Chapters 7, 8, 12, and 13 of the HCFC do not apply to hospitals.
- We propose to revise § 482.41(c)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We also propose adding a requirement at § 482.41(c)(3) to establish that if CMS determines that a specific updated provision of the HCFC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise § 482.41(e) by replacing references to 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 2012 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and HCFC (NFPA 99), respectively, and adding reference to the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A).
- We also propose a technical change at § 460.72(d) to update CMS contact information.

f. Long-Term Care Facilities: Condition of Participation: Emergency Preparedness (§ 483.73) and Physical Environment (§ 483.90)

We propose the following for Long-Term Care Facilities:

- We propose to revise § 483.73(e) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4) and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5, and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99), respectively, and replacing references to the 2010 edition of the ESPS (NFPA 110) with references to the 2022 edition of the ESPS (NFPA 110).
- We also propose a technical change at § 483.73(e) by adding the phrase ''install and maintain'' to clarify that LTC facilities must both establish and continuously upkeep their emergency and standby power systems on an ongoing basis. Additionally, we propose to replace the term ''emergency generator'' and ''emergency generators'' throughout paragraphs (e)(1), (e)(2), and (e)(3) with the term ''emergency power supply''.
- We propose to revise § 483.73(g) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5, and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99), respectively, and replacing references to the 2010 edition of the ESPS (NFPA 110) with references to the 2022 edition of the ESPS (NFPA 110).
- We also propose a technical change at § 483.73(g) to update CMS contact information. We propose to revise § 483.90(a)(1)(i) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 with references to the 2024 edition of the LSC (NFPA 101).
- We propose a technical change to § 483.90(a)(1)(ii) to update the corridor latching requirements. We are clarifying that we continue to prohibit the use of roller latches for corridor doors excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code and expand the prohibition on inadequate latching hardware to include any device—not just roller latches.
- With the adoption of the 2024 edition of the LSC (NFPA 101), LTC facilities no longer need to use the 2001 mandatory values chart that was published in the regulatory text, therefore we propose to replace the entirety of § 483.90(a)(1)(iii) and with a requirement that LTC facilities are allowed the option to use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) as a method to show compliance with the provisions of the 2024 edition of the LSC (NFPA 101).
- We also propose to add an exception to § 483.90(a)(1)(iv) that LTC facilities may not use the FSES as a method to address non-compliance with NFPA 13 and NPFA 25.
- We propose a technical change to § 483.90(a)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We propose to remove an obsolete requirement at § 483.90(a)(5). This provision addressed smoke alarm requirements and applied only to facilities without automatic sprinkler systems. In accordance with a previous CMS mandate to install automatic sprinkler systems (73 FR 47075) and subsequent revisions to the LSC (NFPA

101), all LTC facilities are now fully sprinklered, making this requirement obsolete.

- We propose a new requirement at § 483.90(a)(5) to establish that if CMS determines a specific updated provision of the LSC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (j)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance, provided that CMS has determined that the waiver does not adversely affect the health and safety of residents or personnel. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise § 483.90(a)(6)(i) by replacing references to the 1999 edition of the Standard for the Installation of Sprinkler Systems (NFPA 13) with references to the 2022 edition of NFPA 13, removing the compliance date as it has passed, and removing the incorporation by reference language for the 1999 edition of NFPA 13.
- We propose to revise § 483.90(6)(ii) by replacing references to the 1998 edition of the Standard for Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (NFPA 25) with references to the 2023 edition of the NFPA 25 and removing the incorporation by reference language for the 1998 edition of NFPA 25.
- We also propose to remove an obsolete requirement at § 483.90(a)(6)(iii). The provision allowed CMS to grant extensions of up to 2 years to the sprinkler installation deadline for LTC facilities. All LTC facilities were required to be fully sprinklered by and after August 13, 2013. Since the initial effective date and all extension dates have passed, the deadlines no longer apply, and the extension provision is obsolete.
- We propose to remove the requirement at § 483.90(a)(7), which require an outside window or door for all patient sleeping rooms and a 36-inch windowsill requirement for buildings constructed after July 5, 2016. LTC facilities would continue to be required to provide at least one window to the outside in residents' bedrooms in accordance with the longstanding requirement at § 483.90(e)(1).
- We propose to revise § 483.90(b) by replacing references to the 2012 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 24–1 and TIA 24–2.
- We propose to retain the requirement at § 483.90(b)(1) that states Chapters 7, 8, 12, and 13 of the HCFC do not apply to LTC facilities.
- We propose to revise § 483.90(b)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We propose a new requirement at § 483.90(b)(3) to establish that if CMS determines that a specific updated provision of the HCFC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (j)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance, provided that CMS has determined that the waiver does not adversely affect the health and safety of residents or personnel. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We also propose to remove § 483.90(c) requirements, since LTC facilities would be required to meet these requirements pursuant to the LSC. This provision therefore is redundant and no longer necessary.
- We propose to revise § 483.90(j) by replacing references to 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 2012 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and HCFC (NFPA 99), respectively, and adding reference to the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A).
- We also propose a technical change at § 483.90(j) to update CMS contact information.

g. Intermediate Care Facilities for Individuals With Intellectual Disabilities (ICFs/IID): Condition of Participation: Physical Environment (§ 483.470)

We propose the following for ICFs/IID:

- We propose to remove an obsolete requirement at § 483.470(b)(2) regarding outside windows for bedrooms below grade level and window sill height requirement, as ICFs/IID are required to meet an outside window requirement pursuant to the LSC, and therefore is redundant and no longer necessary.
- We propose to revise § 483.470(j)((i)1)(i) by replacing references to the 2012 edition of the LSC (NFPA 101) with references to the 2024 edition of the LSC (NFPA 101). ICFs/IID would continue to be permitted to meet either the RBCOs chapter or the Health Care Occupancy chapter of the 2024 edition of the LSC (NFPA 101).
- We propose a technical change to § 483.470(j)(1)(ii) to update the corridor latching requirements. We are clarifying that we continue to prohibit the use of roller latches corridor doors excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code and expand the prohibition on inadequate latching hardware to include any device—not just roller latches.
- We propose a technical change at proposed § 483.470(j)(1)(iii) by replacing references to the 2012 edition of the LSC (NFPA 101) with the 2024 edition of the LSC (NFPA 101).
- We propose to remove an obsolete requirement at § 483.470(j)(1)(iv) regarding sprinklers and health detection systems in the attics, as ICFs/IID are required to meet this requirement pursuant to the LSC, and therefore redundant and no longer necessary.
- We propose to add a new requirement at § 483.470(j)(1)(iv) to allow ICFs/IID the option to use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) as a method to show compliance with the provisions of the 2024 edition of the LSC (NFPA 101).
- We propose to remove an obsolete requirement at § 483.470(j)(1)(iv) regarding sprinklers and health detection systems in the attics, as ICFs/IID are required to meet this requirement pursuant to the LSC, and therefore redundant and no longer necessary.
- We propose a technical change at proposed § 483.470(j)(1)(iv) by replacing references to the 2012 edition of the LSC (NFPA 101) with the 2024 edition of the LSC (NFPA 101).
- We propose a technical change to § 483.470(j)(4) to update the regulatory language pertaining to the State fire and safety code exemption. We are clarifying that CMS, at the discretion of the Secretary, may accept a State's fire and safety code in lieu of the LSC if CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in ICFs/IID.

• We propose a technical change to § 483.470(j)(5)(i) to update the regulatory language pertaining to the waiver process. We are clarifying that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.

• We propose to remove an obsolete requirement at § 483.470(j)(5)(iv) regarding sprinklers and health detection systems in the attics, as ICFs/IID are required to meet this requirement pursuant to the LSC, and therefore redundant and no longer necessary.

• We propose to § 483.470(j)(5)(v) by replacing references to the 2012 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to 2024 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 24–1 and TIA 24–2. ICFs/IID would continue to be permitted to meet either the RBCOs chapter or the Health Care Occupancy chapter of the 2024 edition of the HCFC (NFPA 99).

• We propose to retain the requirement at § 483.470(j)(5)(v)(A) that states Chapters 7, 8, 12, and 13 of the HCFC do not apply to ICFs/IID.

• We propose to revise § 483.470(j)(5)(v)(B) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.

• We also propose to add a requirement at § 483.470(j)(5)(v)(C) to establish that if CMS determines that a specific updated provision of the HCFC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (m)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

• We propose to add a requirement at § 483.470(j)(6) to establish that if CMS determines that a specific updated provision of the LSC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (m)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

• We propose to revise § 483.470(m) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99), respectively, and adding reference to the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A).

• We also propose a technical change at § 483.470(m) to update CMS contact information.

h. Conditions of Participation: Rural Emergency Hospitals (REHs): Emergency Preparedness (§ 485.542) and Physical Environment (§ 485.544)

We propose the following for REHs:

• We propose to revise § 485.542(e) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99), respectively, and by replacing references to the 2010 edition of the ESPS (NFPA 110) with references to the 2022 edition of the ESPS (NFPA 110). We also propose a technical change at § 485.542(e) by adding the phrase ''install and maintain'' to clarify that REHs must both establish and continuously upkeep their emergency and standby power systems on an ongoing basis. Additionally, we propose to replace the term ''emergency generator'' and ''emergency generators'' throughout paragraphs (e)(1), (e)(2), and (e)(3) with the term ''emergency power supply''.

• We propose to revise § 485.542 (g) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5, and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99), respectively, and replacing references to the 2010 edition of the ESPS (NFPA 110) with references to the 2022 edition of the ESPS (NFPA 110).

• We also propose a technical change at § 485.542(g) to update CMS contact information.

• We propose to revise § 485.544(c)(1) by replacing references to the 2012 edition of the LSC (NFPA 101)including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 with the 2024 edition of the LSC (NFPA 101). REHs must meet the provisions applicable to Ambulatory Health Care Occupancies.

• We propose a technical change to § 485.544(c)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.

• We propose a technical change to § 485.544(c)(3) to update the regulatory language pertaining to the State fire and safety code exemption. We are clarifying that CMS, at the discretion of the Secretary, may accept a State's fire and safety code in lieu of the LSC if CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in REHs.

• We also propose to add a requirement at § 485.544(c)(4) to establish that if CMS determines that a specific updated provision of the LSC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

• We propose to revise § 485.544(d) by replacing the references to the 2012 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to 2024 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 24–1 and TIA 24–2. REHs must meet the provisions applicable to Ambulatory Health Care Occupancies.

• We propose to retain the requirement at § 485.544(d)(1) that states Chapters 7, 8, 12, and 13 of the HCFC do not apply to REHs.

• We propose to revise § 485.544(d)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a

recommendation from the State survey agency or an approved accrediting organization.

- We also propose to add a requirement at § 485.544(d)(3) to establish that if CMS determines that a specific updated provision of the HCFC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise § 485.544(e) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99) respectively.
- We also propose to remove the outdated CMS contact information from § 485.544(e), as the listed contact is no longer current.

i. Critical Access Hospitals: Condition of Participation: Physical Plant and Environment (§ 485.623) and Emergency Preparedness (§ 485.625)

We propose the following for Critical Access Hospitals:

- We propose to revise § 485.623(c)(1)(i) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 to the 2024 edition of the LSC (NFPA 101).
- We propose to revise the corridor door latching requirements at § 485.623(c)(1)(ii) to exclude auxiliary spaces not classified as hazardous areas under the LSC, remove the separate reference to rooms containing flammable or combustible materials, and expand the prohibition on inadequate latching hardware to include any device—not just roller latches.
- We propose to add a new requirement at § 485.623(c)(1)(iii) to allow CAHs the option to use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) as a method to show compliance with the provisions of the 2024 edition of the LSC (NFPA 101).
- We propose a technical change at § 485.623(c)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We propose to add a requirement at § 485.623(c)(3) to establish that CMS, at the discretion of the Secretary, may accept a State's fire and safety code in lieu of the LSC if CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in CAHs.
- We propose to add a requirement at proposed § 485.623(c)(4) to establish that if CMS determines that a specific updated provision of the LSC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We also propose to remove the requirement at § 485.623(c)(7) which requires an outside window or door for all patient sleeping rooms, a 36-inch windowsill requirement for buildings constructed after July 5, 2016, and a 60-inch windowsill requirement for special nursing care areas in new occupancies.
- We propose to revise § 485.623(d) by replacing the 2012 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to 2024 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 24–1 and TIA 24–2
- We propose to retain the requirement at § 485.623(d)(1) that states Chapters 7, 8, 12, and 13 of the HCFC do not apply to CAHs.
- We propose to revise § 485.623(d)(2) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We also propose to add a requirement at § 485.623(d)(3) to establish that if CMS determines that a specific updated provision of the HCFC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise § 485.623(e), by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99) including Tentative Interim Amendments TIA–24–1 and TIA 24–2, respectively, and adding reference to the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A).
- We also propose a technical change at § 494.60(e)(1) to update CMS contact information.
- We propose to revise § 485.625(e) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4, and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5 and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99), respectively, and by replacing references to the 2010 edition of the ESPS (NFPA 110) with references to the 2022 edition of the ESPS (NFPA 110).
- We also propose a technical change at § 485.625(e) by adding the phrase ''install and maintain'' to clarify that CAHs must both establish and continuously upkeep their emergency and standby power systems on an ongoing basis. Additionally, we propose to replace the term ''emergency generator'' and ''emergency generators'' throughout paragraphs (e)(1), (e)(2), and (e)(3) with the term ''emergency power supply''.
- We propose to revise § 485.625(g) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5, and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and the HCFC (NFPA 99), respectively, and replacing references to the 2010 edition of the ESPS (NFPA 110) with references to the 2022 edition of the ESPS (NFPA 110).
- We also propose a technical change at § 485.625(g) to update CMS contact information.

j. Conditions for Coverage: End Stage Renal Disease (ESRD) Facilities: Physical Environment (§ 494.60)

We propose the following for ESRD facilities:

- We propose to revise § 494.60 (d)(1) by replacing references to the 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 to the 2024 edition of the LSC (NFPA 101).
- We propose a technical change to § 494.60(d)(3) to update the regulatory language pertaining to the State fire and safety code exemption. We are clarifying that CMS, at the discretion of the Secretary, may accept a State's fire and safety code in lieu of the LSC if CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in dialysis facilities.
- We propose a technical change at § 494.60(d)(4) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We also propose a technical change at § 494.60(d)(5) to replace the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5, and TIA 12–6 with references to the HCFC (NFPA 99) including Tentative Interim Amendments TIA 24–1 and TIA 24–2.
- We propose to add a new requirement at § 494.60(d)(6) to establish that if CMS determines that a specific updated provision of the LSC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (f)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We propose to revise § 494.60(e)(1) by replacing the 2012 edition of the HCFC (NFPA 99) with references to the 2024 edition of the HCFC (NFPA 99) including Tentative Interim Amendments TIA 24–1 and TIA 24–2. Dialysis facilities meet the provisions applicable to AHCOs.
- We propose to retain the requirement at § 494.60(e)(2) that Chapters 7, 8, 12, and 13 of the HCFC do not apply to dialysis facilities.
- We propose a technical change at § 494.60(e)(3) to update the regulatory language pertaining to the waiver process. We would clarify that CMS, at the discretion of the Secretary, may grant such waivers following a recommendation from the State survey agency or an approved accrediting organization.
- We propose to add a requirement at § 494.60(e)(4) to establish that if CMS determines that a specific updated provision of the HCFC provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (f)(1), CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.
- We also propose to revise § 494.60(f) by replacing references to 2012 edition of the LSC (NFPA 101) including Tentative Interim Amendments TIA 12–1, TIA 12–2, TIA 12–3, and TIA 12–4 and the HCFC (NFPA 99) including Tentative Interim Amendments TIA 12–2, TIA 12–3, TIA 12–4, TIA 12–5, and TIA 12–6 with references to the 2024 edition of the LSC (NFPA 101) and HCFC (NFPA 99) respectively.
- We also propose a technical change at § 494.60(f) to update CMS contact information.

*G. Transplant Programs—Request for Information (RFI)*

CMS is seeking public comments related to requirements for initial approval for solid organ transplant programs, specifically the requirements concerning clinical experience (or volume) and outcome requirements for the initial approval of transplant programs, as well as the exceptions for specific type of organ(s) programs.

1. Initial Approval and Re-Approval of Transplant Programs: Background

Transplant programs, located within a hospital that has a Medicare provider agreement, provide transplant services for one or more specific organs. Transplant programs must comply with the Medicare transplant program CoPs regulations at 42 CFR 482.68 through 482.104, and with the hospital CoPs at §§ 482.1 through 482.58. There are several types of CMS-approved transplant programs, including heart, heart-lung, lung, liver, kidney, intestine, and pancreas..

In 2005, CMS proposed CoPs for transplant programs that we believed would be necessary to: (1) protect other potential Medicare beneficiaries who are waiting for organs for transplantation; (2) establish sufficient quality and procedural standards to ensure that transplants are performed in a safe and efficient manner; and (3) reduce Medicare expenses by decreasing the likelihood that a transplant would fail (70 FR 6140). The regulations were intended to assess an organ transplant center's ability to perform successful transplants and deliver quality patient care as evidenced by good outcomes and sound policies and procedures. They were finalized in 2007 and set forth clear expectations for safe, high-quality transplant service delivery in Medicare-participating facilities (72 FR 15198).

In the 2007 final rule, CMS finalized two requirements related to the approval of transplant programs: (1) § 482.80 Data submission, clinical experience, and outcome requirements for initial approval of transplant programs and (2) § 482.82 Data submission, clinical experience, and outcome requirements for re-approval of transplant programs. After publication of the 2007 Final Rule, we continued to review how effective the transplant program requirements were, as well as the effectiveness of the sub-regulatory guidance and the data derived from the transplant program surveys.

On September 20, 2018, we published the Omnibus Burden Reduction Proposed Rule Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction (83 FR 47686) that, among other things, proposed removing all the requirements set forth in § 482.82 for the re-approval of transplant programs. We discussed various articles that suggested that the requirements for re-approval of transplant programs had resulted in unintended negative consequences for patients on the transplant waiting lists. We were especially concerned with the findings that suggested that transplant programs that were low performing might be removing sicker patients from their transplant lists due to the outcome measures set forth in § 482.82.[286] Subsequently, on September 30, 2019, we published a final rule titled Medicare and Medicaid Programs; Regulatory Provisions to Promote Program Efficiency, Transparency, and Burden Reduction; Fire Safety Requirements for Certain Dialysis Facilities; Hospital and CAH Changes to Promote Innovation, Flexibility, and Improvement in Patient Care (84 FR 51732) that, among other things, finalized the removal of § 482.82. We stated that the removal of these requirements would lead to improved

[286] 83 FR 47686, 47704–47706.

patient outcomes, increased transplantation opportunities for patients on the waitlist, improved organ procurement for transplantation, greater organ utilization, and reduced burden on transplant programs. Most of the commenters supported the removal of the requirements in § 482.82. However, there were also commenters that were concerned about how CMS would continue to monitor transplant programs and ensure patient safety and outcomes. We indicated that the requirements set forth in § 482.80 Data submission, clinical experience, and outcome requirements for initial approval of transplant programs and § 482.96 QAPI, as well as survey processes, both routine and complaint-based, would provide the oversight needed to ensure safety and quality of care for patients and transplant recipients.

On December 3, 2021, we published, Request for Information; Health and Safety Requirements for Transplant Programs, Organ Procurement Organization, and End-Stage Renal Disease Facilities (CMS 3409–NC, 86 FR 68594). Among the issues we solicited comments on was whether the initial approval requirements in § 482.80 created barriers to the establishment of new transplant programs (86 FR 68594, 68596). We also asked about alternative requirements that could be used to ensure that new transplant programs would provide quality care for transplant recipients. Many commenters stated that the requirements in § 482.80 were a barrier due to the volume requirements and timeframe to obtain outcome requirements. However, other commenters indicated that they did not believe the initial requirements were excessive. They indicated that organ transplantation was very expensive and required complex procedures so that facilities must be ready to invest the required resources to achieve strong performance. However, since the publication of this RFI, CMS has continued to receive feedback from prospective transplant programs regarding the timeframe to obtain the 1-year outcomes data.

*Initiatives Related to Kidney Health:*

In 2019, the Trump Administration released Executive Order (E.O.) 13879 dedicated to advancing American kidney health citing too many at-risk patients progress to late-stage kidney failure, high mortality rates, the high cost of current treatment options, the inability of current treatment options to produce an acceptable quality of life for patients, and the lack of sufficient kidneys donated to meet the current demand for transplants.[287]

In response to this E.O., CMS published a proposed rule in 2019 that was finalized in 2020, revising the outcome measures utilized to assess performance of organ procurement organizations (OPOs). The rule was specifically designed to drive OPO performance and increase the number of organs available for transplantation. There has been significant progress since the rule was finalized. Between 2019 and 2024, there was a nearly 37 percent increase in the number of organ donors and 30 percent increase in the number of organ transplants. During this same period there was a more than 26 percent increase in the number of kidneys transplanted.

In addition to this action, in 2024 the CMS Innovation Center finalized the Increasing Organ Transplant Access (IOTA) Model, which is a 6-year mandatory model for approximately half of the transplant hospitals around the country. The IOTA Model holds transplant centers accountable for the volume, efficiency, and outcomes for their patients and offers the opportunity for upside or downside payments based on performance. CMS will evaluate the results from that model as it considers future regulatory efforts and how to best increase the number of patients successfully transplanted.

Despite ongoing government initiatives, kidney disease remains a leading cause of death in the United States.[288] In 2024, approximately 35.5 million Americans were suffering from chronic kidney disease and 808,000 were living with ESRD. More than 100,000 Americans begin dialysis each year to treat ESRD with twenty percent dying within a year and 50 percent dying within 5 years.[289] Currently, nearly 90,000 Americans are on the waiting list to receive a kidney transplant, making up the vast majority of Americans waiting for organ transplantation.[290]

The 2019 E.O. provided the policy framework to prevent kidney failure whenever possible through better diagnosis, treatment, and incentives for preventive care; increasing patient choice through affordable alternative treatments for ESRD (by encouraging higher value care and educating patients on treatment alternatives); and increasing access to kidney transplants by modernizing the organ recovery and transplantation systems. We seek to continue our efforts to improve the system and are therefore requesting information that may lead to improvements in certification of new transplant programs.[291]

2. Solicitation of Public Comments

CMS continues to strongly believe that having requirements for clinical experience and outcomes for initial approval of transplant programs is necessary to protect the health and safety of patients. While we acknowledge the advances in transplant medicine and science since publication of the 2007 final rule, establishing a newly formed transplant program remains a considerable undertaking given the complexity of the procedures and scope of services that are necessary for a successful outcome. Approval of a new transplant program currently requires evaluation of both short and long-term outcomes. This requires evaluation of both the surgical skill of the transplant surgeon and surgical team, as well as the longer-term medical management of the transplant recipient by the transplant interdisciplinary team. The transplant community has long considered the post-transplant outcomes, such as graft and patient survival, to be important metrics for evaluating a transplant center's performance. At the time of our 2007 final rule, the outcome measures available to assess performance in these aspects were the 1-month, 1-year, and 3-year survival outcomes. We finalized the requirements utilizing a 1-year graft and patient survival outcome measures. The 1-year outcome utilizes a 2.5-year cohort necessary to produce a statistically valid outcome resulting in a significant time delay for new program approvals. We considered using a shorter timeframe (for example 1-month) of outcome measures for initial

[287] *Advancing American Kidney Health,* Executive Order 13879. Published July 10, 2019. Accessed at *https://www.federalregister.gov/documents/2019/07/15/2019-15159/advancing-american-kidney-health.* Accessed on June 11, 2026.

[288] CDC. Chronic Kidney Disease: Common, Serious, and Costly. May 15, 2024. Accessed at *https://www.cdc.gov/kidney-disease/ckd-facts/index.html.* Accessed on June 11, 2026.

[289] Advancing American Kidney Health, Executive Order 13879. Published July 10, 2019. Accessed at *https://www.federalregister.gov/documents/2019/07/15/2019-15159/advancing-american-kidney-health.* Accessed on June 11, 2026.

[290] United Network for Organ Sharing, 2026. U.S. surpasses 49,000 organ transplants while deceased organ donations dip. January 28, 2026. Accessed at *https://unos.org/media-resources/releases/u-s-surpasses-49000-organ-transplants-while-deceased-organ-donations-dip/.* Accessed on June 11, 2026.

[291] *Advancing American Kidney Health,* Executive Order 13879. Published July 10, 2019. Accessed at *https://www.federalregister.gov/documents/2019/07/15/2019-15159/advancing-american-kidney-health.* Accessed on June 11, 2026.

approval of transplant programs. We concluded that approving new transplant centers based on a review of only the 1-month post-transplant outcomes data was not of sufficient duration and could pose the risk for potential harm to patients (72 FR 15198, 15221 through15222). We continue to believe this timeframe is too short for this purpose, however, we are sensitive to feedback regarding the timeframe to obtain 1-year outcomes and the challenges this poses to new programs seeking Medicare approval. Under the current requirement for outcome measures at § 482.80, it takes approximately 18 to 24 months from the time the program has their first transplant for initial Medicare approval.

Considering this information, we are soliciting public comments on whether the clinical experience and outcome requirements for initial approval of transplant programs for Medicare participation could be revised to lessen the timeframe to initial certification for a transplant hospital while maintaining patient safety and ensuring the transplant program provides quality and safe care to transplant recipients.

We are specifically soliciting comments on the following areas:

*Clinical experience:* At § 482.80(b), to be considered for initial approval, transplant programs must generally perform 10 transplants over a 12-month period with certain organ-specific exceptions (see § 482.80(d) below).

- Are the current clinical experience requirements, specifically, performing 10 transplants over a 12-month period, still appropriate for demonstrating a new transplant program's readiness for Medicare approval?
- Should the 12-month timeframe for meeting the clinical experience requirement be modified (*e.g.,* shortened or extended)? If so, what alternative timeframe would be appropriate, and what evidence supports that change?
- Is the current volume threshold of 10 transplants for most organs sufficient to assess a new program's competency, or should CMS consider alternative indicators of clinical readiness?

*Outcome requirements:* The current standard at § 482.80(c) sets forth several requirements that a transplant program must meet to be granted initial approval by CMS. CMS compares each transplant program's observed number of patient deaths and graft failures 1-year post-transplant to the center's expected number of patient deaths and graft failures 1-year post-transplant using the data contained in the most recent Scientific Registry of Transplant Recipients (SRTR) program-specific report. The transplant program's patient and graft survival rates will not be acceptable if (1) the observed patient survival rate or observed graft survival rate is lower than its expected patient survival rate or expected graft survival rate; and (2) all three of the following thresholds are crossed over: (A) the one-sided p-value is less than 0.05, (B) the number of observed events (patient deaths or graft failures) minus the number of expected events is greater than 3, and (C) the number of observed events divided by the number of expected events is greater than 1.85.

- Are the current outcome measures still appropriate for demonstrating a new transplant program's readiness for Medicare approval?
- What is the timeframe during which patients should be followed post-transplant that would enable an adequate assessment of a program's performance?
- What alternative metric, or combination of metrics, could be used to assess a program's performance in ensuring high-quality care and protecting patient health and safety?
- How would these metrics work independently or in tandem to assess a program's short and longer-term outcomes and performance of the interdisciplinary team in managing transplant patients?
- Should pre-transplant outcome measures be considered in this initial approval evaluation process? If so, please identify the measures and provide any data or other information that supports your position.
- What timeframe would be required for any alternative metrics to become available for CMS to consider for initial program approval?

*Exceptions to Clinical Experience:* In addition to the previous requirements, § 482.80(d) contains certain exceptions to the clinical experience requirements. These exceptions include:

1. A heart-lung transplant program is not required to comply with the clinical experience requirements or the outcome requirements for heart-lung transplants performed at the program.
2. An intestine transplant program is not required to comply with the outcome performance requirements for intestine, combined liver-intestine or multivisceral transplants performed at the program.
3. A pancreas transplant program is not required to comply with the clinical experience requirements or the outcome requirements for pancreas transplants performed at the program.
4. A program that is requesting initial Medicare approval to perform pediatric transplants is not required to comply with the clinical experience requirements prior to its request for approval as a pediatric transplant program.
5. A kidney transplant program that is not Medicare-approved is required to perform at least 3 transplants over a 12-month period prior to its request for initial approval.

For the earlier exceptions:

- Should any of these exceptions be removed or revised? If yes, please indicate the exception, provide a rationale, and indicate whether it should be removed or how it should be revised. Please be as specific as possible and provide any data or other information that supports your position.

*Living Donation:* CMS does not currently include specific outcome or clinical experience requirements related to living donation when considering a program for initial Medicare approval. However, CMS has requirements specific to living donation related to patient rights, living donor selection, and organ recovery & receipt, and living donor management.

- Should CMS consider specific outcome or clinical experience requirements for living donors in the initial program certification process? What outcome and/or clinical experience requirements would be appropriate for program approval?

We thank commenters in advance for considering this RFI and taking time to provide information on this important topic related to initial Medicare certification of transplant programs.

### *H. Supervision of Anesthesia Services RFI*

CMS is seeking public comments related to requirements for Medicare supervision of anesthesia services provided in hospitals, critical access hospitals (CAHs), rural emergency hospitals (REHs), and ambulatory surgical centers (ASCs).

The regulations that address the health and safety provisions for anesthesia services are in Title 42 of the Code of Federal Regulations. The specific requirements for each facility type are located at § 416.42 for ASCs, § 482.52 for hospitals, § 485.524 for REHs, and § 485.639 for CAHs. The regulations vary slightly in structure across the settings but generally include requirements for items such as organization and staffing, the pre-operative anesthesia risk evaluation, anesthesia administration, service delivery, supervision, and a post-operative anesthesia evaluation. The regulations also include the requirements for the process to request a State exemption from the requirement for physician supervision of CRNAs.

CMS' longstanding policy is that anesthesia must be administered only by certain qualified practitioners and the requirements vary slightly by setting in which the services are provided. CMS requires that when anesthesia services are administered by a certified registered nurse anesthetist (CRNA), the services must be under the supervision of a physician, such as the operating practitioner or an anesthesiologist who is immediately available. In 2001, CMS amended this policy to permit the Governor of a State to request an exemption from the CRNA supervision requirement if the Governor determined that it is in the best interests of the State's citizens to exercise this exemption. The exemption would permit CRNAs to practice independently if consistent with State law. Since that time, Governors from 26 states and one U.S. territory have exercised the provision to opt out of the Medicare physician supervision requirement. CMS is soliciting comments on this policy, including whether it should be retained, revised, or otherwise modified.

1. Regulatory History

Section 1861(bb) of the Act provides definitions for certified registered nurse anesthetists (CRNAs) and their services. The initial Medicare requirements for anesthesia services were published for the hospital Conditions of Participation (CoPs) on June 17, 1986 (51 FR 22010). The CoPs required that when anesthesia services are administered by a CRNA, those services must be under the supervision of the operating room practitioner or an anesthesiologist who is immediately available, if needed. CMS published similar requirements for other facilities that provide anesthesia services including ASCs in 1992 (57 FR 33899), CAHs in 1995 (60 FR 45851), and REHs in 2022 (87 FR 722293).

On December 19, 1997, we published a proposed rule entitled, ''Hospital Conditions of Participation, Provider Agreements and Supplier Approval,'' (62 FR 66726) in the **Federal Register**. We proposed, among other things, to let State law determine which professionals would be permitted to administer anesthetics, and the level of supervision required for practitioners in each category, recognizing States' traditional domain in establishing professional licensure and scope-of-practice laws. Policy surrounding the proposal was based on the principle that States traditionally regulate practitioner scope-of-practice and the lack of evidence to support maintaining a special Federal requirement for physician supervision of CRNAs that would have the effect of superseding State requirements. We also stated that a fundamental principle was to facilitate flexibility in how a hospital would meet our performance expectations, and to eliminate structure and process requirements unless there was evidence that they improved desired outcomes for patients. This proposal received significant public interest with over 20,000 public comments provided on the topic.

The final rule was published on January 18, 2001 (66 FR 4674) and was to have been effective March 19, 2001. In accordance with the proposed rule, the January 2001 final rule changed the physician supervision requirement for CRNAs furnishing anesthesia services in hospitals, ASCs, and CAHs. Under that rule, State laws would control which professionals would be permitted to administer anesthesia and the level of supervision required for CRNAs. The rule did not prohibit, limit, or restrict in any way the practice of medicine by a physician or anesthesiologist. Hospitals retained the ability to exercise stricter standards than those required by State law.

On March 19, 2001, the effective date of the final rule was delayed 60 days and published in the **Federal Register** (see 66 FR 15352). On May 18, the rule was further delayed for 180 days, until November 14, 2001, to explore alternatives for implementation (see 66 FR 27598). We published a new proposed rule on July 5, 2001 (66 FR 35395), which proposed an alternative method for implementing the independent practice proposal in lieu of proposing removal of the requirement. Our alternative proposal established an exemption from the physician supervision requirement by recognizing a Governor's written request to CMS attesting that after consultation with the State's Boards of Medicine and Nursing on issues related to access to and the quality of anesthesia services, and consistent with State law, he or she is aware of the State's right to an exemption from the requirement and has determined that it is in the best interests of the State's citizens to exercise this exemption. This proposed rule again received significant interest with over 28,500 public comments. The final rule was published on November 13, 2001 (66 FR 56762). Under the final rule, the previous physician supervision requirement was maintained, unless the governor of a State, in consultation with the State's Boards of Medicine and Nursing, exercises the option of exemption from this requirement, consistent with State law. In publishing the final rule, CMS stated that we believe these changes would improve the quality of care furnished through Federal programs, while recognizing the States' traditional domain in establishing professional licensure and scope-of-practice laws.

During the COVID–19 PHE, the HHS Secretary utilized authority under Section 1135 of the Act to waive the requirement that CRNAs practice under the supervision of a physician. This waiver authority permits the Secretary to waive requirements to ensure that sufficient health care items and services are available to meet the needs of the public in an area affected by a federally declared PHE. This waiver was one of many requirements that was waived during the PHE.[292] During this period, CRNA supervision was delegated to the discretion of the facility (hospital, CAH, or ASC) and state law provided that it was not inconsistent with a state's emergency preparedness or pandemic plan. This waiver expired at the end of the declared PHE on May 11, 2023.

2. Current Status of Anesthesia Supervision

Since the 2001 final rule, Governors from 26 states and one U.S. territory have requested and been approved for the Medicare exemption to physician supervision of anesthesia services. These include Iowa, Nebraska, Idaho, Minnesota, New Hampshire, New Mexico, Kansas, North Dakota, Washington, Alaska, Oregon, Montana, South Dakota, Wisconsin, California, Colorado, Kentucky, Arizona, Oklahoma, Michigan, Arkansas, Wyoming, Delaware, Massachusetts, Vermont, Ohio, and Guam. Governors may request an exemption by submitting a letter to CMS signed by the Governor, following consultation with the State's Boards of Medicine and Nursing, requesting exemption from physician supervision of CRNAs. The letter from the Governor must attest that he or she has consulted with State Boards of Medicine and Nursing about issues related to access to and the quality of anesthesia services in the State and has concluded that it is in the best interests of the State's citizens to opt-out of the current physician supervision requirement, and that the opt-out is consistent with State law. CMS only approves the opt-out provision for the entire state and does not selectively apply the provision to certain areas or institutions within the state. Any restrictions to the supervision requirement at the state level must be approved by the State in accordance with state laws and requirements. The

[292] *https://www.cms.gov/files/document/covid-19-emergency-declaration-waivers.pdf.*

request for exemption and recognition of State laws, or the withdrawal of the request may be submitted at any time, and are effective upon submission. Exemption requests should be emailed to: *HealthandSafetyInquiries@cms.hhs.gov.*

In implementing this requirement, CMS established a shared commitment to quality care with States and Medicare providers. The shared commitment with States enables each State's Governor to assess the currently available evidence and consider data relevant to their own situation for items such as physician access, hospital and patient characteristics, and the needs of rural areas when considering the best way to deliver anesthesia care. Additionally, hospitals can, and frequently do, exercise stricter standards than required by State law. For instance, many hospitals continue to require physician supervision of CRNA services in states where governors have requested exemption from this requirement.

While licensing of health professions and scope of practice are aspects that are generally deferred to States, there is a lack of definitive evidence related to health and safety to support a singular policy position related to the supervision of CRNA services. This was a consideration at the time of the 2001 final rule and has continued to be a factor that has supported continuation of the current policy. A 2014 Cochrane review assessed studies evaluating the safety and effectiveness of different anesthesia providers.[293] The authors concluded that no definitive statement could be made regarding the superiority of one type of anesthesia care citing the complexity of perioperative care, the low intrinsic rate of complications relating directly to anesthesia services, and the potential confounding effects within the studies reviewed. Additionally, they noted that none of the data were of sufficiently high quality, frequently presented inconsistent findings, and were at risk for bias in interpreting results. Therefore, the shared commitment with states and providers has provided flexibility in enabling states to consider currently available evidence against the unique needs in each state when determining CRNA scope of practice and supervision requirements.

[293] Lewis, Sharon R., et al. ''Physician Anaesthetists versus Non-physician Providers of Anaesthesia for Surgical Patients.'' Cochrane Database of Systematic Reviews [Chichester, UK], vol. 2014, no. 7, no. CD010357, July 2014, *https://doi.org/10.1002/14651858.CD010357.pub2.*

3. Request for Information

Given this information, CMS invites public comment on the current anesthesia supervision and exemption policy as part of its ongoing review of these requirements. Specifically, CMS is seeking information, detailed sources of data, and peer-reviewed research related to the following questions:

- To what extent has the current policy changed practice patterns in States that have opted out of the supervision requirement? Have facilities utilized this flexibility across all geographic areas in these states? What impact has there been on access to anesthesia services?
- What benefits or unintended consequences have emerged from the exemption to the Medicare supervision requirements?
- Are there recent sufficient objective studies assessing the safety of anesthesia services to support a policy change related to the current supervision requirements?
- Do available studies provide the level of precision necessary to make a determination related to outcomes from anesthesia services? What changes in documentation, coding, or other methods would better support assessing outcomes related to anesthesia services?
- What benefits or unintended consequences could arise if the current supervision and exemption policy is retained or eliminated.
- Does the current supervision and exemption policy provide sufficient flexibility to States to opt out of the federal supervision requirements or is the policy excessively burdensome? What changes could be made to the current policy to reduce burden while balancing patient health and safety concerns?

We thank commenters in advance for considering this RFI and taking time to provide information on this important topic related to Medicare requirements for supervision of anesthesia services.

*I. Reducing Reporting Burden for Hospital and CAH Respiratory Illness and Infectious Disease Data—RFI*

We are seeking public comment on ways to reduce the reporting burden associated with respiratory illness and infectious disease data reporting requirements for hospitals, including CAHs (collectively referred to as ''hospitals'' for purposes of this subsection of the preamble), under this proposed rule. During and following the COVID–19 response, the health care community identified the need for standardized data elements and digital data collection approaches to ease reporting burden. We recognize that overlapping or duplicative reporting requirements across agencies can place a significant administrative burden on hospitals, particularly smaller or resource-constrained facilities. In response to this, CMS, in partnership with CDC, have continued to work to reduce reporting burden particularly for respiratory illness and infectious diseases through the development of data standards, adoption of interoperability modernization activities, and offering a single system, the NHSN, for data collection and reporting. The NHSN Hospital Respiratory Data Reporting (*https://www.cdc.gov/nhsn/psc/hospital-respiratory-reporting.html*) currently offers hospitals flexible reporting options (for example, CSV import, use of APIs, Fast Healthcare Interoperability Resources (FHIR) based approaches, etc.) to ease burden given the variation in adoption of data modernization capabilities across hospital systems. Building on these efforts, CMS is seeking information on how to better support adoption of data and interoperability capabilities to reduce burden through automation and digital collection of data.

Specifically, we request public comments on the following:

- How can CMS, in collaboration with CDC, support expanded adoption of HL7 and Fast Healthcare Interoperability Resources (FHIR) standards to reduce reporting burden in hospitals, particularly during a PHE. We invite comments on approaches, resources (*e.g.,* training, technical guidance) and assistance, such as pilots, that could support continued adoption and automation of reporting to reduce burden. What specific needs do rural hospitals have that would enable their adoption of this automated approach?
- NHSN currently serves as the point of submission that hospitals use to comply with respiratory illness and infectious disease reporting requirements when there is a PHE. We invite comments on how this approach is supporting streamlined reporting, and if additional informational resources or assistance could be offered to reduce burden during ongoing reporting of acute respiratory illnesses, including influenza, SARS–CoV–2/COVID–19, and RSV, and PHE reporting of acute infectious illnesses.
- During a PHE, reporting requirements may need to be revised. What approaches and informational resources could support hospital adoption and ease reporting burden and adjustment to the updated requirements?

• Are there specific variables collected by CDC that are particularly difficult to collect or easy to integrate into existing clinical work flows and electronic health records? How could CMS revise its regulations or information collection to better integrate into clinical work flows and to be more policy relevant for facilities while still maintain monitoring federal capabilities to prevent, identify, and mitigate a PHE?

*J. Medicaid Institutional Payment Transparency Reporting Provision (§§ 438.72 and 442.43)*

1. Background and Scope

Children and adults of all ages need long-term services and supports (LTSS) because of disabling conditions, chronic illness, and other factors. Medicaid allows for the coverage of these services through several authorities and in a variety of settings, ranging from institutional facilities to home and community-based settings. Medicaid programs are required to provide a nursing facility benefit for eligible individuals aged 21 or older. They are also required to provide medically necessary nursing facility services to children under age 21 under the Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit and have obligations under Preadmission Screening and Resident Review requirements to provide nursing facility services to Medicaid beneficiaries of any age who need LTSS and for whom a nursing facility is the most appropriate setting to meet their needs. In addition, Medicaid programs may provide other institutional LTSS as optional services, including nursing facility services for persons under age 21 and services in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID). Medicaid is the largest payer nationally of LTSS. In 2023, 1.29 million Medicaid beneficiaries received nursing facility services, and approximately 86,000 Medicaid beneficiaries received ICF/IID services.[294] These services accounted for over $79.4 billion in Medicaid expenditures ($68.8 billion for nursing facility services; $10.6 billion for ICF/IID services),[295] roughly 9 percent of the $871.7 billion in total Medicaid expenditures during that year.[296] Demand for LTSS, whether delivered in an institutional setting or in the home or community, is expected to continue rising due to the growing needs of the aging population.[297] [298]

As we discussed in the *Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting* proposed rule (88 FR 61352) (''2023 Minimum Staffing proposed rule''),[299] State Medicaid agencies (SMAs), provider groups, and beneficiary advocates have routinely expressed concern that chronic understaffing and high rates of turnover of direct care workers in Medicaid-participating nursing facilities and ICFs/IID make it difficult to ensure access to high-quality institutional services for people with disabilities and older adults. Additionally, direct care workers play a critical role in helping some residents develop the daily living skills needed to transition out of facilities and back to the community, as well as with assessing individuals' readiness for discharge and assisting with discharge planning. In addition to direct care nursing staff, other types of direct care workers, such as physical therapists and feeding assistants, provide LTSS (including, if applicable, components of active treatment as defined at § 483.440) to allow residents to attain or maintain the highest practicable physical, mental, and psychosocial well-being. Also important to residents' quality of life and quality of care are support staff who maintain the physical environment of the care facility or provide other supports to residents, such as housekeeping, environmental services, food services, or transportation.

Insufficient staffing in nursing facilities and ICFs/IID can reduce the efficiency of Medicaid payment for services, most clearly when the payment methodology is based on the actual cost of delivering services and such costs are increased due to reliance on overtime and temporary staff, which can have higher hourly costs than non-overtime wages paid to permanent staff. Further, understaffing can reduce quality of care, which can lead to poorer outcomes for people in institutional settings [300] and result in costly emergency department visits and hospitalizations.[301] [302] [303] As a result, understaffing is one of many factors that can reduce the cost-effectiveness of Medicaid institutional services.

In response to these concerns about the institutional workforce, we finalized Federal requirements through the ''Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care (LTC) Facilities and Medicaid Institutional Payment Transparency Reporting'' final rule (89 FR 40876) (''2024 Minimum Staffing final rule'').[304] These requirements were intended to promote public transparency around States' statutory obligation under section 1902(a)(30)(A) of the Act and around the quality requirements in section 1932(c) of the Act for services furnished through managed care organizations (MCOs) and prepaid inpatient health plans (PIHPs) [305] under our authority under section 1902(a)(4) of the Act. Specifically, we added new Federal requirements to promote better understanding and transparency related to the percentages of Medicaid payments for nursing facility and ICF/IID services that are spent on

[294] Carpenter, Alexandra, Cara Stepanczuk, and Andrea Wysocki. ''Medicaid Long-Term Services and Supports Users and Expenditures by Service Category, 2023.'' Mathematica, October 17, 2025. Accessed at *https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltss-users-expenditures-category-brief-2023.pdf.*

[295] Carpenter, Alexandra, Cara Stepanczuk, and Andrea Wysocki. ''Medicaid Long-Term Services and Supports Users and Expenditures by Service Category, 2023.'' Mathematica, October 17, 2025. Accessed at *https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltss-users-expenditures-category-brief-2023.pdf.*

[296] Medicaid and CHIP Payment and Access Commission (MACPAC). February 2026. MACStats: Medicaid and CHIP Data Book, accessed May 22, 2026.

[297] Campbell, S., A. Del Rio Drake, R. Espinoza, K. Scales. 2021. Caring for the future: The power and potential of America's direct care workforce. Bronx, NY: PHI *http://phinational.org/wp-content/uploads/2021/01/Caring-for-the-Future-2021-PHI.pdf.*

[298] Centers for Medicare & Medicaid Services. November 2020. Long-Term Services and Supports Rebalancing Toolkit. Accessed at *https://www.medicaid.gov/medicaid/long-term-services-supports/downloads/ltss-rebalancing-toolkit.pdf.*

[299] *https://www.federalregister.gov/documents/2023/09/06/2023-18781/medicare-and-medicaid-programs-minimum-staffing-standards-for-long-term-care-facilities-and-medicaid#page-61382.*

[300] We note that the requirements we finalized in the 2024 Minimum Staffing final rule and the proposals in this proposed rule are specific to nursing facility and ICF/IID services, which we at times may refer to collectively in this preamble as ''institutional services.'' We also note that unlike in other sections of this proposed rule, we will not be referring to LTC facilities, as the term typically is not used to describe ICFs/IID.

[301] Zheng, Q., Williams, C.S., Shulman, E.T., White, A.J. Association between staff turnover and nursing home quality—evidence from payroll-based journal data. J. Am. Geriatr. Soc. 2022;70(9):2508–2516. DOI: 10.1111/jgs.17843.

[302] Loomer, L., Grabowski, DC, Yu, H., Gandhi, A. Association between nursing home staff turnover and infection control citations. Health Serv. Res. 2022;57(2):322–332. DOI: 10.1111/1475–6773.13877.

[303] Lerner, N.B., Johantgen, M., Trinkoff, A.M., Storr, C.L., Han, K. Are nursing home survey deficiencies higher in facilities with greater staff turnover. J. Am. Med. Dir. Assoc. 2014;15(2):102–7. DOI: 10.1016/j.jamda.2013.09.003.

[304] *https://www.federalregister.gov/documents/2024/05/10/2024-08273/medicare-and-medicaid-programs-minimum-staffing-standards-for-long-term-care-facilities-and-medicaid#h-32.*

[305] Throughout this section, the use of the term ''managed care plan'' means MCOs and PIHPs.

compensation to direct care workers and support staff.

To support the implementation of the Medicaid institutional payment transparency reporting requirements finalized in the 2024 Minimum Staffing final rule, we engaged with States, providers, and other interested parties to provide training and technical assistance and address questions. We also began drafting technical specifications and guidance to support States with implementing the requirements and to explore options for collecting the required data from States. Through the public input received through this engagement and our internal deliberations related to the implementation of the requirements, we have developed a better understanding of the complexity and challenges of implementing certain Medicaid institutional payment transparency reporting requirements that we finalized in the 2024 Minimum Staffing final rule. As we discuss in more detail in section I.3. of this proposed rule, we also now believe we may be able to approximate the percentage of Medicaid payments spent on direct care worker compensation for nursing facilities using a combination of existing data, such as payroll-based journal data, the Minimum Data Set, Bureau of Labor Statistics data, Medicare Cost Reports, and/or Medicaid claims and encounter data. Based on this new understanding, we are proposing regulatory changes at §§ 438.72 and 442.43 to rescind requirements for States to report annually, at the facility level, on the percentage of payments for nursing facility services that is spent on compensation for direct care workers, the percentage of payments for nursing facility services that is spent on compensation for support staff, and the percentage of payments for ICF/IID services that is spent on compensation for support staff. In addition, we are soliciting public comment on approaches to address direct care worker shortages and strengthen the direct care workforce in nursing facilities and ICFs/IID.

2. Purpose and Statutory Basis

Title XIX of the Act established the Medicaid program as a joint Federal and State program to provide medical assistance to eligible individuals. Under the Medicaid program, each State that chooses to participate in the program and receive Federal financial participation (FFP) for program expenditures establishes eligibility standards, benefits packages, and payment rates, and undertakes program administration in accordance with Federal statutory and regulatory requirements. The provisions of each State's Medicaid program are described in the Medicaid ''State plan'' and, as applicable, in documents related to a State's use of other authorities, such as demonstration projects and waivers of State plan requirements. CMS reviews and approves State plans, State plan amendments, demonstration projects authorized under section 1115 of the Act, and waivers authorized under section 1915 of the Act. CMS also reviews expenditures for compliance with Federal Medicaid law, including the requirements of section 1902(a)(30)(A) of the Act relating to efficiency, economy, quality of care, and access, to ensure that all applicable Federal requirements are met.

Section 1902(a)(30)(A) of the Act requires State Medicaid programs to ensure that payments to providers are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available to beneficiaries at least to the extent as to the general population in the same geographic area. Section 1902(a)(6) of the Act requires State Medicaid agencies to make such reports, in such form and containing such information, as the Secretary may from time to time require, and to comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports.

Institutional services include care delivered by direct care workers including nursing services, assistance with activities of daily living (such as mobility, personal hygiene, and eating), therapies (such as physical, speech or occupational), and recreation. Institutional services also require support staff who maintain the physical environment of the care facility or provide other services for residents (such as housekeeping, janitorial and environmental services, food preparation, and transportation).

Through the 2024 Minimum Staffing final rule, under our authority at section 1902(a)(6) of the Act, and consistent with section 1902(a)(30)(A) of the Act, we required that SMAs report annually, at the facility level, on the percentage of Medicaid payments (not including excluded costs, which are discussed later in this section) for nursing facility and ICF/IID services that is spent on compensation for the direct care and support staff workforce.[306] This requirement was intended to promote transparency around compensation for direct care workers and support staff.

To support the implementation of the Medicaid institutional payment transparency reporting requirements we finalized in the 2024 Minimum Staffing final rule, we engaged with States, providers, and other interested parties to provide training and technical assistance and address questions. This included participating in CMS Open Door Forums on April 25, 2024,[307] May 7, 2024,[308] and July 30, 2024,[309] to discuss the institutional payment transparency reporting requirements. We also participated in external meetings with SMAs, State operating agencies (such as State developmental disability agencies responsible for operating programs for people with intellectual and developmental disabilities), State associations, advocacy organizations, and others during summer and fall 2024 to disseminate information on the regulations and address questions. In addition, we began drafting technical specifications and guidance to support States with implementing the requirements and to explore options for collecting the required data from States.

Through these public engagements and our internal deliberations related to the implementation of the requirements, we have developed a better understanding of the complexity and challenges of implementing certain Medicaid institutional payment transparency reporting requirements we finalized in the 2024 Minimum Staffing final rule. Based on this understanding, we are proposing several changes to the regulatory text at §§ 438.72 and 442.43, to rescind the requirements for States to report annually, at the facility level, on the percentage of payments for nursing facility services that is spent on compensation for direct care workers, the percentage of payments for nursing facility services that is spent on compensation for support staff, and the percentage of payments for ICF/IID services that is spent on compensation for support staff. However, we are soliciting public comment on approaches to address worker shortages and strengthen the workforce in nursing facilities and ICFs/IID.

We note that while aspects of this proposal are intended to complement the goals expressed in other sections of this preamble, the following proposals

[306] Throughout this discussion, we use the term ''States'' to include all States, Washington, DC, and the territories that include nursing facility services or ICF/IID services in their State plans.

[307] See *https://www.cms.gov/files/zip/ltssodf07302024.zip* for more information.

[308] See *https://www.cms.gov/files/zip/ltssodf05072024.zip* for more information.

[309] See *https://www.cms.gov/files/zip/ruralhealthodf04252024.zip* for more information.

presented later in this section of the preamble would be, if finalized, distinct provisions. To the extent a court may enjoin any part of a final rule, the Department intends that other provisions or parts of provisions should remain in effect. Should they be finalized, we intend that any provision of the proposals described in this section or in another section held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, would be construed so as to continue to give maximum effect to the provision permitted by law, unless such holding is one of utter invalidity or unenforceability, in which event we intend that the provision would be severable from the other finalized provisions described in this section and in other sections and would not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

3. Proposed Provisions

In the 2024 Minimum Staffing final rule, we noted that a few commenters on the 2023 Minimum Staffing proposed rule did not believe that the reporting requirement as proposed would yield consistent or fully transparent data, given the differences among facilities, their payment models, current reporting practices, case mixes, size, geographical location, staffing requirements, and staff roles.[310] At the time, we did not understand in particular how diversity in payments could impact the accuracy of the reporting. Through our engagement since the rule was finalized and our internal deliberations related to the implementation of the requirements, we now understand that this diversity in payment sources for nursing facilities would create operational challenges related to the institutional payment transparency reporting requirements that would be difficult for States to address and could result in inaccurate reporting. For instance, nursing facilities typically receive payments from multiple payers, including Medicare, Medicaid, commercial insurance, Veterans Affairs, and self-pay. To comply with the institutional payment transparency reporting requirements, States would need to determine the share of direct care worker and support staff compensation that is for the care specifically of Medicaid beneficiaries, even though the residents that nursing facilities provide services to on a daily basis likely have a mix of payers. To accurately report on the percentage of Medicaid payments spent on compensation for direct care workers, we believe that States would need to require nursing facilities to do extensive daily time tracking of each of their direct care workers (including the amount of time each day that each direct care worker spent specifically caring for each Medicaid resident). We believe that such tracking would extend beyond any such tracking that is necessary to meet other Federal reporting requirements, even though nursing facilities have extensive Federal reporting requirements in addition to the Medicaid institutional payment transparency reporting requirements. Further, we believe that such tracking would detract from the amount of time that direct care workers spend caring for residents, thereby potentially exacerbating concerns related to understaffing in nursing facilities, quality of care, and poor outcomes that we cited in establishing the requirements.[311]

To avoid onerous time tracking of direct care workers in nursing facilities, we could potentially advise States that they could approximate the time that direct care workers spend caring for Medicaid residents in calculating the percentage of Medicaid payments spent on compensation for direct care workers.

However, we believe that we could make such an approximation using existing data sources, thereby reducing burden on nursing facilities without necessarily impacting the accuracy of the reporting. These existing data sources may include (but are not necessarily limited to): payroll-based journal data,[312] which includes data on direct care worker staff hours at the individual staff level for all Medicare- and Medicaid-certified nursing facilities; resident census data from the Minimum Data Set,[313] which provide information on how many residents there are overall and how many residents are Medicaid beneficiaries in each facility; Bureau of Labor Statistics data on average wages by occupation and county; [314] Medicare Cost Reports,[315] which contain financial information for Medicare-certified [316] skilled nursing facilities, including the proportion of resident days paid for by Medicaid, facility revenue, and facility expenditures on nursing staff; and/or Medicaid claims and encounter data which provide information on Medicaid fee-for-service and managed care payments to facilities.

a. Rescinding References to Nursing Facility Services and Nursing Facilities (§§ 438.72(a) and 442.43(a)(3), (b)(1), (d), (f))

CMS is proposing several changes to the regulatory text at §§ 438.72 and 442.43. Specifically, we are proposing to revise §§ 438.72(a) and 442.43(a)(3), (b)(1), (d), (f) to remove references to nursing facility services and nursing facility. If finalized, this proposal would remove the Medicaid Institutional Payment Transparency Reporting requirement for states to report on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers and support staff.

As we discussed in the 2024 Minimum Staffing final rule, we received comments on the 2023 Minimum Staffing proposed rule that supported using existing data sources to approximate the information required under the Medicaid institutional payment transparency reporting requirement for nursing facilities. For instance, one commenter stated that we already collect multiple data sets [317] that could be used to approximate the information that would be subject to the direct care worker reporting requirement, including: direct care salary, benefits, and hours for freestanding nursing facilities using the Medicare Cost Report; Medicaid fee-for-service per diems in upper payment limit reporting; and quarterly supplemental payment information through the Medicaid Budget and Expenditure System (MBES) [318] and in

[310] *https://www.federalregister.gov/d/2024-08273/p-477.*

[311] Min A., Hong HC. Effect of nurse staffing on rehospitalizations and emergency department visits among short-stay nursing home residents: A Cross-sectional study using the US Nursing Home Compare database. Geriatr Nurs. 2019 Mar-Apr;40(2):160–165. doi: 10.1016/j.gerinurse.2018.09.010. Epub 2018 Oct 4. PMID: 3029252.8.

[312] *https://www.cms.gov/medicare/quality/nursing-home-improvement/staffing-data-submission.*

[313] *https://www.cms.gov/medicare/quality/nursing-home-improvement/resident-assessment-instrument-manual.*

[314] *https://www.bls.gov/bls/blswage.htm.*

[315] *https://data.cms.gov/provider-compliance/cost-reports/skilled-nursing-facility-cost-report.*

[316] We recognize that nursing facilities that are not Medicare-certified are not required to submit cost reports to CMS. However, these facilities make up a very small percentage of all nursing facilities nationally. In 2020, only 2 percent of nursing facilities were Medicaid-certified only, according to the Congressional Research Service (*https://www.congress.gov/crs-product/IF11545*).

[317] *https://www.federalregister.gov/d/2024-08273/p-472.*

[318] *https://www.medicaid.gov/medicaid/data-systems/medicaid-and-chip-business-information-solution/macbis-financial/medicaid-budget-and-expenditure-system-mbes.*

Form CMS–64 reports.[319] This commenter stated that we should use existing Federal data to approximate the proposed metrics, which the commenter believed would reduce administrative burden and ensure consistent calculations across Medicaid programs.[320] A few commenters noted that facilities already complete cost reports and suggested that researchers and regulators interested in Medicaid expenditures could obtain spending information from these cost reports.[321] At the time, we disagreed that data on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers are readily available from existing data sources currently collected by CMS, and the data sources that the commenter listed would not provide information about Medicaid revenues at the facility level.

While we continue to agree that existing nursing facility data have limitations for the purpose of reporting on the percentage of Medicaid payments that is spent on compensation, we are no longer convinced, given the challenges discussed earlier with nursing facility reporting on the percentage of Medicaid payment that is spent on compensation, that existing data would necessarily result in a less accurate calculation than the regulatory requirement would. We believe it is important to further explore the feasibility of using existing data sources to report on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers before imposing additional and potentially unnecessary reporting requirements. As a result, we are proposing to rescind the requirement that States report on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers. See section II.H.3.(c) of this proposed rule for an articulation of each proposed recission.

b. Revising the Medicaid Institutional Payment Transparency Reporting Provision for Intermediate Care Facilities (§ 442.43(a)(3), (a)(3)(i) and (ii), (b), and (c)(1))

CMS is proposing to revise § 442.43(a)(3), (a)(3)(i) and (ii), (b), and (c)(1) by removing references to support staff. If finalized, this proposal would: 1) remove the Medicaid Institutional Payment Transparency Reporting requirement for states to report on the percentage of Medicaid payments for ICFs/IID that is spent on compensation for support staff, and 2) retain the requirement for states to report on the percentage of Medicaid payments for ICFs/IID that is spent on compensation for direct care workers.

Compared to nursing facilities, there is substantially less data available nationally on ICFs/IID. We do not believe that existing data on ICFs/IID can be used to approximate the percentage of Medicaid payments spent on compensation for direct care workers. Further, ICF/IID services are generally covered by Medicaid, but not Medicare or most private health insurance plans, reducing the complexity of the institutional payment reporting requirements for these providers compared to nursing facilities.[322] [323] As a result, we are not proposing to rescind the requirement that States report on the percentage of Medicaid payments for ICF/IID services spent on compensation for direct care workers. We continue to believe, as we did when we finalized the 2024 Minimum Staffing final rule, that promoting transparency around the percentage of Medicaid payments spent on compensation for direct care workers in ICFs/IID can improve understanding of policies that can support the direct care workforce and improve access to high quality care for Medicaid beneficiaries.[324] Further, they can help CMS, States, and the public assess whether Medicaid payments are being appropriately used to provide direct care to residents. Although we are not proposing any changes to this provision, we invite comment to inform future rulemaking on the merits of retaining this reporting requirement. See section II.H3(c) of this proposed rule for an articulation of each proposed revision.

c. Rationale for Proposed Recissions and Revisions (§§ 438.72 and 442.43)

As we discussed in the 2024 Minimum Staffing final rule, high-quality institutional services include support staff who maintain the physical environment of the care facility or provide other services for residents (such as housekeeping, janitorial and environmental services, food preparation, and transportation).[325] However, based on our engagement since the rule was finalized, we have learned that the amount of support staff needed to maintain the physical environment of the care facility or provide other services for residents is impacted by a variety of factors such as the age, condition, infrastructure, and physical layout of the facility; and whether the facility employs support staff or contracts for such services. Further, as a few commenters on the 2023 Minimum Staffing proposed rule indicated, facilities use Medicaid payments for a variety of expenses such as providing residents with private rooms, improving facility ventilation, evaluating and testing emergency preparedness plans, and other non-compensation activities that improve residents' care and safety.[326] We recognize that such costs can also have important impacts on the health and safety of residents but would not be accounted for in the Medicaid institutional payment transparency reporting requirements. We continue to believe that adequate support staffing is important to the health and safety of residents, but we are no longer convinced that data on the percentage of Medicaid payments spent on compensation for support staff is a useful metric for understanding whether payments to providers are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available to beneficiaries at least to the extent that such care and services are available to the general population in the same geographic area, consistent with section 1902(a)(30)(A) of the Act. As such, we do not believe that the current record supports maintaining the requirement, and we are proposing to rescind the requirements that States report on the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff and the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff.

We propose to rescind the three reporting requirements discussed in this section. We are proposing several changes to the regulatory text at §§ 438.72 and 442.43. Specifically, we are proposing to revise § 438.72(a) to remove references to nursing facility

[319] *https://www.medicaid.gov/medicaid/financial-management/state-budget-expenditure-reporting-for-medicaid-and-chip.*

[320] *https://www.federalregister.gov/d/2024-08273/p-472.*

[321] *https://www.federalregister.gov/d/2024-08273/p-472.*

[322] *https://www.cms.gov/medicare/health-safety-standards/certification-compliance/intermediate-care-facilities.*

[323] Medicaid and CHIP Payment and Access Commission (MACPAC ''MACStats: *Medicaid and CHIP Data Book.*'' December 2023. *https://www.macpac.gov/wp-content/uploads/2023/12/MACSTATS_Dec2023_WEB-508.pdf.*

[324] Sharma, H. and Liu, X. Association between wages and nursing staff turnover in Iowa. Innov Aging. 2022; 6(4): igac004. Published online 2022 Feb 5. doi: *10.1093/geroni/igac004.*

[325] *https://www.federalregister.gov/d/2023-18781/p-437.*

[326] *https://www.federalregister.gov/d/2024-08273/p-479.*

services and nursing facility. We are also proposing the following changes to the regulatory text at § 442.43:

- Revise the definition of *Compensation* in paragraph (a)(1) to remove ''and support staff'';
- Remove paragraph (a)(3), which defines *Support Staff;*
- Redesignate paragraph (a)(4), which defines *Excluded Costs,* as paragraph (a)(3);
- Revise newly redesignated paragraph (a)(3) to remove ''nursing facility or'' and ''and support staff'';
- Revise newly redesignated paragraphs (a)(3)(i) and (ii) to remove ''and support staff'';
- Revise paragraph (b), which establishes the reporting requirements, to remove ''and on compensation for support staff'' and ''pass-through payments'' as defined in § 438.6(a) for nursing facilities,'';
- Revise paragraph (b)(1), which describes the services subject to the reporting requirements, to remove ''nursing facility and'' and '', with the exception of services provided in swing bed hospitals as defined in § 440.40(a)(1)(ii)(B);
- Revise paragraph (c)(1) to read, ''*Contents.* Reporting must provide information necessary to identify, at the facility level, the percentage of Medicaid payments spent on compensation to direct care workers at each ICF/IID.'' and remove paragraphs (c)(1)(i) through (iv), which separately lists each of the reporting requirements; and
- Revise paragraph (d), which describes the website availability and accessibility requirements, to remove ''nursing facility and/or''; and
- Revise paragraph (f), which establishes the applicability date for the requirements, to remove ''nursing facility services or''.

We invite comment on these proposals.

We recognize that States and certain facilities may have begun planning for or implementing operational or systems changes to comply with the institutional payment transparency reporting requirements. We have considered such reliance costs in proposing to rescind the requirements that States report on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff, and the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff. Given the June 21, 2028, applicability date for the requirements, we believe that the costs that they may have incurred to date are minimal. We believe that any costs they have incurred to comply with the requirements are substantially less than any remaining initial implementation and ongoing costs they would incur if required to comply with the requirements as finalized. We also considered whether Medicaid beneficiaries, direct care workers, and support staff have relied on the institutional payment transparency reporting requirements. Since the applicability date for the requirements has not yet occurred, beneficiaries, direct care workers, and support staff have not experienced any benefits from the requirements. As such, we do not believe that they have relied on the institutional payment transparency reporting requirements.

As we discussed in the 2024 Minimum Staffing final rule, we intend to release subregulatory guidance and technical specifications to assist States with implementation of the requirements at § 442.43. We will make a reporting methodology and reporting template available for public comment through the Paperwork Reduction Act notice and comment process, which will give the public the opportunity to provide specific feedback and help us align the methodology and reporting process with existing State practices to the greatest extent possible. We also acknowledge that because State processes, timelines, and definitions vary, it may not be possible to align all details of the reporting process with existing practices in multiple States. We therefore plan to provide technical assistance, as needed, to facilitate further alignment with States' current reporting practices, to the greatest extent possible. As part of these materials, we intend to clearly indicate that States can use existing infrastructure or tools, such as provider surveys, to collect the necessary data to comply with the reporting requirements. Additionally, given the variety of contracting models, we will provide subregulatory guidance to States on how to approach reporting on compensation to contracted and subcontracted staff. We invite comment on other approaches or strategies that States could use to efficiently and effectively implement the requirements.

If the provisions discussed earlier in this section are finalized, States and CMS will be required to publicly report, at the facility level, on the percentage of Medicaid payments for ICF/IID services that are spent on compensation to direct care workers, but not on the percentage of Medicaid payments for nursing facility services that is spent on compensation to direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation to support staff, or the percentage of Medicaid payments for ICF/IID services that is spent on compensation to support staff. We also plan to explore the feasibility of using existing data sources to report on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, as we believe that promoting transparency around the percentage of Medicaid payments spent on compensation for direct care workers can improve understanding of how to enact policies that support the direct care workforce and advance access to high quality care for Medicaid beneficiaries. We request comment on other approaches we should consider for future rulemaking or policy guidance to address institutional workforce shortages and strengthen the institutional workforce. In particular, we invite comment on: if specific Federal policies, regulations, or processes hinder States', managed care plans', and providers' ability to recruit and retain direct care workers and support staff; effective reimbursement or other strategies for reducing turnover among direct care workers and support staff and addressing the shortage of institutional workers in rural areas; and promising approaches to building direct care worker career pathways.

## III. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520, we are required to provide notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, 44 U.S.C. 3506(c)(2)(A) requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

This proposed rule would impose new information collection requirements for some hospitals and CAHs that offer OB services. At the same time, however, it would create savings by eliminating information

collection requirements and recordkeeping or third-party disclosure requirements. As discussed later in this section of the preamble, we provide details on the expected costs and savings, if any, for each of the information collection requirements that we are proposing to create and eliminate.

We are soliciting public comment on each of these issues for the following sections of this document that contain information collection requirements (ICRs):

*A. ICRs Regarding Ongoing Respiratory Illness Report in Long-term Care (LTC) Facilities (§ 483.80(g))*

We are proposing to repeal the requirement at § 483.80(g) that LTC facilities engage in ongoing respiratory illness reporting when there is not a PHE. Currently, this reporting occurs on a weekly basis. This ongoing reporting requirement specifies that LTC facilities must submit data on the number of residents occupying a bed in the facility for at least 24 hours during the week, as well as residents' vaccination status, the number of confirmed resident cases and hospitalizations due to respiratory illnesses that include but are not limited to influenza, SARS–CoV–2/COVID–19, and RSV. We also propose to retain the following data elements currently in the ongoing reporting requirement for use during periods of Secretary-declared public health emergencies (PHEs): (1) facility census (currently § 483.80(g)(1)(ii)(A)); (2) confirmed, resident cases (currently § 483.80(g)(1)(ii)(C)); (3) hospitalized residents with confirmed cases (currently § 483.80(g)(1)(ii)(D)); (4) confirmed infections for staff (currently § 483.80 (g)(2)(i)); (5) supply inventory shortages (currently § 483.80 (g)(2)(ii)); (6) staffing shortages (currently § 483.80 (g)(2)(iii)); and (7) medical countermeasures and therapeutic inventories (currently § 483.80 (g)(2)(iv)).

To estimate the savings from eliminating the ongoing data reporting requirement, we followed the methodology used to estimate its cost in the CY 2025 Home Health PPS final rule (89 FR 88354).[327] We first assumed that since the infection preventionist (IP) oversees the facility's infection prevention and control program (IPCP), they would have retained responsibility for continuing to ensure that the facility met this requirement. We also assumed that the IP would be a registered nurse (RN). We calculated the hourly rate for the IP by doubling the national mean salary for RNs (occupation code 29–1141) using the BLS' May 2025 National Occupational Employment and Wage Estimates,[328] leading to an hourly cost of $97.52 ($48.76 × 2). We doubled the mean salary since the BLS data do not include overhead costs and fringe benefits. The HHS-wide guidance on preparation of regulatory and paperwork burden estimates states that doubling salary costs is a good approximation for including these overhead and fringe benefit costs.

We do not estimate savings from reviewing and updating the facility's policies and procedures since we expect that most facilities will continue to review their policies and procedures to ensure that they are up to date. We also do not estimate new costs for moving the elements listed in the ongoing reporting requirements to the PHE reporting requirements since LTC facilities are already required to report these data elements during a PHE. We do, however, estimate the change in burden due to the elimination of the ongoing (weekly) reporting requirement.

Reviewing data from the Administration for Strategic Preparedness and Response (ASPR) on public health emergencies between 2005 and 2025, we identified four public health emergencies (H1N1, Zika, Mpox, and COVID–19), or approximately 1 every 5 years, where PHE reporting could occur. Two of these illnesses (H1N1 and COVID–19) are respiratory illnesses with the COVID–19 PHE lasting nearly 3.5 years and the H1N1 PHE lasting approximately 12 months. Given the extraordinary nature of COVID–19, we estimate that on average, there would be a 1-year respiratory illness PHE every 10 years where facilities would not incur savings from the proposed requirements. In addition, with the PHEs for Zika and Mpox lasting 9 months (0.75 years) and 6 months (0.5 years), respectively, we estimate that there would be approximately 7.5 months, or approximately 32 weeks every 10 years where facilities would report on other acute infectious illnesses.

According to CMS, there are 14,732 LTC facilities as of February 2026.[329] We expect that LTC facilities, on average, spend one hour weekly collecting the data and reporting the required information. Utilizing these data, we estimate in Table 1 that removing the ongoing reporting requirements would save LTC facilities 766,064 hours (52 hours × 14,732 facilities) and $74,706,561 (766,064 hours × $97.52) annually when there is no PHE. In Table 2, we estimate the savings when there is a PHE for an acute infectious illness that lasts 7.5 months (32 weeks). In that year, removing the ongoing reporting requirement would result in savings for the 20 weeks when there is not a PHE that requires reporting, leading to expected savings of 294,640 hours (20 hours × 14,732 facilities) and $28,733,293 (294,640 hours × $97.52).

**TABLE 1: 1 Year Burden Reduction from Removing non-PHE Reporting in LTC Facilities When There is no PHE**

| Facilities (a) | Hourly Salary (b) | Hourly Burden per Facility (c) | Per facility Cost Savings (d = b × c) | Total Financial Savings (e = d × a) | Total Hourly Savings (f = a × c) |
|---|---|---|---|---|---|
| 14,732 | $97.52 | 52 | $5,071 | $74,706,561 | 766,064 |

[327] ''Medicare Program; Calendar Year (CY) 2025 Home Health Prospective Payment System (HH PPS) Rate Update; HH Quality Reporting Program Requirements; HH Value-Based Purchasing Expanded Model Requirements; Home Intravenous Immune Globulin (IVIG) Items and Services Rate Update; and Other Medicare Policies Final Rule''.

[328] Available at *https://www.bls.gov/oes/current/oes291141.htm.*

[329] *https://qcor.cms.gov/active_nh.jsp?which=0&report=active_nh.jsp,* report ran 2/06/2026.

**TABLE 2: 1 Year Burden Reduction from Removing non-PHE Reporting in LTC Facilities When there is a Partial Year PHE**

| Facilities (a) | Hourly Salary (b) | Hourly Burden per Facility (c) | Per facility Cost (d = b × c) | Total Financial Savings (e = d × a) | Total Hourly Savings (f = a × c) |
|---|---|---|---|---|---|
| 14,732 | $97.52 | 20 | $1,950 | $28,733,293 | 294,640 |

In Table 3, we combine this information to estimate total savings over 10 years. For the 10-year estimate, we assume $0 in savings in year 5 based on our assumption of one year of acute respiratory illness reporting every 10 years, as well as an acute infectious illness occurring in year 10 that lasts 32 weeks (7.5 months). Over 10 years we estimate total savings would be $626,385,783 and 6,423,132 staff hours.

**TABLE 3: 10-Year Burden Reduction for Removing LTC Facilities' Non-PHE Reporting Requirements**

| Year | Financial Savings | Hourly Savings |
|---|---|---|
| 1 | $74,706,561 | 766,064 |
| 2 | $74,706,561 | 766,064 |
| 3 | $74,706,561 | 766,064 |
| 4 | $74,706,561 | 766,064 |
| 5 | $0 | 0 |
| 6 | $74,706,561 | 766,064 |
| 7 | $74,706,561 | 766,064 |
| 8 | $74,706,561 | 766,064 |
| 9 | $74,706,561 | 766,064 |
| 10 | $28,733,293 | 294,620 |
| Total 10-Year Savings | $626,385,783 | 6,423,132 |

The information collection currently approved under OMB Control No. 0938–1363 (Long-Term Care Facilities) will be revised and submitted to OMB for review and approval.

*B. ICRs Regarding Proposal To Amend Transfer Notice to Ombudsman (§ 483.15(c))*

We are proposing to remove the requirement for LTC facilities to provide Ombudsman notice of resident transfers related to emergent care. To estimate the savings from removing this requirement, we followed the same methodology used to estimate its cost in the final rule establishing this requirement.[330] Specifically, we estimate that it costs $0.10 per notice to make a copy and $0.95 for a pre-stamped first-class envelope (USPS) retail. An OIG report estimates that 25 percent of nursing home residents are transferred to hospitals each year.[331] As of January 2026, there were 1,231,691 residents in Medicare/Medicaid-certified nursing homes.[332] While recognizing that some nursing homes send bulk notices to ombudsmen on a regular basis, such as once a month, we also recognize that some nursing home residents may have more than one transfer for emergent care. As such, we assume that LTC facilities are currently sending 307,923 notices (1,231,691 residents × 25 percent) annually. We assume that it takes a secretary or administrative assistant 5 minutes to print and address each notice, for a total time burden of 25,660 hours (307,923 residents × .083 hours). We calculated the employee's hourly rate by doubling the national mean salary for secretaries and administrative assistants (occupation code 43–6010) using the BLS' May 2025 National Occupational Employment and Wage Estimates,[333] leading to an hourly cost of $51.26 ($25.63 × 2). We doubled the mean salary since the BLS data do not include overhead costs and fringe benefits. This leads to an average cost of $5.30 per notice ($1.05 for printing and envelope + $4.25 staff time).

As indicated in Table 4, we estimate that the proposed change in notices would lead to a $1,631,991 annual reduction in burden with 25,660 hours saved. Table 5 provides the total savings

[330] 81 FR 68688.

[331] Office of Inspector General. Medicare Nursing Home Resident Hospitalization Rates Merit Additional Monitoring (OEI–06–11–00040; 11/13). Published online November 2013:28.

[332] Centers for Medicare and Medicaid Services. Provider Information. *https://data.cms.gov/provider-data/dataset/4pq5-n9py* (January 27, 2026).

[333] Available at *https://www.bls.gov/oes/current/oes291141.htm.*

over 10 years that we estimate would be $16,319,906 and 256,600 hours.

**TABLE 4: Annual Burden Reduction from Removing Ombudsmen Notices of Transfer for Emergent Care**

| Number of Residents (a) | % of Resident Needing Transfer (b) | Envelope and Printing Cost Savings (c) | Staff Cost Savings per Patient Notice (d) | Savings per Patient Transfer (e = c + d) | Total Cost Savings (f = a × b × e) | Total Hourly Savings (g = a × b × 5 minutes/notice) |
|---|---|---|---|---|---|---|
| 1,231,691 | 0.25 | $1.05 | $4.25 | $5.30 | $1,631,991 | 25,660 |

**TABLE 5: 10-Year Burden Reduction from Removing Ombudsmen Notices of Transfer for Emergent Care**

| Year | Financial Savings | Hourly Savings |
|---|---|---|
| 1 | $1,631,991 | 25,660 |
| 2 | $1,631,991 | 25,660 |
| 3 | $1,631,991 | 25,660 |
| 4 | $1,631,991 | 25,660 |
| 5 | $1,631,991 | 25,660 |
| 6 | $1,631,991 | 25,660 |
| 7 | $1,631,991 | 25,660 |
| 8 | $1,631,991 | 25,660 |
| 9 | $1,631,991 | 25,660 |
| 10 | $1,631,991 | 25,660 |
| Total 10-Year Savings | $16,319,906 | 256,600 |

The information collection currently approved under OMB Control No. 0938–1363 will be revised and submitted to OMB for review and approval.

*C. ICRs Regarding Proposal To Amend Facility Assessment by Removing Active Involvement of Direct Care Staff Representatives (Union Representatives) (§ 483.71)*

We are proposing to modify the LTC facility assessment requirement (§ 483.71) by removing the requirement that LTC facilities include the active involvement of representatives of direct care staff when conducting the LTC facility assessment. The Medicare and Medicaid Programs; Minimum Staffing Standards for Long-Term Care Facilities and Medicaid Institutional Payment Transparency Reporting final rule (89 FR 40876) that established the requirement that representatives of direct care staff be included in the assessment process, estimated no burden for including them in the assessment process. As such, we estimate no financial savings from their removal from the process. We do expect, however, that ending their inclusion will streamline the process and ensure that the focus remains on the residents.

*D. ICRs Regarding Staff COVID–19 Vaccine Educate, Offer, and Documentation Requirements in LTC Facilities (§ 483.80(d))*

We are proposing to remove the requirement (§ 483.80(d)) that LTC care facilities educate staff members on the benefits and risks of COVID–19 vaccines, offer the COVID–19 vaccine to staff members, and maintain documentation related to staff COVID–19 vaccination. To estimate the savings from removing these requirements, we utilized the same methodology that we used to estimate the collection of information costs in the Medicare and Medicaid Programs; COVID–19 Vaccine Requirements for Long-Term Care (LTC) Facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs-IID) Residents, Clients, and Staff IFC (86 FR 26306).

Specifically, we assume that a registered nurse (RN) oversees LTC facilities' updates to the facility's policies and procedures. We calculated the RN's hourly rate by doubling the national mean salary for RNs (occupation code 29–1141) using the BLS' May 2025 National Occupational

Employment and Wage Estimates,[334] leading to an hourly cost of $97.52 ($48.76 × 2). We originally estimated that it would take 12 hours annually for each facility to update its policies and procedures related to staff and resident COVID–19 education and vaccination efforts. Since we are proposing to remove the requirements related to staff education, we estimate that the time needed to update policies and procedures will decline by 6 hours annually. As of February 2026, there were 14,732 Medicare/Medicaid-certified nursing homes.[335] As indicated in Tables 6, facilities would save 88,392 hours (14,732 facilities × 6 hours) and $8,619,988 (88,392 hours × $97.52) annually from not needing to update their policies and procedures related to staff COVID–19 vaccine education. Table 7 provides the 10-year savings that we estimate would be $86,199,878 and 883,920 hours.

**TABLE 6: Annual Burden Reduction from Removing Updates to Facility Policies Regarding Staff COVID-19 Education**

| Total Facilities (a) | Loaded Hourly Wage (b) | Hours per Facility (c) | Total Financial Savings (d = a × b × c) | Total Hourly Savings (e = a × c) |
|---|---|---|---|---|
| 14,732 | $97.52 | 6 | $8,619,988 | 88,392 |

**TABLE 7: 10-Year Burden Reduction from Removing Updates to Facility Policies Regarding Staff COVID-19 Education**

| Year | Financial Savings | Hourly Savings |
|---|---|---|
| 1 | $8,619,988 | 88,392 |
| 2 | $8,619,988 | 88,392 |
| 3 | $8,619,988 | 88,392 |
| 4 | $8,619,988 | 88,392 |
| 5 | $8,619,988 | 88,392 |
| 6 | $8,619,988 | 88,392 |
| 7 | $8,619,988 | 88,392 |
| 8 | $8,619,988 | 88,392 |
| 9 | $8,619,988 | 88,392 |
| 10 | $8,619,988 | 88,392 |
| Total 10-Year Savings | $86,199,878 | 883,920 |

In addition to updating their policies and procedures, facilities must also document their education efforts surrounding staff COVID–19 vaccination. We estimate that documentation in employee records takes each facility 6 hours annually for a total annual burden of 88,392 hours (14,732 facilities × 6 hours) across all facilities. This documentation would be completed by a financial clerk (occupation code 43–3099) using the BLS' May 2025 National Occupational Employment and Wage Estimates, at an hourly cost of $54.28 ($27.14 × 2). As indicated in Tables 8 and 9, removing this documentation requirement would save facilities 88,392 hours and $4,797,918 annually (88,392 hours × $54.28) with total 10-year savings of $47,979,178 and 883,920 hours.

[334] *https://qcor.cms.gov/active_nh.jsp?which=0&report=active_nh.jsp,* report ran 02/06/2026.

[335] iQIES (02/03/2026). Available at *qcor.cms.gov* (accessed February 6, 2026).

**TABLE 8: Annual Burden Reduction from Removing Staff Documentation of COVID-19 Education**

| Total Facilities (a) | Loaded Hourly Wage (b) | Hours per Facility (c) | Total Cost Savings (d = a × b × c) | Total Hourly Savings (e = a × c) |
|---|---|---|---|---|
| 14,732 | $54.28 | 6 | $4,797,918 | 88,392 |

**TABLE 9: 10-Year Burden Reduction from Removing Staff Documentation of COVID-19 Education**

| Year | Financial Savings | Hourly Savings |
|---|---|---|
| 1 | $4,797,918 | 88,392 |
| 2 | $4,797,918 | 88,392 |
| 3 | $4,797,918 | 88,392 |
| 4 | $4,797,918 | 88,392 |
| 5 | $4,797,918 | 88,392 |
| 6 | $4,797,918 | 88,392 |
| 7 | $4,797,918 | 88,392 |
| 8 | $4,797,918 | 88,392 |
| 9 | $4,797,918 | 88,392 |
| 10 | $4,797,918 | 88,392 |
| Total 10-Year Savings | $47,979,178 | 883,920 |

The information collection currently approved under OMB Control No. 0938–1363 will be revised and submitted to OMB for review and approval.

*E. ICRs Regarding Staff COVID–19 Vaccine Educate, Offer, and Documentation Requirements in ICFs-IID (§ 483.460(a)(4))*

We are proposing to remove the requirements *(§ 483.460(a)(4))* that ICFs-IID educate staff members on COVID–19 vaccines and offer the COVID–19 vaccine to staff members and modifying the policies and procedures surrounding the procedures for COVID–19 vaccination education and offer for clients. To estimate the savings from removing these requirements for staff members, we utilized the same methodology that we used to estimate the collection of information costs in the Medicare and Medicaid Programs; COVID–19 Vaccine Requirements for LTC Facilities and ICFs-IID Residents, Clients, and Staff IFC (86 FR 26306).

Specifically, we assume that an RN oversees ICFs-IID's updates to the facility's policies and procedures. We calculated the RN's hourly rate by doubling the national mean salary for RNs (occupation code 29–1141) using the BLS' May 2025 National Occupational Employment and Wage Estimates, leading to an hourly cost of $97.52 ($48.76 × 2). We originally estimated that it would take 6 hours annually for each facility to update its policies and procedures related to staff and resident COVID–19 education and vaccination efforts. Since we are proposing to remove the requirements related to staff education, we estimate that the time needed to update policies and procedures would decline by 3 hours annually. As of February 2026, there were 5,332 Medicare/Medicaid-certified ICFs-IID.[336] As indicated in Table 10, facilities would save 15,996 hours (5,332 facilities × 3 hours) and $1,559,930 (15,996 hours × $97.52) annually from not needing to update their policies and procedures related to staff COVID–19 vaccine education. Table 11 contains the total 10-year savings that we estimate would be $15,599,299 and 159,960 hours.

[336] iQIES (02/03/2026). Available at *qcor.cms.gov* (accessed February 6, 2026).

**TABLE 10: Annual Burden Reduction from Removing Updates to Facility Policies Regarding Staff COVID-19 Education in ICFs-IID**

| Total Facilities (a) | Loaded Hourly Wage (b) | Hours per Facility (c) | Total Financial Savings (d = a × b × c) | Total Hourly Savings (e = a × c) |
|---|---|---|---|---|
| 5,332 | $97.52 | 3 | $1,559,930 | 15,996 |

**TABLE 11: 10-Year Burden Reduction from Removing Updates to Facility Policies Regarding Staff COVID-19 Education in ICFs-IID**

| Year | Financial Savings | Hourly Savings |
|---|---|---|
| 1 | $1,559,930 | 15,996 |
| 2 | $1,559,930 | 15,996 |
| 3 | $1,559,930 | 15,996 |
| 4 | $1,559,930 | 15,996 |
| 5 | $1,559,930 | 15,996 |
| 6 | $1,559,930 | 15,996 |
| 7 | $1,559,930 | 15,996 |
| 8 | $1,559,930 | 15,996 |
| 9 | $1,559,930 | 15,996 |
| 10 | $1,559,930 | 15,996 |
| Total 10-Year Savings | $15,599,299 | 159,960 |

For the modification to the policies and procedures surrounding the COVID–19 vaccination for clients, we do not expect these changes will modify the collection of information costs.

The information collection under OMB Control No. 0938–1402 will be revised and sent to OMB for approval.

*F. ICRs Regarding COVID–19 Sunset Requirements for REHs (§ 485.526(e) and (g))*

We are proposing to repeal the requirement (§ 485.526(e)) that REHs electronically report information about COVID–19 and seasonal influenza in a standardized format specified by the Secretary. We are also proposing to remove the requirement (§ 485.526(g)) that REHs must develop and implement policies and procedures to ensure that all staff are fully vaccinated for COVID–19. The COVID–19 and seasonal influenza reporting requirement ended on April 30, 2024, while the requirement that REHs must develop and implement policies and procedures to ensure that all staff are fully vaccinated for COVID–19 ended on November 4, 2024. As such, we do not expect that REHs will see a reduction in information collection costs from removing these requirements.

*G. ICRs Regarding Proposals To Remove Data Reporting Requirements for REHs During a PHE (§ 485.526(f))*

We propose to remove the requirement for REHs to report data related to viral and bacterial pathogens and infectious diseases of pandemic or epidemic potential when the Secretary has declared a PHE. Currently, the elements that REHs are required to report during a PHE exceed those required for hospitals and CAHs. Eliminating this requirement would alleviate burden on REHs, which typically operate with a limited number of staff members. Additionally, we are retaining the requirements for hospitals and CAHs to report data on infectious illness during a PHE. As a result, relevant data on patients that are stabilized in REHs and transferred to other hospitals would be accounted for in this reporting. We anticipate that removing this data reporting requirement would likely reduce burden for REH providers. Given the timing of the implementation of the REH program and the limited mandated PHE data reporting period, we are seeking comments on potential savings for REHs that would occur under the proposed removal of the PHE reporting requirements.

*H. ICRs Regarding Revisions to Physical Environment and Emergency Preparedness Incorporation by Reference (§§ 485.542(g) & 485.544(e)) for REHs*

We are proposing to modify the REH physical environment and emergency preparedness incorporation by reference requirements that outline procedures for enforcing updated editions and provide contact information for accessing the incorporated materials through CMS and the National Archives and Records Administration (NARA) by removing the outdated CMS contact information and updating the NARA contact information for access to the incorporated materials. We expect no financial savings from updating this requirement although we expect that it will reduce confusion when interested parties are seeking to access this information from CMS.

*I. ICRs Regarding Obstetrical Services (OB) Training Policies and Procedures for Hospitals (§ 482.59(c)) and CAHs (§ 485.649(c))*

We are proposing to repeal the requirement that hospitals (§ 482.59(c)) and CAHs (§ 485.649(c)) that offer obstetrical services develop policies and procedures to ensure that relevant staff are trained on select topics for improving the delivery of maternal care. In addition to developing these policies and procedures, facilities must provide relevant new staff with initial training and subsequent biennial training, document that the training was completed, and be able to demonstrate staff knowledge on the training topics. Finally, they must review and assess the training's efficacy on an ongoing basis based on the results of data, measures, and quality indicators from the facility's QAPI program.

In the final rule [337] that established the requirement for developing these policies and procedures, the expectation was that facilities would incur the burden for doing so during the first year after the effective date of January 1, 2025, or between January and December 2025. As such, we expect that most facilities have already completed their policies and procedures for this requirement and do not expect that removing it would reduce hospital or CAHs burden. We do not estimate anticipated savings for not needing to document that training was completed as updating employee records is a customary business practice. We also do not estimate savings for hospitals and CAHs not needing to review and assess the efficacy of their training since we expect that even with the elimination of the training requirement, hospitals and CAHs will still spend time assessing the efficacy of their maternal health efforts to meet requirements for their QAPI programs as outlined for hospitals (§ 482.21(e)) and CAHs (§ 485.641(e)). In the section titled ''OB Services Staff Training for Hospitals (§ 482.59(c)) and CAHs (§ 485.649(c))'', we estimate the savings hospitals and CAHs would obtain by not needing to train employees and review and assess the efficacy of these efforts.

*J. ICRs Regarding Emergency Services Readiness Staff Training for Hospitals (§ 482.55(c)(3)) and CAHs (§ 485.618(e)(2))*

We are proposing to repeal the requirement that staff in hospitals (§ 482.55(c)(3)) and CAHs (§ 485.618(e)(2)) that offer emergency services receive annual training on provisions and protocols to meet the emergency needs of patients. This requirement includes identifying and documenting which staff must receive the training, documenting that the staff received the training, demonstrating staff knowledge on the topics, and using findings from its QAPI program to inform staffing training needs and any additions, revisions, or updates to training topics on an ongoing basis.

We do not estimate savings for not needing to add, revise or update training topics since reviewing and updating policies and procedures is a customary business practice. We also do not estimate savings for documenting which staff received the training since this is also a customary business practice. In the regulatory impact analysis, below, in the section titled ''Emergency Services Readiness Staff Training for Hospitals (§ 482.55(c)(3)) and CAHs (§ 485.618(e)(2))'', we estimate hospital and CAH savings from not needing to train employees and test their knowledge on the training topics

*K. ICRs Regarding OB QAPI Requirements for Hospitals (§ 482.21(b) and (e)) and CAHs (§ 485.641(d) and (e))*

We are proposing to repeal OB QAPI requirements for hospitals (§ 482.21(b)(4) and (e)(1) and (2)) and CAHs (§ 485.641(d)(4)(i) and (ii) and (e)(2)) that offer obstetrical services. These requirements include utilizing their QAPI programs to assess and improve health outcomes and disparities among OB patients on an ongoing basis. They also require OB leadership to participate in a facility's QAPI program and where a State, local, or tribal MMRC exists, the facility must establish a process for incorporating publicly available MMRC data and recommendations into its QAPI activities.

To estimate the savings from these proposed changes, we use the same methodology that we used to estimate information collection costs in the CY 2025 OPPS/ASC final rule (89 FR 93912). First, we expect that hospitals would spend 4 hours annually modifying their information technology infrastructure to ensure that they capture the relevant features for the diverse subpopulations that facilities identify for their QAPI project. Specifically, we expect that these modifications would be undertaken by a mixture of staff from computer and mathematical occupations (occupation code 15–0000) at an average hourly cost of $115.46 ($57.73 × 2). We doubled the mean salary from the BLS' May 2025 National Occupational Employment and Wage Estimates,[338] since the BLS data do not include overhead costs and fringe benefits.

As indicated in Table 12, we expect that hospitals and CAHs would save 12,516 hours (3,129 facilities × 4 hours) and $1,445,097 (12,516 hours × $115.46) annually for not needing to update information technology infrastructure. In Table 13, we combine this information to estimate total savings over 10 years of $14,450,974 and 125,160 staff hours.

**TABLE 12: 1Year Burden Reduction Due to End of QAPI Information Technology Infrastructure Updates in Hospitals and CAHs**

| Provider Type | Number of Providers (a) | Annualized Hourly Burden (b) | Hourly Wage Cost (c) | Total Hourly Savings (d = a × b) | Total Financial Savings (e = c × d) |
|---|---|---|---|---|---|
| Hospital | 2,645 | 4 | $115.46 | 10,580 | $1,221,567 |
| CAH | 484 | 4 | $115.46 | 1,936 | $223,531 |
| Total | 3,129 | | | 12,516 | $1,445,097 |

[337] 89 FR 93912.

[338] Available at *https://www.bls.gov/oes/current/oes291141.htm.*

**TABLE 13: 10-Year Burden Reduction Due to End of QAPI Information Technology Infrastructure Updates in Hospitals and CAHs**

| Year | Hospital Financial Savings | Hospital Hourly Savings | CAH Financial Savings | CAHs Hours Savings | Combined Hospital and CAH Financial Savings | Combined Hospital and CAH Hourly Savings |
|---|---|---|---|---|---|---|
| 1 | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |
| 2 | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |
| 3 | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |
| 4 | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |
| 5 | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |
| 6 | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |
| 7 | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |
| 8 | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |
| 9 | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |
| 10 | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |
| Total 10-Year Savings | $12,215,668 | 105,800 | $2,235,306 | 19,360 | $14,450,974 | 125,160 |
| Average Annual Savings | $1,221,567 | 10,580 | $223,531 | 1,936 | $1,445,097 | 12,516 |

Second, based on our experience working with healthcare data, we expect that it takes each facility 8 hours annually to stratify data and quality indicators and monitor results after actions are taken to address any identified disparities. We anticipate that data scientists are overseeing these efforts at an average hourly cost of $121.92 ($60.96 × 2). As indicated in Table 14, we expect that hospitals and CAHs would save 25,032 burden hours (3,129 facilities × 8 hours) with a cost savings of $3,051,901 annually (25,032 hours × $121.92) for not needing to update information technology infrastructure. In Table 15, we combine this information to estimate total savings over 10 years of $30,519,010 and 250,320 staff hours.

**TABLE 14: 1 Year Burden Reduction Due to End of QAPI Data Stratification and Monitoring**

| Provider Type | Number of Providers (a) | Annualized Hourly Burden (b) | Hourly Wage Cost (c) | Total Hourly Savings (d = a × b) | Total Financial Savings (e = c × d) |
|---|---|---|---|---|---|
| Hospital | 2,645 | 8 | $121.92 | 21,160 | $2,579,827 |
| CAH | 484 | 8 | $121.92 | 3,872 | $472,074 |
| Total | 3,129 | | | 25,032 | $3,051,901 |

**TABLE 15: 10-Year Burden Reduction Due to End of QAPI Data Stratification and Monitoring**

| Year | Hospital Financial Savings | Hospital Hourly Savings | CAH Financial Savings | CAH Hourly Savings | Combined Hospital and CAH Financial Savings | Combined Hospital and CAH Hourly Savings |
|---|---|---|---|---|---|---|
| 1 | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |
| 2 | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |
| 3 | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |
| 4 | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |
| 5 | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |
| 6 | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |
| 7 | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |
| 8 | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |
| 9 | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |
| 10 | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |
| Total 10-Year Savings | $25,798,270 | 211,600 | $4,720,740 | 38,720 | $30,519,010 | 250,320 |
| Annual Savings | $2,579,827 | 21,160 | $472,074 | 3,872 | $3,051,901 | 25,032 |

The information collections currently approved under OMB Control No. 0938–0328 and OMB Control No. 0938–1043 will be revised and submitted to OMB for review and approval.

*L. ICRs Regarding Birth Tissue Collection for Hospitals (§ 482.59(c)) and CAHs (§ 485.649(c)) That Offer OB Services*

We are proposing to require that hospitals (§ 482.59(c)(1)) and CAHs (§ 485.649(c)(1)) that offer OB services and participate in the collection, storage, donation, banking, transfer, or release to patients of birth tissues must ensure that informed consent is obtained prior to the collection, storage, donation, transfer, banking, or release to patients of birth tissues. They must document this consent in the patient's medical records. Hospitals (§ 482.59(c)(2)) and CAHs (§ 485.649(c)(2)) must also have written policies and procedures that permit patients to request retention or release of birth tissue and provide these patients with instructions for safe handling, transport, storage, and disposition of the tissues.

To estimate the cost for this policy, we first assumed that all hospitals and CAHs that offer OB services are also participating in the collection, storage, donation, banking transfer, or release to patients of birth tissue and would need to develop policies and procedures to request retention or release of birth tissue for cultural, religious, or personal reasons. As outlined in 84 FR 51732, writing new policies related to patient care is estimated to take eight hours for each member of the staff involved in the care policy. We have included the involvement of an obstetrician or gynecologist at $2,102.24 (8 × $262.78), a lawyer at $1,734.08 (8 × $216.76), a registered nurse at $777.76 (8 × $97.22), a medical secretary at $365.60 (8 × $45.70), and a health services manager at $1,148.80 (8 × $143.60) for a total estimated cost of $6,128 per policy. This estimate leads to an average hourly cost of $153.20 ($6,128 ÷ 40) per staff member involved in developing this standard. As shown in Table 16, we estimate a total financial cost of $19,174,512 and a total hourly cost of 125,160 in Year 1 across all hospitals and CAHs. We expect no information collection costs in subsequent years.

**TABLE 16: Birth Tissue Policies and Procedures Development**

| Provider Type | Number of Providers (a) | Hourly Burden (b) | Cost per Facility (c) | Total Hourly Cost (d = a × b) | Total Financial Cost (e = a × c) |
|---|---|---|---|---|---|
| Hospital | 2,645 | 40 | $6,128 | 105,800 | $16,208,560 |
| CAH | 484 | 40 | $6,128 | 19,360 | $2,965,952 |
| Total | 3,129 | | $6,128 | 125,160 | $19,174,512 |

The information collections currently approved under OMB Control No. 0938–0328 and OMB Control No. 0938–1043 will be revised and submitted to OMB for review and approval.

*M. ICRs Regarding Transfer Protocols for Hospitals (§ 482.43(c))*

There are no collection of information savings associated with the proposed change to hospital transfer protocols. In the section titled ''Staff Transfer Protocols Training for Hospitals (§ 482.43(c))'' in the regulatory impact analysis section, below, we estimate the savings hospitals would obtain by not needing to train employees on transfer protocols.

*N. ICRs Regarding Proposal To Amend Status and Location Requirements (§ 485.610(c) and (e))*

We are proposing to revise §§ 485.610(c)(1) and (e)(2) to make permanent existing policy clarifying how the CAH distance requirement is applied. There are no collection of information requirements associated with these proposals.

*O. Adoption of the 2024 Edition of the Life Safety Code (National Fire Protection Association (NFPA) 101) and the 2024 Edition of the Health Care Facilities Code (National Fire Protection Association (NFPA) 99)*

We do not anticipate a reduction in collection of information costs related to the adoption *of the 2024 Edition of the Life Safety Code (NFPA 101), the 2024 Edition of the Health Care Facilities Code (NFPA 99), the 2022 edition of the Standard for Emergency and Standby Power Systems (NFPA 110), the 2022 edition of the Standard for the Installation of Sprinkler Systems (NFPA 13), and the 2023 edition of the Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (NFPA 25)* since changes in the edition in the codes that CMS requires focus primarily on the physical requirements for the facility rather than record-keeping requirements. We also do not anticipate any collection of information costs for the proposal that CMS may issue categorical waivers to provide hospitals, CAHs, REHs, ASCs, ICFs/IID, hospice inpatient care facilities, PACE centers, RNHCIs, and ESRD facilities with flexibility in complying with specific provisions of newer editions of the LSC or HCFC.

*P. ICRs Regarding Medicaid Institutional Payment Transparency Reporting Provision (§§ 438.72 and 442.43)*

The following proposed changes will be submitted to OMB for their approval when our survey instrument has been developed; we are using feedback received during public comment on the proposed rule to inform the development of the survey instrument. The survey instrument and burden will be made available to the public for their review under the standard non-rule PRA process which includes the publication of 60- and 30-day **Federal Register** notices. In the meantime, we are setting out our preliminary burden reduction figures (see below) as a means of estimating the impact of this proposed rule. The availability of the survey instrument and more definitive burden reduction estimates will be announced in both **Federal Register** notices. The CMS ID number for that collection of information request is CMS–10851 (OMB control number 0938–TBD). Since this would be a new collection of information request, the OMB control number has yet to be determined (TBD) but will be issued by OMB upon their approval of the new information collection request. Note that we intend that the following finalized changes associated with § 442.43(b), (c), and (d), discussed later in this section, will be submitted to OMB for review as a single PRA package under control number 0938–TBD (CMS–#####).

1. Wage Estimates

To derive average costs, we used data from the U.S. BLS May 2025 National Occupational Employment and Wage Estimates for all salary estimates (*http://www.bls.gov/oes/current/oes_nat.htm*). Table 17 presents BLS's mean hourly wage, our estimated cost of fringe benefits and other indirect costs (calculated at 100 percent of salary), and our adjusted hourly wage.

**TABLE 17: National Occupational Employment and Wage Estimates**

| OCCUPATION TITLE | OCCUPATION CODE | MEAN HOURLY WAGE ($/HR) | FRINGE BENEFITS AND OVERHEAD ($/HR) | ADJUSTED HOURLY WAGE ($/HR) |
|---|---|---|---|---|
| Administrative Services Manager | 11-3012 | 62.44 | 62.44 | 124.88 |
| Chief Executive | 11-1011 | 129.63 | 129.63 | 259.26 |
| Compensation, Benefits, and Job Analyst | 13-1141 | 40.54 | 40.54 | 81.08 |
| Computer Programmers | 15-1251 | 50.56 | 50.56 | 101.12 |
| General and Operations Manager | 11-1021 | 64.87 | 64.87 | 129.74 |
| Management Analyst | 13-1111 | 54.71 | 54.71 | 109.42 |
| Training and Development Specialist | 13-1151 | 36.32 | 36.32 | 72.64 |

For States and the private sector, our employee hourly wage estimates are adjusted by a factor of 100 percent. Both fringe benefits and other indirect costs vary significantly across employers, and because methods of estimating these costs vary widely across studies, these are conservative estimates. We believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

a. One-Time Burden Reduction for Implementation (§ 442.43(b)): States

To estimate the reduction in the financial burden on States related to the proposed changes to the Medicaid Institutional Payment Transparency Reporting provisions (discussed below), it was important to consider the Federal government's contribution to the cost of administering the Medicaid program. The Federal government provides funding based on a Federal medical assistance percentage (FMAP) that is established for each State, based on the per capita income in the State as compared to the national average. FMAPs range from a minimum of 50 percent in States with higher per capita incomes to a maximum of 83 percent in States with lower per capita incomes. For Medicaid, all States receive a 50 percent FMAP for administration. States also receive higher Federal matching rates for certain systems improvements, redesign, or operations. Taking into account the Federal contribution to the costs of administering the Medicaid programs for purposes of estimating State burden reduction with respect to collection of information, we elected to use the higher end estimate that the States would contribute 50 percent of the costs, even though the burden reduction would likely be smaller given that some States contributions will be less than 50 percent.

The burden reduction associated with rescinding the three reporting requirements in this proposed rule would affect all 51 States (including Washington DC). While States are not required to cover ICF/IID services (because it is an optional Medicaid benefit), the majority do. All States must offer Medicaid nursing facility services (because it is a mandatory Medicaid benefit). Thus, we anticipate that all 51 States (including Washington, DC) would experience reduced burden from rescinding the nursing facility and one of the ICFs/IID reporting requirements proposed at § 442.43(b). Additionally, three Territories (Guam, Puerto Rico, and the U.S. Virgin Islands) are required to include nursing facility services in their State plans and are therefore included in these calculations.[339] While we include these Territories in our saving estimates, we continue to refer to the affected entities collectively as ''States''. We estimate the ongoing and annual burden reductions to implement and administer these requirements at the State and provider levels. Under § 442.43(b), we anticipate a one-time implementation burden reduction for States, through their designated State Medicaid agency. The State Medicaid agencies would have to: (1) draft new policy describing the State-specific reporting process (one-time); (2) update any related provider manuals and other policy guidance, including guidance on excluded costs (one-time); (3) build, design, and operationalize an electronic system for data collection and aggregation (one-time); and (4) develop and conduct an initial training for providers on the reporting requirement and State-developed reporting system (one-time). Because we are proposing to rescind three of the four Medicaid institutional payment transparency requirements, we estimate the burden reduction attributable to the three requirements that we are proposing to rescind. The remaining reporting requirement on ICFs/IID is retained and would still require State implementation; therefore, its associated burden is excluded from the burden reduction estimates. These estimates are calculated by applying a 75 percent reduction to the time-per-response figures (expressed in hours) established in the 2024 Minimum Staffing final rule.[340] We note that we are not requiring that States update their Medicaid State plans as part of this reporting requirement, and thus we did not estimate a burden reduction associated with State plan amendments.

With regard to this one-time burden reduction for States, we estimate it would have taken: 30 hours at $124.88/hr. for an administrative services manager to draft new policy describing the State-specific reporting process; 30 hours at $109.42/hr. for a management analyst to update any related provider manuals and other policy guidance; 30 hours at $101.12/hr. for a computer programmer to build, design, and operationalize an electronic system for data collection on the percent of Medicaid payments going to compensation; 22.5 hours at $72.64/hr.

[339] Note that due to waiver under section 1902(j) of the Social Security Act, American Samoa and the Commonwealth of the Northern Marianas Islands are not required to include nursing facility services in their State plans and are therefore not included in these estimates. Additionally, no territory currently includes the optional ICF/IID benefit in their State plan.

[340] *https://www.federalregister.gov/d/2024-08273/p-777.*

for a training and development specialist to develop and conduct training for providers on the reporting requirement and system; 2.25 hours at $129.74/hr. for a general and operations manager to review and approve policy updates, provider agreement updates, and training materials; and 0.25 hour at $259.26/hr. for a chief executive to review and approve all operations associated with this requirement.

In addition to the activities outlined above, States may also have to update managed care contracts to reflect the new reporting requirement and provide managed care-specific guidance on the reporting requirement. Recent data indicates that 24 States provide at least some long-term services through a managed care delivery system. For the managed care-specific burden, we estimate 7.5 hours at $124.88/hr. for an administrative services manager to draft updates to managed care plan (that is, MCO and/or PIHP) contracts. (We anticipate that all other State activities associated with managed care plans would be reflected in the activities described previously in this section.)

In aggregate, we estimate a one-time burden of 6,320 hours [(122.5 hours × 54 States) + (10 × 24 States)]. We estimate a cost of $650,901 (54 States × [(30 hr. × $124.88) + (30 hr. × $109.42) + (30 hr. × $101.12) + (22.5 hr. × $72.64) + (2.25 hr. × $129.74) + (0.25 hr. × $259.26)]), with an additional $22,478 for managed care-related costs (24 States × [10 hr. × $124.88]). As shown in Table 18, the total cost is estimated at $673,380 ($650,901 + $22,478). Considering the Federal contribution to Medicaid administration, the estimated State share of the cost would be $336,690 ($673,380 × 0.50).

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**TABLE 18: One-Time Implementation Burden Reduction for States from Rescinding Certain Medicaid Institutional Payment Transparency Reporting Requirements**

| Requirement | No. Respondents | Total Responses | Frequency | Time per Response (hr.) | Total Time (hr.) | Wage ($/hr.) | Total Cost ($) | State Share ($) |
|---|---|---|---|---|---|---|---|---|
| Draft new policy describing the State-specific reporting process | 54 | 54 | Once | 30 | 1620 | 124.88 | -202,306 | -101,153 |
| Update any related provider manuals and other policy guidance, including guidance on excluded costs | 54 | 54 | Once | 30 | 1620 | 109.42 | -177,260 | -88,630 |
| Build, design, and operationalize an electronic system for data collection and aggregate, and stratify reporting | 54 | 54 | Once | 30 | 1620 | 101.12 | -163,814 | -81,907 |
| Develop and conduct an initial training for providers on the reporting requirement and State-developed reporting system | 54 | 54 | Once | 22.5 | 1215 | 72.64 | -88,258 | -44,129 |
| Review and approve policy updates and training materials | 54 | 54 | Once | 2.25 | 121.5 | 129.74 | -15,763 | -7,882 |
| Review and approve all operations associated with this requirement | 54 | 54 | Once | 0.25 | 13.5 | 259.26 | -3,500 | -1,750 |
| Draft contract modifications for managed care plans | 24 | 24 | Once | 7.5 | 180 | 124.88 | -22,478 | -11,239 |
| Total | Varies | 348 | Once | 122.5 | 6,390 | $921.94 | -673,380 | -336,690 |

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b. One-Time Burden Reduction for Implementation (§ 442.43(b)): Nursing Facilities and ICFs/IID

The burden reduction associated with this proposed rule would affect nursing facility and ICF/IID providers in both FFS and managed care systems. We estimate a one-time implementation burden reduction to rescind three of the four measures of the reporting requirement proposed at § 442.43(b) (that is, the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff, and the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff). We present two separate one-time burden reduction estimates for providers, that is, nursing facilities and ICFs/IID, to reflect the distinct scope of the rescissions being proposed. For nursing facilities, CMS is proposing to rescind the Medicaid institutional payment transparency reporting requirement in its entirety. For ICFs/IID, CMS is proposing to rescind only one of the two applicable reporting requirements; we are proposing to retain the remaining reporting requirement.

To estimate the number of nursing facility and ICF/IID providers that would have been subject to these requirements, we used data from the CMS Quality Certification and Oversight Reports (QCOR) system (*qcor.cms.gov*) to identify the total number of Medicaid-certified nursing facilities and ICFs/IID in all States (including Washington DC) and the three Territories that are required to include nursing facility services in their State plan. Data from QCOR indicates that in FY 2026, there were 13,605 freestanding Medicaid-certified nursing facilities (including facilities dually certified for both Medicare and Medicaid, and Medicaid-only facilities) and 5,262 ICFs/IID. In total, we estimate 18,867 Medicaid-certified nursing facilities and ICFs/IID would be impacted by this proposal and would benefit from rescinding certain parts of this requirement to provide data to the State.

We estimate this proposal to rescind the requirement for States to report the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff would have taken nursing facilities 10 hours at $81.08/hr. for a compensation, benefits, and job analysis specialist to learn the State-specific reporting policy and calculate compensation for each direct care worker and support staff; 10 hours at $101.12/hr. for a computer programmer to build, design, and operationalize an internal system for developing the report for the State; and 1 hour at $129.74/hr. for a general and operations manager to review and approve the reporting system. In aggregate, we estimate a one-time implementation burden of 418,047 hours (18,867 nursing facilities × 21 hours) at a cost of $36,560,002 (18,867 nursing facilities × [(10 hr. × $81.08) + (10 hr. × $101.12) + (1 hr. × $129.74)] for nursing facilities. To estimate the time-per-response for nursing facilities, we adopted the time-per-response figures established for providers in the 2024 Minimum Staffing final rule without adjustment, as the Medicaid institutional payment transparency reporting requirement is being rescinded in its entirety for this facility type.[341]

**TABLE 19: One-Time Implementation Burden Reduction from Rescinding the Medicaid Institutional Payment Transparency Reporting Requirements for Nursing Facilities**

| Requirement | No. Respondents | Total Responses | Frequency | Time per Response (hr.) | Total Time (hr.) | Wage ($/hr.) | Total Cost ($) | State Share ($) |
|---|---|---|---|---|---|---|---|---|
| Learn State-specific reporting policy; calculate compensation for each direct care worker and support staff | 18,867 | 18,867 | Once | 10 | 188,670 | 81.08 | -15,297,364 | n/a |
| Build, design, and operationalize an internal system for developing the report for the State | 18,867 | 18,867 | Once | 10 | 188,670 | 101.12 | -19,078,310 | n/a |
| Review and approve reporting system | 18,867 | 18,867 | Once | 1 | 18,867 | 129.74 | -2,447,805 | n/a |
| Total | 18,867 | 56,601 | Once | Varies | 396,207 | varies | -36,823,479 | n/a |

[341] *https://www.federalregister.gov/d/2024-08273/p-787.*

We estimate rescinding the requirement for ICFs/IID to report the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff would reduce burden by 5 hours at $81.08/hr. for a compensation, benefits, and job analysis specialist to learn the State-specific reporting policy and calculate compensation for each direct care worker and support staff; 5 hours at $101.12/hr. for a computer programmer to build, design, and operationalize an internal system for developing the report for the State; and 0.5 hour at $129.74/hr. for a general and operations manager to review and approve the reporting system. As shown in Table 20, in aggregate, we estimate a one-time implementation burden of 55,251 hours (5,262 ICF/IIDs facilities × 21 hours) at a cost of $5,135,028 (5,262 ICF/IIDs × [(5 hr. × $81.08) + (5 hr. × $101.12) + (0.5 hr. × $129.74)] for ICFs/IID. To estimate the time-per-response for ICFs/IID, we applied a 50 percent reduction to the time-per-response figures established for providers in the 2024 Minimum Staffing final rule.[342] This adjustment reflects that only one of the two ICF/IID reporting requirements is being proposed to be rescinded, while the remaining requirement is being proposed to be retained and would continue to require facility implementation.

**TABLE 20: One-Time Implementation Burden Reduction from Rescinding the Medicaid Institutional Payment Transparency Support Staff Reporting Requirements for ICFs/IID**

| Requirement | No. Respondents | Total Responses | Frequency | Time per Response (hr.) | Total Time (hr.) | Wage ($/hr.) | Total Cost ($) | State Share ($) |
|---|---|---|---|---|---|---|---|---|
| Learn State-specific reporting policy; calculate compensation for each support staff | 5,262 | 5,262 | Once | 5 | 26,310 | 81.08 | -2,133,215 | n/a |
| Build, design, and operationalize an internal system for developing the report for the State | 5,262 | 5,262 | Once | 5 | 26,310 | 101.12 | -2,660,467 | n/a |
| Review and approve reporting system | 5,262 | 5,262 | Once | 1 | 2,631 | 129.74 | -341,346 | n/a |
| Total | 5,262 | 15,786 | Once | Varies | 55,251 | varies | -5,135,028 | n/a |

c. Annual Reporting Requirements and Burden Reduction (§ 442.43(b)): States

Under § 442.43(b), we estimate an annual burden reduction for States that would have required: 6 hours at $72.64/hr. for a training and development specialist to notify and train providers about the annual reporting requirements on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff, and the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff; 1.5 hours at $109.42 for a management analyst to review and make any needed updates to guidance for nursing facility; 4.5 hours at $101.12/hr. for a computer programmer to collect information from providers, aggregate data as needed, derive percentages for compensation, and develop a report for the State; 1.5 hours at $129.74/hr. by a general and operations manager to review, verify, and submit the report to CMS; and 0.75 hour at $259.26/hr. for a chief executive to review and approve all operations associated with this requirement.

In aggregate, we estimate a burden reduction of 256.5 hours (4.75 hours. × 54 States) at a savings of $25,993 (54 States × [(6 hr. × $72.64) + (1.5 hr. × $109.42) + (4.5 hr. × $101.12) + (1.5 hr. × $129.74) + (0.75 hr. × $259.26)]. Considering the Federal contribution to Medicaid administration, the estimated State savings would be $38,990 ($77,980 × 0.50) annually as shown in Table 21.

[342] *https://www.federalregister.gov/d/2024-08273/p-787.*

**TABLE 21: Annual Burden Reduction for States from Rescinding Certain Medicaid Institutional Payment Transparency Reporting Requirements**

| Requirement | No. Respondents | Total Responses | Frequency | Time per Response (hr.) | Total Time (hr.) | Wage ($/hr.) | Total Cost ($) | State Share ($) |
|---|---|---|---|---|---|---|---|---|
| Notify and train providers about annual reporting requirement | 54 | 54 | Annually | 6 | 324 | 72.64 | -23,535 | -11,768 |
| Review and make any needed updates to nursing facility provider guidance and manuals | 54 | 54 | Annually | 1.5 | 81 | 109.42 | -8,863 | -4,432 |
| Collect information from providers; aggregate data as required; derive an overall percentage for compensation; and develop report for State | 54 | 54 | Annually | 4.5 | 243 | 101.12 | -24,572 | -12,286 |
| Review, verify, and submit report to CMS | 54 | 54 | Annually | 1.5 | 81 | 129.74 | -10,509 | -5,254 |
| Review and approve all operations associated with this requirement | 54 | 54 | Annually | 0.75 | 40.5 | 259.26 | -10,500 | -5,250 |
| Total | 54 | 54 | Annually | Varies | 769.5 | Varies | -77,980 | -38,990 |

d. Annual Reporting Requirements and Burden Reduction (§ 442.43(b)): Nursing Facilities and ICFs/IID

The burden reduction associated with this proposed rule would affect nursing facility and ICF/IID providers in both FFS and managed care systems. We estimate an annual burden reduction to rescind three of the four measures of the reporting requirement proposed at § 442.43(b) (that is, the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff, and the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff).

To estimate the number of nursing facility and ICF/IID providers that would have reported these requirements, we used data from the CMS Quality Certification and Oversight Reports (QCOR) system (*qcor.cms.gov*) to identify the total number of Medicaid-certified nursing facilities and ICFs/IID in all States (including Washington, DC) and the three Territories that are required to include nursing facility services in their State plan. Data from QCOR indicates that in FY 2026, there were 13,605 freestanding Medicaid-certified nursing facilities (including facilities dually certified for both Medicare and Medicaid, and Medicaid-only facilities) and 5,262 ICFs/IID. In total, we estimate 18,867 Medicaid-certified nursing facilities and ICFs/IID are impacted by this finalized reporting requirement and will benefit from rescinding certain parts of this requirement to provide data to the State.

We estimate this proposal to rescind the requirement for States to report the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff would have taken nursing facilities 8 hours at $81.08/hr. for a compensation, benefits, and job analysis specialist to update compensation calculations to

account for staffing changes; 2 hours at $101.12/hr. for a computer programmer to calculate compensation, aggregate data, and report to the State as required; and 1 hour at $129.74/hr. for a general and operations manager to review, approve, and submit the report to the State. As shown in Table 22, we estimate an annual burden reduction of 285,705 hours (13,605 providers × 21 hours) at a savings of $26,553,423 (13,605 facilities × [(8 hr. × $81.08) + (2 hr. × $101.12) + (1 hr. × $129.74)] for nursing facilities.

**TABLE 22: Annual Burden Reduction from Rescinding the Medicaid Institutional Payment Transparency Reporting Requirements for Nursing Facilities**

| Requirement | No. Respondents | Total Responses | Frequency | Time per Response (hr.) | Total Time (hr.) | Wage ($/hr.) | Total Cost ($) | State Share ($) |
|---|---|---|---|---|---|---|---|---|
| Account for staffing changes among employees and contracted employees | 13,605 | 13,605 | Annually | 10 | 136,050 | 81.08 | -11,030,934 | n/a |
| Calculate compensation, aggregate data, and report to the State | 13,605 | 13,605 | Annually | 10 | 136,050 | 101.12 | -13,757,376 | n/a |
| Review, approve, submit report to the State | 13,605 | 13,605 | Annually | 1 | 13,605 | 129.74 | -1,765,113 | n/a |
| Total | 13,605 | 40,815 | Annually | Varies | 285,705 | varies | -26,553,423 | n/a |

We estimate rescinding the requirement for ICFs/IID to report the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff would reduce burden by 10 hours at $81.08/hr. for a compensation, benefits, and job analysis specialist to update compensation calculations to account for staffing changes; 1 hours at $101.12/hr. for a computer programmer to calculate compensation, aggregate data, and report to the State as required; and 0.5 hour at $129.74/hr. for a general and operations manager to review, approve, and submit the report to the State. As shown in Table 23, for ICFs/IID, we estimate an annual burden reduction of 28,941 hours (5,262 providers × 5.5 hours) at a savings of $2,580,011 (5,262 facilities × [(4 hr. × $81.08) + (1 hr. × $101.12) + (0.5 hr. × $129.74)].

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**TABLE 23: Annual Burden Reduction from Rescinding the Medicaid Institutional Payment Transparency Support Staff Reporting Requirements for ICFs/IID**

| Requirement | No. Respondents | Total Responses | Frequency | Time per Response (hr.) | Total Time (hr.) | Wage ($/hr.) | Total Cost ($) | State Share ($) |
|---|---|---|---|---|---|---|---|---|
| Account for staffing changes among employees and contracted employees | 5,262 | 5,262 | Annually | 4 | 21,048 | 81.08 | -1,706,572 | n/a |
| Calculate compensation, aggregate data, and report to the State | 5,262 | 5,262 | Annually | 1 | 5,262 | 101.12 | -532,093 | n/a |
| Review, approve, submit report to the State | 5,262 | 5,262 | Annually | 0.5 | 2,631 | 129.74 | -341,346 | n/a |
| Total | 5,262 | 15,786 | Annually | Varies | 28,941 | varies | -2,580,011 | n/a |

**TABLE 24: 10-Year Burden Reduction from Rescinding Certain Reporting Measures in the Medicaid Institutional Payment Transparency Reporting Requirement for States and Providers**

| Year | Federal Savings | State Savings | Nursing Facility Savings | ICFs/IID Savings | Total Savings | Total Hourly Savings |
|---|---|---|---|---|---|---|
| 1 | $336,690 | $336,690 | $36,823,479 | $5,135,028 | $42,631,887 | 457,848 |
| 2 | $38,990 | $38,990 | $26,553,423 | $2,580,011 | $29,211,414 | 315,416 |
| 3 | $38,990 | $38,990 | $26,553,423 | $2,580,011 | $29,211,414 | 315,416 |
| 4 | $38,990 | $38,990 | $26,553,423 | $2,580,011 | $29,211,414 | 315,416 |
| 5 | $38,990 | $38,990 | $26,553,423 | $2,580,011 | $29,211,414 | 315,416 |
| 6 | $38,990 | $38,990 | $26,553,423 | $2,580,011 | $29,211,414 | 315,416 |
| 7 | $38,990 | $38,990 | $26,553,423 | $2,580,011 | $29,211,414 | 315,416 |
| 8 | $38,990 | $38,990 | $26,553,423 | $2,580,011 | $29,211,414 | 315,416 |
| 9 | $38,990 | $38,990 | $26,553,423 | $2,580,011 | $29,211,414 | 315,416 |
| 10 | $38,990 | $38,990 | $26,553,423 | $2,580,011 | $29,211,414 | 315,416 |
| Total 10-Year Savings | $687,600 | $687,600 | $275,804,286 | $28,355,127 | $305,534,613 | 3,296,588 |

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*Q. Summary of Information Collection Savings*

Table 25 and Table 26 provides a summary of the total financial and hourly impact from the proposed removal for (1) ongoing respiratory illness reporting for LTC care facilities when there is not a PHE as outlined in Table 3; (2) the amendment of transfer notice to ombudsman when there is emergent care as outlined in Table 5; (3) the removal of staff COVID–19 vaccine, educate, offer, and documentation requirements for LTC facilities as outlined in Table 7 and Table 9; (4) the removal of staff COVID–19 vaccine, educate, offer requirements for ICFs-IID as outlined in Table 11; (5) the removal of information technology updates and data stratification QAPI requirements

for hospitals and CAHs as outlined in Table 13 and Table 15; and (6) new requirements for hospitals and CAHs that offer obstetrical services and participate in the collection, storage, donation, banking, transfer, or release to patients of birth tissues as outlined in Table 16. Overall, we expect that these changes would result in average annual savings of $81,827,951 with total savings over 10 years estimated at $818,279,516 ($776,884,745 + $41,394,771). In addition, as indicated in Table 24 above, we also expect rescinding certain reporting measures in the Medicaid institutional payment transparency reporting requirement for states and providers would result in average annual savings of $30,553,461 with total savings over 10 years estimated at $305,534,613. Combined, all the proposed requirements would result in approximately $112 million in annual savings.

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**TABLE 25: Total Reduction in Collection of Information Costs for LTC Facilities, Part I**

| Year | Ongoing Respiratory Illness Reporting | | Ombudsmen Notice of Transfer for Emergent Care | | Staff Covid-19 Vaccine Educate, Offer, and Documentation - Facility Policy Updates | | Staff Covid-19 Vaccine Educate, Offer, and Documentation - Staff Education Documentation | | Total Hourly Savings | Total Financial Savings ($ Million) |
|---|---|---|---|---|---|---|---|---|---|---|
| | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | | |
| 1 | $74.71 | 766,064 | $1.63 | 25,660 | $8.62 | 88,392 | $4.80 | 88,392 | 968,508 | $89.76 |
| 2 | $74.71 | 766,064 | $1.63 | 25,660 | $8.62 | 88,392 | $4.80 | 88,392 | 968,508 | $89.76 |
| 3 | $74.71 | 766,064 | $1.63 | 25,660 | $8.62 | 88,392 | $4.80 | 88,392 | 968,508 | $89.76 |
| 4 | $74.71 | 766,064 | $1.63 | 25,660 | $8.62 | 88,392 | $4.80 | 88,392 | 968,508 | $89.76 |
| 5 | $0.00 | 0 | $1.63 | 25,660 | $8.62 | 88,392 | $4.80 | 88,392 | 202,444 | $15.05 |
| 6 | $74.71 | 766,064 | $1.63 | 25,660 | $8.62 | 88,392 | $4.80 | 88,392 | 968,508 | $89.76 |
| 7 | $74.71 | 766,064 | $1.63 | 25,660 | $8.62 | 88,392 | $4.80 | 88,392 | 968,508 | $89.76 |
| 8 | $74.71 | 766,064 | $1.63 | 25,660 | $8.62 | 88,392 | $4.80 | 88,392 | 968,508 | $89.76 |
| 9 | $74.71 | 766,064 | $1.63 | 25,660 | $8.62 | 88,392 | $4.80 | 88,392 | 968,508 | $89.76 |
| 10 | $28.73 | 294,620 | $1.63 | 25,660 | $8.62 | 88,392 | $4.80 | 88,392 | 497,064 | $43.78 |
| Total 10-Year Savings | $626.39 | 6,423,132 | $16.32 | 256,600 | $86.20 | 883,920 | $47.98 | 883,920 | 8,447,572 | $776.88 |

**TABLE 26: Total Reduction in Collection of Information Costs for Hospitals, CAHs, and ICFs-IID, Part II**

| Year | QAPI Data System Modifications in Hospitals and CAHs | | QAPI Data Stratification in Hospitals and CAHs | | Birth Tissue Policies and Procedures in Hospitals and CAHs | | Staff Covid-19 Vaccine Educate, Offer, and Documentation - Facility Policy Updates in ICFs-IID | | Total Hourly Savings | Total Financial Savings ($ Million) |
|---|---|---|---|---|---|---|---|---|---|---|
| | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | | |
| 1 | $1.45 | 12,516 | $3.05 | 25,032 | -$19.17 | -125,160 | $1.56 | 15,996 | (71,616) | ($13.12) |
| 2 | $1.45 | 12,516 | $3.05 | 25,032 | $0.00 | 0 | $1.56 | 15,996 | 53,544 | $6.06 |
| 3 | $1.45 | 12,516 | $3.05 | 25,032 | $0.00 | 0 | $1.56 | 15,996 | 53,544 | $6.06 |
| 4 | $1.45 | 12,516 | $3.05 | 25,032 | $0.00 | 0 | $1.56 | 15,996 | 53,544 | $6.06 |
| 5 | $1.45 | 12,516 | $3.05 | 25,032 | $0.00 | 0 | $1.56 | 15,996 | 53,544 | $6.06 |
| 6 | $1.45 | 12,516 | $3.05 | 25,032 | $0.00 | 0 | $1.56 | 15,996 | 53,544 | $6.06 |
| 7 | $1.45 | 12,516 | $3.05 | 25,032 | $0.00 | 0 | $1.56 | 15,996 | 53,544 | $6.06 |
| 8 | $1.45 | 12,516 | $3.05 | 25,032 | $0.00 | 0 | $1.56 | 15,996 | 53,544 | $6.06 |
| 9 | $1.45 | 12,516 | $3.05 | 25,032 | $0.00 | 0 | $1.56 | 15,996 | 53,544 | $6.06 |
| 10 | $1.45 | 12,516 | $3.05 | 25,032 | $0.00 | 0 | $1.56 | 15,996 | 53,544 | $6.06 |
| Total 10-Year Savings | $14.45 | 125,160 | $30.52 | 250,320 | -$19.17 | -125,160 | $15.60 | 159,960 | 410,280 | $41.39 |

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If you comment on these proposed information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements, please submit your comments electronically as specified in the **ADDRESSES** section of this proposed rule.

Comments must be received by the date and time specified in the **DATES** section of this proposed rule.

## IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

## V. Regulatory Impact Analysis

### *A. Statement of Need*

Medicare-certified healthcare providers, including hospitals, CAHs, REHs, LTC facilities, and ICFs/IID, must comply with regulatory requirements that protect resident and patient health and safety. Some regulatory requirements, however, may become duplicative, unnecessary, or have unintended consequences that negatively affect the health and safety of those needing care. Providers may need to hire administrative staff for these tasks, diverting resources that could otherwise be used to hire clinicians to provide direct resident and patient care. Alternatively, time that clinicians could spend on ensuring that residents and patients receive the highest level of care, may instead be spent on filling out forms, completing trainings, or gathering information to meet these requirements.

The diversion of clinician time from patient care to fulfilling regulatory requirements comes at a time when healthcare providers are grappling with a growing workforce shortage that is expected to worsen in many areas in coming years.[343] The National Center for Health Workforce Analysis at the Health Resource and Services Administration (HRSA) projects that by 2037, the national demand for RNs will exceed supply by more than 300 thousand, while the supply of emergency medicine physicians in non-metropolitan areas will only meet 52 percent of projected demand.[344] Regulatory requirements may also increase administrative costs to such an extent that providers will close or stop offering needed optional services, negatively affecting access to care and

[343] Shanafelt T, Kuriakose C. Widespread Clinician Shortages Create a Crisis that Will Take Years to Resolve. NEJM Catalyst 2023;4(3). DOI: doi:10.1056/CAT.23.0044.

[344] Health Resources & Services Administration. ''Workforce Projections.'' *https://data.hrsa.gov/topics/health-workforce/workforce-projections* (Accessed March 25, 2025).

undermining the health and safety of those needing care. This problem may be even more dire in rural areas where individuals may not be able to easily access alternative sources of care when a provider closes or stops offering needed services. As directed in E.O. 14192, the executive branch's policy is to remove unnecessary regulatory burden and to be financially responsible with the expenditure of both private and public sector funds.

To protect resident and patient health and safety and access to care, we are proposing to remove a variety of requirements across providers and add several new requirements, including one for hospitals and CAHs that offer obstetrical services and services and participate in the collection, storage, donation, banking, transfer, or release to patients of birth tissues. First, we are proposing to remove the requirement that LTC facilities provide ongoing (weekly) data on acute respiratory illnesses when there is not a PHE. Second, we are proposing to remove hospital and CAH staff training requirements related to obstetrical care and emergency services, the OB QAPI requirements for hospitals and CAHs that offer obstetrical services, and the transfer protocol training requirement for hospitals. Third, we are proposing to remove the requirements that LTC facilities and ICFs/IID educate staff about and offer COVID–19 vaccines and that LTC facilities provide Ombudsman notice of resident transfers related to emergent care. Fourth, we are proposing to adopt more recent editions of the Life Safety Code, the Health Care Facilities Code, and other NFPA codes related to building sprinkler systems and emergency power systems. Fifth, we are proposing to codify existing CMS policy into statute and clarify that CAHs would need to be located more than a 35-mile drive on primary roads (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from an acute care hospital or another CAH. Sixth, we are also proposing to modify the distance requirement related to CAHs to indicate that a CAH described in section 241 of CAA 2026 is not subject to the distance requirements.

Seventh, we are proposing to require that hospitals *and* CAHs that offer OB services and participate in the collection, storage, donation, banking, transfer, or release to patients of birth tissues obtain informed consent, document this consent in the patient's medical record, have policies and procedures to permit the retention or release of birth tissue, and provide education to patients' on safe handling of these tissues. Finally, we are proposing to rescind requirements for States to report annually, at the facility level, on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff, and the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff. In addition, we are soliciting public comment on approaches to address direct care worker shortages and strengthen the direct care workforce in nursing facilities and ICFs/IID.

Below, we discuss the impact of each of these proposals.

### *B. Overall Impact*

We have examined the impacts of this proposed rule as required by Executive Order 12866, ''Regulatory Planning and Review''; Executive Order 13132, ''Federalism''; Executive Order 13563, ''Improving Regulation and Regulatory Review''; Executive Order 14192, ''Unleashing Prosperity Through Deregulation''; the Regulatory Flexibility Act (RFA) (Pub. L. 96–354); section 1102(b) of the Social Security Act; and section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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; 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.

Based on our estimates, the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA) has determined this rulemaking is significant per section 3(f)(1). In accordance with the provisions of E.O. 12866, this proposed rule was reviewed by the Office of Management and Budget.

As indicated in previous Tables J24, J25, and J26, we estimate annual savings of approximately $112 million due to a reduction in collection of information costs across the proposed requirements. As discussed later in this section of the preamble, we estimate additional impacts from the proposed requirements.

### *C. Detailed Economic Analysis*

#### 1. Repeal of Ongoing Respiratory Illness Report in LTC Facilities (§ 483.80(g))

In the collection of information requirements section, we have already estimated the reduction in information collection burden from the proposal to eliminate the ongoing reporting of respiratory illnesses for LTC facilities when there is not a PHE. Specifically, as indicated in Table 1, we estimate annual savings of approximately $62.64 million and 10-year savings of $626.38 million. While repealing this requirement would reduce information collection costs, it could hinder identification of respiratory illness outbreaks in their initial stages when Federal, State, and local authorities could deploy resources to prevent it from spreading. In addition to the pain and suffering that LTC facility residents would incur from contracting these illnesses that could have otherwise been avoided, Medicare, Medicaid, and private payors could incur expenses to treat these individuals. Many States, however, already have legal requirements that medical facilities report suspected and/or confirmed cases of respiratory illness to local or State health officials. In addition, these States also provide up-to-date information about respiratory illnesses, such as influenza. As such, we expect that current surveillance efforts, separate from the CoPs, would avoid the unnecessary spread of these illnesses, and we do not expect that payors or patients would incur any additional costs from repealing this requirement beyond what we have estimated in section III. of this proposed rule.

#### 2. Proposal To Amend Transfer Notice to Ombudsman (§ 483.15(c))

In section III. of this proposed rule, we have already estimated the savings for LTC facilities not needing to provide notice of resident transfer for emergent care to the Ombudsman office. Specifically, as indicated in Table 5, we estimate annual savings of approximately $1.63 million and 10-

year savings of $16.32 million. We also expect that there will be savings for Ombudsman offices for the time they do not need to spend reading notices related to resident transfer for emergent care purposes. We expect that Ombudsman offices spend 2 minutes reading each notice of resident transfer [345] and for the purposes of this analysis assume that the Ombudsman official is a registered nurse at $48.76 per hour based on the BLS' May 2025 National Occupational Employment and Wage Estimates for RNs (occupation code 29–1141). We doubled the mean salary since the BLS data do not include overhead costs and fringe benefits. The HHS-wide guidance on preparation of regulatory and paperwork burden estimates states that doubling salary costs is a good approximation for including these overhead and fringe benefit costs. This leads to an average cost of $3.25 ($97.52/hr × 2 minutes/notice) for each notice. Utilizing the same data sources discussed in section III. of this proposed rule, we estimate that, on average, there are 307,923 resident transfers for emergent care each year. As such, in Table 27 and Table 28, we estimate the proposed removal of notice for emergent care would result in $1,000,954 in annual savings due to time Ombudsman offices would not need to spend reading these notices, with total 10 years savings of $10,009,540.

**TABLE 27: 1-Year Burden Reduction for Not Reading Transfer Notices for Emergent Care**

| Number of Residents | % of Resident Needing Transfer | Minutes per Patient Transfer | Cost per Hour | Cost per Notice Read | Cost Savings | Hourly Savings |
|---|---|---|---|---|---|---|
| (a) | (b) | (c) | (d) | (e = c + d) | (f = a × b × e) | (g = (a × b × c) ÷ 60) |
| 1,231,691 | 0.25 | 2 | $97.52 | $3.25 | $1,000,954 | 10,264 |

**TABLE 28: 10-Year Burden Reduction for Not Reading Transfer Notices for Emergent Care**

| Year | Financial Savings | Hourly Savings |
|---|---|---|
| 1 | $1,000,954 | 10,264 |
| 2 | $1,000,954 | 10,264 |
| 3 | $1,000,954 | 10,264 |
| 4 | $1,000,954 | 10,264 |
| 5 | $1,000,954 | 10,264 |
| 6 | $1,000,954 | 10,264 |
| 7 | $1,000,954 | 10,264 |
| 8 | $1,000,954 | 10,264 |
| 9 | $1,000,954 | 10,264 |
| 10 | $1,000,954 | 10,264 |
| Total 10-Year Savings | $10,009,540 | 102,640 |

3. Repeal of Staff COVID–19 Vaccine Educate, Offer, and Documentation Requirements in LTC Facilities (§ 483.80(d))

In section III. of this proposed rule, we have already estimated the savings for LTC facilities not needing to update their policies and procedures related to staff COVID–19 education and document in employees' records that staff were offered the education. Specifically, as noted in Table 7 and 9, respectively, we estimate annual savings of approximately $8.62 million for not needing to update facilities policies and $4.8 million for not needing to document that staff received education on the COVID–19 vaccines. As part of the staff COVID–19 education requirement, LTC facilities are required

[345] Available at *https://www.bls.gov/oes/current/oes291141.htm.*

to offer the COVID–19 vaccine to staff members. To estimate the savings from repealing this requirement, we use the same methodology used to estimate its cost in the Medicare and Medicaid Programs; COVID–19 Vaccine Requirements for LTC Facilities and ICFs-IID Residents, Clients, and Staff IFC (86 FR 26306). First, based on data from that rule, we estimate that including turnover and new employees, each year there are approximately 1,900,000 employees who fall under the educate and offer requirements. According to data from the CDC's NHSN, approximately 6.7 percent of staff members were vaccinated as of the week ending February 1, 2026.[346] If this percentage remains stable for subsequent years, nursing homes would need to provide education on COVID–19 and offer the vaccine to approximately 1,772,700 (1.9 million staff members × 93.3 percent) staff members annually. Since nearly 5 years have passed since the first COVID–19 vaccines were made available to the public and there is widespread information available on COVID–19 vaccines, we expect that the amount of time that facilities spend to educate each staff members has declined from 30 minutes to 15 minutes.

We assume that an RN would provide this education at $97.52 per hour. In addition, we estimate the cost for staff time at $39.24 per hour based on the mean rate for healthcare support occupations (occupation code 31–0000) doubled to account for overhead and fringe benefits. As indicated in Table 29 and Table 30, using these data, we expect that repealing the staff education requirement would result in annual savings of $60,608,613 and $606,086,130 over 10 years.

**TABLE 29: 1-Year Burden Reduction from Removal of Staff COVID-19 Education Requirement in LTC Facilities**

| Staff Needing Education | RN Educator Hourly Rate | Staff Hourly Rate | Hours per Staff | RN Educator Savings | Staff Education Savings | Total Financial Savings | RN Educator Hours Saved | Staff Education Hours Saved | Total Hourly Savings |
|---|---|---|---|---|---|---|---|---|---|
| (a) | (b) | (c) | (d) | (e = a × b × d) | (f = a × c × d) | (g = e + f) | (h = a × d) | (i = a × d) | (j = h + i) |
| 1,772,700 | $97.52 | $39.24 | 0.25 | $43,218,426 | $17,390,187 | $60,608,613 | 443,175 | 443,175 | 886,350 |

**TABLE 30: 10-Year Burden Reduction from Removal of Staff COVID-19 Education Requirements in LTC Facilities**

| Year | Financial Savings | Hourly Savings |
|---|---|---|
| 1 | $60,608,613 | 886,350 |
| 2 | $60,608,613 | 886,350 |
| 3 | $60,608,613 | 886,350 |
| 4 | $60,608,613 | 886,350 |
| 5 | $60,608,613 | 886,350 |
| 6 | $60,608,613 | 886,350 |
| 7 | $60,608,613 | 886,350 |
| 8 | $60,608,613 | 886,350 |
| 9 | $60,608,613 | 886,350 |
| 10 | $60,608,613 | 886,350 |
| Total 10-Year Savings | $606,086,130 | 8,863,500 |

In developing the estimated savings, we acknowledge that the COVID–19 vaccination rate for nursing home staff could be higher than what we have estimated. For example, one study used survey data from a convenience sample and estimated that 44.5 percent of healthcare professionals working in LTC facilities were vaccinated during the 2024–2025 respiratory virus season.[347] While we believe that the NHSN provides the most accurate information

[346] Source: Centers for Disease Control and Prevention, National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Division of Healthcare Quality Promotion (DHQP). *https://www.cdc.gov/nhsn/ltc/ltc-report-overview.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fnhsn%2Fcovid19%2Fltc-report-overview.html#anchor_1594393304* last reviewed May 28, 2026.

on staff vaccination rates, we seek comments on other sources of data we should consider when estimating the savings from removing this requirement.

The final component is offering the COVID–19 vaccine to staff members. We estimate that the average cost of the vaccine is the $45 that the government pays under Medicare for a single dose COVID–19 vaccine.[348] In addition, we continue with the assumption in the rule establishing this requirement that education will result in a 5-percentage point increase in staff vaccination. As indicated in Table 31 and Table 32, we estimate that repealing this part of the requirement would result in annual savings of $4,275,000 and 10-year savings of $42,750,000.

**TABLE 31: 1-Year Burden Reduction from Removal of Staff COVID-19 Vaccination Offering in LTC Facilities**

| Staff Members (a) | % Point Increase in Vaccination (b) | Total Vaccines (c = a × b) | Cost per Vaccine (d) | Total Savings (c × d) |
|---|---|---|---|---|
| 1,900,000 | 0.05 | 95,000 | $45 | $4,275,000 |

**TABLE 32: 10 - Year Burden Reduction from Removal of Staff COVID-19 Vaccination Offering in LTC Facilities**

| Year | Cost Savings |
|---|---|
| 1 | $4,275,000 |
| 2 | $4,275,000 |
| 3 | $4,275,000 |
| 4 | $4,275,000 |
| 5 | $4,275,000 |
| 6 | $4,275,000 |
| 7 | $4,275,000 |
| 8 | $4,275,000 |
| 9 | $4,275,000 |
| 10 | $4,275,000 |
| Total 10-Years Savings | $42,750,000 |

4. Repeal of Staff COVID–19 Vaccine Educate and Offer Requirements in ICFs/IID (§ 483.460(a))

In section III. of this proposed rule, we have already estimated the savings for ICFs/IID not needing to update their policies and procedures related to staff COVID–19 education. Specifically, as noted in Table 11, we estimate annual savings of approximately $1.56 million for not needing to update facility policies. As part of the staff COVID–19 education requirement, ICFs/IID are required to offer the COVID–19 vaccine to staff members. To estimate the savings from repealing this requirement, we use the same methodology used to estimate its cost in the Medicare and Medicaid Programs; COVID–19 Vaccine Requirements for LTC Facilities and ICFs-IID Residents, Clients, and Staff IFC (86 FR 26306). First, based on data from that rule, we estimate that including turnover and new employees, each year there are approximately 148,000 employees who fall under the educate and offer requirements. According to data from the CDC's NHSN, approximately 6.7 percent of nursing home staff members were vaccinated as of the week ending February 1, 2026. Since we do not have data on staff vaccination in ICFs/IID, we assume that vaccination rates are the same as the rates in LTC facilities. If this percentage remains stable for subsequent years, ICFs/IID would need to provide education on COVID–19 and offer the vaccine to approximately 138,084 (148,000 staff members × 93.3 percent) staff members annually. Since nearly 5 years have passed since the first COVID–19 vaccines were made available to the public and there is widespread information available on COVID–19 vaccines, we expect that the amount of time that facilities spend to educate each staff members has declined from 30 minutes to 15 minutes.

We assume that an RN would provide this education at $97.52 per hour. In addition, we estimate the cost for staff time at $39.24 per hour based on the mean rate for healthcare support occupations (occupation code 31–0000) doubled to account for overhead and

[348] Centers for Medicare and Medicaid Services. Medicare COVID–19 Vaccine Shot Payment. *https://www.cms.gov/medicare/payment/covid-19-vaccine-toolkit/medicare-covid-19-vaccine-shot-payment* (Accessed February 11, 2026).

fringe benefits. As indicated in Table 33 and Table 34, using these data, we expect that repealing the staff education requirement would result in annual savings of $4,721,092 and $47,210,920 over 10 years.

**TABLE 33: 1-Year Burden Reduction from Removal of Staff COVID-19 Education Requirement in ICFs/IID**

| Staff Needing Education | RN Educator Hourly Rate | Staff Hourly Rate | Hours per Staff | RN Educator Savings | Staff Education Savings | Total Financial Savings | RN Educator Hours Saved | Staff Education Hours Saved | Total Hourly Savings |
|---|---|---|---|---|---|---|---|---|---|
| (a) | (b) | (c) | (d) | (e = a × b × d) | (f = a × c × d) | (g = e + f) | (h = a × d) | (i = a × d) | (j = h + i) |
| 138,084 | $97.52 | $39.24 | 0.25 | $3,366,488 | $1,354,604 | $4,721,092 | 34,521 | 34,521 | 69,042 |

**TABLE 34: 10-Year Burden Reduction from Removal of Staff COVID-19 Education Requirement in ICFs/IID**

| Year | Financial Savings | Hourly Savings |
|---|---|---|
| 1 | $4,721,092 | 69,042 |
| 2 | $4,721,092 | 69,042 |
| 3 | $4,721,092 | 69,042 |
| 4 | $4,721,092 | 69,042 |
| 5 | $4,721,092 | 69,042 |
| 6 | $4,721,092 | 69,042 |
| 7 | $4,721,092 | 69,042 |
| 8 | $4,721,092 | 69,042 |
| 9 | $4,721,092 | 69,042 |
| 10 | $4,721,092 | 69,042 |
| Total 10-Year Savings | $47,210,920 | 690,420 |

The final component is offering the COVID–19 vaccine to staff members. We estimate that the average cost of the vaccine is the $45 that the government pays under Medicare for a single dose COVID–19 vaccine.[349] In addition, we continue with the assumption in the rule establishing this requirement that education will result in a 5-percentage point increase in staff vaccination. As indicated in Table 35 and Table 36, we estimate the repealing this part of the requirement would result in annual savings of $333,00 and 10-year savings of $3,330,000.

**TABLE 35: 1-Year Burden Reduction from Removal of Staff COVID-19 Vaccination Offering in ICFs/IID**

| Staff Members (a) | % Point Increase in Vaccination (b) | Total Vaccines (c = a × b) | Cost per Vaccine (d) | Total Savings (c × d) |
|---|---|---|---|---|
| 148,000 | 0.05 | 7,400 | $45 | $333,000 |

[349] Centers for Medicare and Medicaid Services. Medicare COVID–19 Vaccine Shot Payment. *https://www.cms.gov/medicare/payment/covid-19-vaccine-toolkit/medicare-covid-19-vaccine-shot-payment* (Accessed February 11, 2026).

**TABLE 36: 10-Year Burden Reduction from Removal of Staff COVID-19 Vaccination Offering in ICFs-IID**

| Year | Cost Savings |
|---|---|
| 1 | $333,000 |
| 2 | $333,000 |
| 3 | $333,000 |
| 4 | $333,000 |
| 5 | $333,000 |
| 6 | $333,000 |
| 7 | $333,000 |
| 8 | $333,000 |
| 9 | $333,000 |
| 10 | $333,000 |
| Total 10-Year Savings | $3,330,000 |

5. OB QAPI Requirements for Hospitals (§ 482.21(b) and (e)) and CAHs (§ 485.641(d) and (e))

We are proposing to repeal OB QAPI requirements for hospitals (§ 482.21(b) and (e)) and CAHs (§ 485.641(d)(4) and (e)) that offer obstetrical services. One of the requirements is that hospitals and CAHs that offer OB services conduct at least one performance improvement project annually that focuses on improving health outcomes and disparities among the hospital's population(s) of obstetrical patients. To estimate the savings from repealing this requirement, we used the same methodology that we used to estimate the project's cost in the CY 2025 OPPS/ASC final rule (89 FR 93912). First, we estimated that each hospital and CAH would spend 30 hours annually to analyze the data and implement and document their improvement project(s). To estimate the cost, we double the mean wage rate based on 2025 BLS data for each individual involved in the project to account for overhead and fringe benefit costs. We anticipate that this would include the participation of a hospital executive (occupation code 11–1011) at $2074 ($259.26 × 8 hours), an RN (occupation code 29–1141) at $975 ($97.52 × 10 hours), a physician (occupation code 29–1210) at $2,133 ($266.60 × 8 hours), and a data scientist (occupation code 15–2051) at $488 ($121.92 × 4 hours) for an average cost of $5,670 per facility. As indicated in Table 37, we estimate that repealing this requirement would save hospitals and CAHs $17,741,430 annually. In Table 38, we estimate total savings over 10 years at $177,414,300.

**TABLE 37: 1-Year Savings from Removing OB QAPI Project**

| Provider Type | Number of Providers (a) | Annualized Hourly Burden (b) | Financial Burden Per Facility (c) | Total Financial Savings (d = a × c) | Total Hourly Savings (e = a × b) |
|---|---|---|---|---|---|
| CAH | 484 | 30 | $5,670 | $2,744,280 | 14,520 |
| Hospital | 2,645 | 30 | $5,670 | $14,997,150 | 79,350 |
| Total | 3,129 | | | $17,741,430 | 93,870 |

**TABLE 38: 10-Year Savings from Removing OB QAPI Project**

| Year | Financial Savings | Hourly Savings |
|---|---|---|
| 1 | $17,741,430 | 93,870 |
| 2 | $17,741,430 | 93,870 |
| 3 | $17,741,430 | 93,870 |
| 4 | $17,741,430 | 93,870 |
| 5 | $17,741,430 | 93,870 |
| 6 | $17,741,430 | 93,870 |
| 7 | $17,741,430 | 93,870 |
| 8 | $17,741,430 | 93,870 |
| 9 | $17,741,430 | 93,870 |
| 10 | $17,741,430 | 93,870 |
| Total 10-Year Savings | $177,414,300 | 938,700 |

6. OB Services Staff Training for Hospitals (§ 482.59(c)) and CAHs (§ 485.649(c))

We are proposing to repeal the requirement that hospitals (§ 482.59(c)) and Critical Access Hospitals (CAHs) (§ 485.649(c)) that provide OB services train relevant staff on select topics for improving the delivery of maternal care and can demonstrate staff knowledge on training topics. In this section, we provide the reduction in cost due to the repeal of this training and testing staff knowledge on training material. We would note that since these requirements are not effective until January 1,2027, we do not expect that hospitals and CAHs have started training relevant staff to meet this requirement.

We estimate that staff training on evidence-based best practices and protocols would take 2 hours per employee and that each facility would spend 1 hour training staff on additional topics identified by the facility's QAPI program. This leads to a total hourly burden of 3 hours per employee trained. We also expect that given the flexibility that the regulation provided hospitals and CAHs to choose which OB staff to train, they would likely require training for those medical staff who work directly with OB patients. These medical staff members include licensed practical nurses/licensed vocational nurses (LPNs, LVNs), RNs, nurse anesthetists, nurse midwives, nurse practitioners, physician assistants, physicians, and surgeons. We use data from the BLS May 2025 National Industry-Specific Occupational Employment and Wage Estimates for hospitals (NAICS 622000) to estimate the number of these medical staff members working in hospitals and CAHs and their salary. We calculated the hourly rate for each employee type by doubling the national mean salary. We doubled the mean salary since the BLS data do not include overhead costs and fringe benefits. The HHS-wide guidance on preparation of regulatory and paperwork burden estimates states that doubling salary costs is a good approximation for including these overhead and fringe benefit costs.

The BLS does not provide separate information on the number of medical staff members working in hospitals and CAHs, or the number of staff members working in Medicare and/or Medicaid certified hospitals and CAHs that would no longer be required to provide staff training. To estimate the savings that hospitals and CAHs would incur by repealing this requirement we assumed that the number of medical staff who they would need to train would be proportional to the size of facilities, as measured by the number of certified beds. To calculate the number of certified beds, we utilized CMS' Q4 2024 Provider of Services File—Hospitals & Non-Hospital Facilities dataset to first calculate the number of certified beds in hospitals and CAHs that are Medicare/Medicaid certified and offer obstetrical services.[350] We then calculated the total number of certified beds in all hospitals and CAHs nationwide. Finally, we calculate the share of certified beds that are in Medicare/Medicaid certified hospitals offering OB services using the following formula: Total Certified Beds in Medicare/Medicaid certified Hospitals Offering OB Services ÷ Total Certified Beds in All Hospitals and CAHs. We use the same formula to calculate the share of certified beds that are in Medicare/Medicaid certified CAHs: Total Certified Beds in Medicare/Medicaid certified CAHs offering OB Services ÷ Total Certified Beds in All Hospitals and CAHs. Using this methodology, we estimate that approximately 59 percent of certified beds nationwide are in Medicare/Medicaid certified hospitals that offer OB services, with 1 percent of certified beds in Medicare/Medicaid certified CAHs that offer OB services.

In hospitals, which have a larger number of beds, there is likely to be a greater division of medical staff among units, with some staff specifically designated to work in OB units and with pregnant patients. CAHs that are smaller in size, in contrast, are likely to have medical staff that work across units and may encounter pregnant patients in their daily work. Based on our experience, we estimate that between 10 and 30 percent of medical staff in hospitals and 60 to 100 percent of medical staff in CAHs would need the OB training. Given variation across hospitals and CAHs, we take the midpoint of each estimate and assume that 20 percent of medical staff in hospitals and 80 percent of medical staff in CAHs would need to receive the training.

To estimate the annual savings, in Table 39 we first calculate the baseline financial and hourly savings for

[350] Centers for Medicare and Medicaid Services. Provider of Services File—Hospital & Non-Hospital Facilities, Q4 2024. *https://data.cms.gov/provider-characteristics/hospitals-and-other-facilities/provider-of-services-file-hospital-non-hospital-facilities/data* (Accessed March 21, 2025).

hospitals and CAHs not needing to conduct initial training for 100 percent of applicable medical staff. Applicable medical staff, however, must receive initial training and then receive training every other year. In addition, hospitals have an annual turnover rate of approximately 21 percent [351] and would accrue savings from not needing to train new employees who they hire to replace those employees who have left. As a result, the number of employees who they would not need to train and the savings from repealing this requirement would vary each year.

The OB staff training requirement is effective January 1, 2027. When estimating the requirement's cost in the CY 2025 OPPS/ASC final rule (89 FR 93912), we assumed that given the effective date, facilities would conduct their initial training for all staff members in year 2 (13–24) months after the rule's effective date, or between January and December 2026. As such, we assume that savings from the proposed repeal of this requirement would begin in 2027 after all staff had received their initial training.

In 2027, hospitals and CAHs would incur savings from not needing to train the 21 percent of new medical staff who replaced those who left. For subsequent years, the savings that hospitals and CAHs would accrue is for the 21 percent of staff hired in the previous year to account for regular staff turnover and 79 percent of staff who received their training 2 years prior.

To calculate the annual and 10-year savings from repealing this requirement, we multiply the share of staff that will need training each year by the baseline cost for training all staff members as outlined in Table 39. Using this methodology, we estimate in Table 40 that repealing this requirement would result in average annual savings of approximately $58.3 million and total savings of $583.5 million over 10 years. In addition, repealing this requirement would give clinicians in hospitals and CAHs an average of more than 5,111 thousand hours annually to spend on direct patient safety and care.

We use two assumptions for this estimate. First, we assumed that when a staff member leaves, their replacement would be hired in the same year. If the replacement was not hired until the following year, then provider savings would be lower than we have estimated. Second, we assumed that employees who receive training and then quit 2 years after their training, would not receive their biannual training prior to leaving. If they did, then the actual savings would be higher than we have estimated.

While the proposed elimination of the OB staff training requirement would result in significant reduction in burden as discussed earlier, one concern is that its elimination could harm patients, who would benefit from having staff trained in these areas. Hospital and CAH accrediting organizations, however, already have staff training requirements to help protect patients' health and safety. Hospitals and CAHs that offer OB services must still ensure that the services must be well-organized and provided in accordance with nationally recognized acceptable standards of practice for the healthcare of pregnant, birthing, and postpartum patients. In addition, if outpatient obstetrical services are offered, the services must be consistent in quality with inpatient care in accordance with the complexity of services offered. As such, we expect that repealing of this requirement would not impose new burdens on patients.

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**TABLE 39: Baseline Obstetrical Services Staff Training Elimination Annual Savings**

| Provider Type | Number of Providers (a) | Share of all Hospital and CAH Certified Beds (b) | Total Yearly Savings if All Hospital and CAH Medical Staff were Trained (c) | Total Hospital and CAH Medical Staff (d) | Share of Medical Staff Receiving Training (e) | Total Medical Staff Members in Facilities with OB Services (f = b × d) | Financial Savings (g = b × c × e) | Hourly Savings (h = e × f × 3) |
|---|---|---|---|---|---|---|---|---|
| CAH | 484 | 0.010 | $853,416,408 | 2,491,880 | 0.8 | 25,952 | $7,110,367 | 62,284 |
| Hospital | 2,645 | 0.590 | $853,416,408 | 2,491,880 | 0.2 | 1,470,703 | $100,736,991 | 882,422 |

[351] Nursing Solutions Incorporated, *2024 NSI National Health Care Retention & RN Staffing Report*. 2024.

**TABLE 40: Obstetrical Services Staff Training Elimination 10Year Savings**

| Year | Baseline Financial Savings for Not Needing to Train 100% of OB Staff Members Needing Training | Baseline Hourly Savings for Not Needing to Train 100% of OB Staff Members Needing Training (b) | Share of OB Staff Needing Training (c) | Total Financial Savings (d = a × c) | Total Hourly Savings (e = b × c) |
|---|---|---|---|---|---|
| 1 | $107,847,358 | 944,706 | 0.210 | $22,647,945 | 198,388 |
| 2 | $107,847,358 | 944,706 | 0.834 | $89,955,481 | 787,980 |
| 3 | $107,847,358 | 944,706 | 0.341 | $36,782,528 | 322,203 |
| 4 | $107,847,358 | 944,706 | 0.731 | $78,789,161 | 690,166 |
| 5 | $107,847,358 | 944,706 | 0.423 | $45,603,921 | 399,475 |
| 6 | $107,847,358 | 944,706 | 0.666 | $71,820,260 | 629,121 |
| 7 | $107,847,358 | 944,706 | 0.474 | $51,109,352 | 447,701 |
| 8 | $107,847,358 | 944,706 | 0.626 | $67,470,970 | 591,023 |
| 9 | $107,847,358 | 944,706 | 0.506 | $54,545,292 | 477,798 |
| 10 | $107,847,358 | 944,706 | 0.600 | $64,756,577 | 567,246 |
| 10-Year Total Savings | | | | $583,481,486 | 5,111,101 |

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7. Birth Tissue Collection for Hospitals (§ 482.59(c) and CAHs (§ (485.649(c)) That Offer OB Services

We are proposing to require that hospitals (§ 482.59(c) and CAHs (§ 485.649(c) that offer OB services and participate in the collection, storage, donation, banking, transfer, or release to patients of birth tissues must ensure that informed consent is obtained prior to the collection, storage, donation, transfer, banking, or release to patients of birth tissues. They must document this consent in the patient's medical records. Hospitals (§ 482.59(c)(2)) and CAHs (§ 485.649(c)(2)) must also have written policies and procedures that permit patients to request retention or release of birth tissue and provide these patients with instructions for safe handling, transport, storage, and disposition of the tissues. In section III. of this proposed rule, we have already estimated hospitals to develop policies and procedures to request retention or release of birth tissue for cultural, religious, or personal reasons. Specifically, we estimate in Table 16 that it will cost $19,174,512 to develop these policies and procedures.

Later in this section of the preamble, we estimate additional impacts from these proposed policies. For these analyses, we assumed that all hospitals with OB services participate in the collection, storage, donation, banking, transfer, or release to patients of birth tissues. We seek comments on this assumption as well as any sources of data on the number of hospitals and CAHs already offering these services and meeting one or more of the proposed requirements.

The first cost is obtaining informed consent from patients. While hospital staff regularly obtain informed consent from patients for a variety of services, informed consent related to birth tissue is likely to be a new process for hospitals and CAHs. As such, we expect that hospitals and CAHs will need to provide training to their staff on the informed consent process for birth tissue. We expect that all obstetricians and gynecologists that offer this service would receive the training as well as 15 percent of registered nurses, nurse practitioners, physician assistants, and family medicine physicians. We expect that it would take employees 2 hours to complete this training. We use data from the BLS May 2025 National Industry-Specific Occupational Employment and Wage Estimates for hospitals (NAICS 622000) to estimate the number of these medical staff members working in hospitals and CAHs and their salary. We calculated the hourly rate for each employee type by doubling the national mean salary. We doubled the mean salary since the BLS data do not include overhead costs and fringe benefits. The HHS-wide guidance on preparation of regulatory and paperwork burden estimates states that doubling salary costs is a good approximation for including these overhead and fringe benefit costs.

The BLS does not provide separate information on the number of medical

staff members working in hospitals and CAHs, or the number of staff members working in Medicare and/or Medicaid certified hospitals and CAHs that would no longer be required to provide staff training. To estimate the costs that hospitals and CAHs would incur to train staff members we assumed that the number of medical staff who they would need to train would be proportional to the size of facilities, as measured by the number of certified beds. To calculate the number of certified beds, we utilized CMS' Q4 2024 Provider of Services File—Hospitals & Non-Hospital Facilities dataset to first calculate the number of certified beds in hospitals and CAHs that are Medicare/Medicaid certified and offer obstetrical services. We then calculated the total number of certified beds in all hospitals and CAHs nationwide. Finally, we calculate the share of certified beds that are in Medicare/Medicaid certified hospitals and CAHs offering OB services using the following formula: Total Certified Beds in Medicare/Medicaid certified Hospitals and CAHs Offering OB Services ÷ Total Certified Beds in All Hospitals and CAHs. Using this methodology, we estimate that approximately 59 percent of certified beds nationwide are in Medicare/Medicaid certified hospitals that offer OB services, with 1 percent of certified beds in Medicare/Medicaid certified CAHs that offer OB services.

In Tables 41 and 42, we estimate the cost to train relevant staff members in hospitals and CAHs. For year 1 costs, we include training for an additional 21 percent of staff members to account for annual turnover rates [352] and estimate that the proposed requirement would cost $46,928,995 for hospitals and $795,407 for CAHs for a total year 1 cost of $47,724,402. For subsequent years, we assume that new staff members would need to receive this training and assume that this would be 21 percent of applicable staff members with an annual cost of $8,144,701 for hospitals and $138,046 for CAHs for a total cost of $8,282,747. In Table 43, we estimate a total 10-year cost of $121,164,757 and 1,186,133 staff hours.

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**TABLE 41: Informed Consent for Birth Tissue Staff Training Costs in Hospitals**

| Employee Type | All Hospital and CAH Employees (a) | Loaded Wage Rate (b) | Share of All Hospital and CAH Beds (c) | Share of Staff Needing Training (d) | Staff Needing Training (e) | Hours per Employee (f) | Year 1 Financial Cost (g = b × e × f × 1.21) | Year 1 Hourly Cost ((h = e × f × 1.21) | Years 2-10 Annual Financial Cost (i = b × e × f × .21) | Years 2-10 Annual Hourly Cost (j = e × f × .21) |
|---|---|---|---|---|---|---|---|---|---|---|
| Registered Nurses | 1,956,900 | $97.22 | 0.59 | 0.15 | 173,186 | 2 | $40,745,804 | 419109 | $7,071,586 | 72,738 |
| Nurse Practitioners | 76,810 | $133.40 | 0.59 | 0.15 | 6,798 | 2 | $2,194,483 | 16450 | $380,861 | 2,855 |
| Obstetricians and Gynecologists | 4,490 | $262.78 | 0.59 | 1 | 2,649 | 2 | $1,684,636 | 6411 | $292,375 | 1,113 |
| Physician Assistants | 40,810 | $133.78 | 0.59 | 0.15 | 3,612 | 2 | $1,169,274 | 8740 | $202,932 | 1,517 |
| Family Medicine Physicians | 21,230 | $249.58 | 0.59 | 0.15 | 1,879 | 2 | $1,134,798 | 4547 | $196,948 | 789 |
| **Total** | | | | | | | $46,928,995 | 455,257 | $8,144,701 | 79,012 |

[352] Nursing Solutions Incorporated, *2024 NSI National Health Care Retention & RN Staffing Report*. 2024.

**TABLE 42: Informed Consent for Birth Tissue Staff Training Costs in CAHs**

| Employee Type | All Hospital and CAH Employees (a) | Loaded Wage Rate (b) | Share of All Hospital and CAH Beds (c) | Share of Staff Needing Training (d) | Staff Needing Training (e = a × c × d) | Hours per Employee (f) | Year 1 Financial Cost (g = b × e × f × 1.21) | Year 1 Hourly Cost ((h = e × f × 1.21) | Years 2-10 Annual Financial Cost (i = b × e × f × .21) | Years 2-10 Annual Hourly Cost (j = e × f × .21) |
|---|---|---|---|---|---|---|---|---|---|---|
| Registered Nurses | 1,956,900 | $97.22 | 0.01 | 0.15 | 2,935 | 2 | $690,607 | 7,104 | $119,857 | 1,233 |
| Nurse Practitioners | 76,810 | $133.40 | 0.01 | 0.15 | 115 | 2 | $37,195 | 279 | $6,455 | 48 |
| Obstetricians and Gynecologists | 4,490 | $262.78 | 0.01 | 1 | 45 | 2 | $28,553 | 109 | $4,956 | 19 |
| Physician Assistants | 40,810 | $133.78 | 0.01 | 0.15 | 61 | 2 | $19,818 | 148 | $3,440 | 26 |
| Family Medicine Physicians | 21,230 | $249.58 | 0.01 | 0.15 | 32 | 2 | $19,234 | 77 | $3,338 | 13 |
| **Total** | | | | | | | $795,407 | 7,717 | $138,046 | 1,339 |

**TABLE 43: 10-Year Cost for Informed Consent for Birth Tissue Staff Training**

| Year | Financial Cost | Hourly Cost |
|---|---|---|
| 1 | $47,724,402 | 462,974 |
| 2 | $8,282,747 | 80,351 |
| 3 | $8,144,701 | 80,351 |
| 4 | $8,144,701 | 80,351 |
| 5 | $8,144,701 | 80,351 |
| 6 | $8,144,701 | 80,351 |
| 7 | $8,144,701 | 80,351 |
| 8 | $8,144,701 | 80,351 |
| 9 | $8,144,701 | 80,351 |
| 10 | $8,144,701 | 80,351 |
| 10-Year Total | $121,164,757 | 1,186,133 |

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The next impact is for providing informed consent to patients. Consent for collection of birth tissue would require hospital and CAH staff to inform each patient giving birth about tissue collection. We estimate that educating the patient about birth tissue would take 5 to 10 minutes while obtaining informed consent would take 2 to 5 minutes per patient. This gives us a range of 7 to 15 minutes per patient. We take the midpoint of these two values and assume that it would take staff members 11 minutes per patient. We expect that a combination of registered nurses, nurse practitioners, physician assistants, family medicine physicians, obstetricians and gynecologists would provide this information at an average cost of $175.35 based on the mean loaded wage rate for these professions, leading to an average per patient cost of $32.15 (11 minutes per patient × $175.35/hour). We estimate the cost for patients using the average wage rate for all occupations that we double to account for overhead and fringe benefits leading to an hourly cost of $65.32. This leads to an average patient cost of $11.98 (11 minutes per patient × $65.32/hour).

According to the Agency for Healthcare Research and Quality's Healthcare Cost and Utilization Project (QHCUP), in 2019 there was an estimated 3,583,224 delivery hospitalizations. We do not have data, however, on what percentage of births that occur in hospitals and CAHs offering OB services. For the purposes of this estimate, therefore, we assume that the share of births occurring in these hospitals is proportional to their share of all beds across hospitals and CAHs as estimated above—1 percent for CAHs and 59 percent for hospitals. As such we estimate that 2,114,102 (0.59 × 3,583,224) patients in hospitals and 35,832 (0.01 × 3,583,224) patients in CAHs would need to receive education and complete informed consent for birth tissue. As indicated in Table 44, we expect that this requirement would have

an average annual cost of $69,120,378 and take 394,155 hours to complete. As provided in Table 45, we expect total costs of approximately $691.2 million and 3.94 million hours over 10 years.

**TABLE 44: 1-Year Cost for Providing Informed Consent to Patients**

| | Patients Needing Education (a) | Financial Cost per Patient (b) | Hourly Cost per Patient (c) | Total Financial Cost (d = a × b)) | Total Hourly Cost (e = a × c) |
|---|---|---|---|---|---|
| Hospitals | 2,114,102 | $32.15 | 0.183 | $67,968,379 | 387,585 |
| CAHs | 35,832 | $32.15 | 0.183 | $1,151,999 | 6,569 |
| Total | | | | $69,120,378 | 394,155 |

**TABLE 45: 10-Year Cost for Providing Informed Consent to Patients**

| Year | Total Financial Cost | Total Hourly Cost |
|---|---|---|
| 1 | $69,120,378 | 394,155 |
| 2 | $69,120,378 | 394,155 |
| 3 | $69,120,378 | 394,155 |
| 4 | $69,120,378 | 394,155 |
| 5 | $69,120,378 | 394,155 |
| 6 | $69,120,378 | 394,155 |
| 7 | $69,120,378 | 394,155 |
| 8 | $69,120,378 | 394,155 |
| 9 | $69,120,378 | 394,155 |
| 10 | $69,120,378 | 394,155 |
| 10-Year Total | $691,203,780 | 3,941,550 |

The final impact is related to providing additional education on safe tissue handling for those individuals who choose to retain their birth tissue. Given that 3 percent of patients currently donate cord tissue,[353] we double the share of patients who would want this service and estimate that 6 percent of births would require education on safe tissue handling, leading to education for 126,846 (2,114,102 × 0.06) in hospitals and 2,150 patients (35,832 × 0.06) patients in CAHs. We assume that this education would also take 11 minutes per patient. As shown in Table 46, using this estimate, we expect that the rule would have an average annual cost of approximately $4.15 million for hospitals and CAHs and $1.55 million for patients. Over 10 years, the total cost would be approximately $41.47 million for hospitals and CAHs as shown in Table 47.

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**TABLE 46: 1-Year Cost for Providing Education on Safe Tissue Handling**

| | Patients Needing Education (a) | Financial Cost Per Patient (b) | Hourly Cost per Patient (c) | Financial Cost (d = a × b) | Hourly Cost (e = a × c) |
|---|---|---|---|---|---|
| Hospitals | 126,846 | $32.15 | 0.183 | $4,078,099 | 23,213 |
| CAHs | 2,150 | $32.15 | 0.183 | $69,123 | 393 |
| Total | | | | $4,147,221 | 23,606 |

[353] ConsumerAffairs. ''Cord blood banking statistics 2026 [2024]'' *ConsumerAffairs.com.* January 25, 2024, *https://www.consumeraffairs.com/health/cord-blood-banking-statistics.html.*

**TABLE 47: 10-Year Cost for Providing Education on Safe Tissue Handling**

| Year | Total Financial Cost | Total Hourly Cost |
|---|---|---|
| 1 | $4,147,221 | 23,606 |
| 2 | $4,147,221 | 23,606 |
| 3 | $4,147,221 | 23,606 |
| 4 | $4,147,221 | 23,606 |
| 5 | $4,147,221 | 23,606 |
| 6 | $4,147,221 | 23,606 |
| 7 | $4,147,221 | 23,606 |
| 8 | $4,147,221 | 23,606 |
| 9 | $4,147,221 | 23,606 |
| 10 | $4,147,221 | 23,606 |
| 10-Year Total Cost | $41,472,214 | 236,063 |

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8. Emergency Services Readiness Staff Training for Hospitals (§ 482.55(c)(3)) and CAHs (§ 485.618(e)(2))

We are proposing to repeal the requirement that hospitals (§ 482.55(c)(3)) and CAHs (§ 485.618(e)(2)) that offer emergency services train staff on provisions and protocols to meet the emergency needs of patients.

The training requirement provides flexibility to hospitals and CAHs to choose which staff receive this training and we assume that they would require training for medical staff working in emergency departments. These medical staff members include licensed practical nurses/licensed vocational nurses (LPNs, LVNs), RNs, nurse anesthetists, nurse midwives, nurse practitioners, physician assistants, physicians, and surgeons. We use data from the BLS May 2025 National Industry-Specific Occupational Employment and Wage Estimates for hospitals (NAICS 622000) to estimate the number of these medical staff members working in hospitals and CAHs and their salary. We calculated the hourly rate for each employee type by doubling the national mean salary. We doubled the mean salary since the BLS data do not include overhead costs and fringe benefits.

The BLS does not provide separate information on the number of medical staff members working in hospitals and CAHs, or the number of staff members working in Medicare and/or Medicaid certified hospitals and CAHs that would no longer be required to train staff on provisions and protocols to meet the emergency needs of patients. To estimate the savings that hospitals and CAHs would incur by repealing this requirement we assumed that the number of medical staff who they would need to train would be proportional to the size of facilities, as measured by the number of certified beds. To calculate the number of certified beds, we utilized CMS' Q4 2024 Provider of Services File—Hospitals & Non-Hospital Facilities dataset to first calculate the number of certified beds in hospitals and CAHs that are Medicare/Medicaid certified and offer emergency services.[354] We then calculated the total number of certified beds in all hospitals and CAHs nationwide. Finally, we calculated the share of certified beds that are in Medicare/Medicaid certified hospitals offering emergency services using the following formula: Total Certified Beds in Hospitals Offering Emergency Services ÷ Total Certified Beds in All Hospitals and CAHs. Similarly, we calculate the share of certified beds in Medicare/Medicaid certified CAHs offering emergency services using the following formula: Total Certified Beds in CAHs Offering Emergency Services ÷ Total Certified Beds in All Hospitals and CAHs. Using this methodology, we estimate that approximately 66.9 percent of certified beds nationwide are in Medicare/Medicaid certified hospitals that offer emergency services, with 2.7 percent of certified beds located in Medicare/Medicaid certified CAHs that offer emergency services.

Based on our experience, we expect that initial staff training takes 3 hours per employee. For subsequent years, we expect that refresher training takes 1 hour per employee. Since the rules went into effect on July 1, 2025, we expect that hospitals and CAHs have already provided employees with initial training prior to the proposed removal of this requirement. As such, we expect that hospitals and CAHs would save 1 hour per employee who has already completed initial training and 3 hours per new employee who would need to complete the initial staff training. With an annual hospital turnover rate of approximately 21 percent,[355] we expect that 21 percent of employees each year would need the initial 3-hour training, and the remaining 79 percent of employees would need the 1-hour refresher training.

In hospitals, which have a larger number of beds, there is likely to be a greater division of staff among units, with medical staff specifically designated to work in emergency departments. In contrast, CAHs, which are smaller in size, are likely to have medical staff that work across units. We assume, therefore, that 20 percent of medical staff in hospitals and 100 percent of medical staff in CAHs would receive the training.

As indicated in Table 48, using this methodology, we estimate that repealing the emergency services training requirement would save hospitals and CAHs more than $65 million and 570 thousand hours annually. Table 49 shows that eliminating this requirement

[354] Centers for Medicare and Medicaid Services. Provider of Services File—Hospital & Non-Hospital Facilities, Q1 2024. *https://data.cms.gov/provider-characteristics/hospitals-and-other-facilities/provider-of-services-file-hospital-non-hospital-facilities/data* (Accessed March 21, 2025).

[355] Nursing Solutions Incorporated, *2024 NSI National Health Care Retention & RN Staffing Report*. 2024.

would result in total 10-year savings of $651 million and would give clinicians in hospitals and CAHs more than 5.7 million hours to spend on direct patient safety and care.

While the proposed elimination of the emergency services staff training requirement would result in significant reduction in burden as discussed previously, one concern is that its elimination could harm patients, who would benefit from having staff trained in these areas. Hospital and CAH accrediting organizations, however, already have staff training requirements to help protect patients' health and safety. In addition, hospitals and CAHs are still required to have adequate provisions and protocols to meet the emergency needs of patients in accordance with the complexity and scope of services offered. As such, we expect that repealing this requirement would not impose new burdens on patients.

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**TABLE 48: Annual Emergency Service Training Elimination Savings**

| Provider Type | Number of Providers (a) | Share of all Hospital and CAH Certified Beds (b) | Total Yearly Cost if All Hospital and CAH Medical Staff were Trained (c) | Total Hospital and CAH Medical Staff (d) | Share of Medical Staff Receiving Training (e) | Total Medical Staff Members in Facilities with Emergency Services (f = b × d) | Financial Savings (g = b × c × e) | Hourly Savings from Refresher Training (h = e × f × 79% × 1 Hr) | Hourly Savings from Initial Training (h = e × f × 21% × 3 Hrs) | Total Hourly Savings (j = h + i) |
|---|---|---|---|---|---|---|---|---|---|---|
| CAH | 1,329 | 0.027 | $403,950,433 | 2,491,880 | 1 | 68,234 | $11,061,162 | 53,905 | 42,987 | 96,892 |
| Hospital | 3,319 | 0.669 | $403,950,433 | 2,491,880 | 0.2 | 1,667,532 | $54,063,623 | 263,470 | 210,109 | 473,579 |

**TABLE 49: Emergency Services Staff Training Elimination 10-Year Savings**

| Year | Total Financial Savings | Total Hourly Savings |
|---|---|---|
| 1 | $65,124,785 | 570,471 |
| 2 | $65,124,785 | 570,471 |
| 3 | $65,124,785 | 570,471 |
| 4 | $65,124,785 | 570,471 |
| 5 | $65,124,785 | 570,471 |
| 6 | $65,124,785 | 570,471 |
| 7 | $65,124,785 | 570,471 |
| 8 | $65,124,785 | 570,471 |
| 9 | $65,124,785 | 570,471 |
| 10 | $65,124,785 | 570,471 |
| 10-Year Total Savings | $651,247,851 | 5,704,712 |

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9. Staff Transfer Protocols Training for Hospitals (§ 482.43(c))

We are proposing to repeal the requirement at (§ 482.43(c)) for acute care hospitals to conduct annual training for relevant staff (as determined by the facility) on hospital policies and procedures for transferring patients under its care.

Since hospital inpatients are included in those who may need to be transferred, we expect that medical staff across hospitals, and not just those in emergency departments, receive training on transfer protocols. Specifically, we expect that all surgeons, physicians, physician assistants, nurse practitioners, nurse midwives, nurse anesthetists in hospitals receive this training. We do

not expect, however, that LPNs receive this training and similarly expect that most RNs do not receive this training. Rather, we expect that among RNs, only experienced RNs who serve as transfer coordinators receive it and estimate that this is only five percent of RNs nationwide. We estimate that hospitals spend one hour training each employee.

The BLS does not provide separate information on the number of medical staff members working in hospitals, or the number of staff members working in Medicare and/or Medicaid certified hospitals that would no longer be required to train staff on hospital policies and procedures for transferring patients under its care. To estimate hospital savings from repealing this requirement we assumed that the number of medical staff who they would need to train would be proportional to the size of facilities, as measured by the number of certified beds. To calculate the number of certified beds, we utilized CMS' Q4 2024 Provider of Services File—Hospitals & Non-Hospital Facilities dataset to first calculate the number of certified beds in hospitals that are Medicare/Medicaid certified.[356] We then calculated the total number of certified beds in all hospitals and CAHs nationwide. Finally, we calculated the share of certified beds that are in Medicare/Medicaid certified hospitals using the following formula: Total Certified Beds in Medicare/Medicaid certified Hospitals ÷ Total Certified Beds in All Hospitals and CAHs. Using this methodology, we estimate that approximately 78.9 percent of certified beds nationwide are in Medicare/Medicaid certified hospitals.

We expect that this training would take one hour per staff member. As indicated in Table 50, after increasing the estimated burden by 21 percent to account for the average annual turnover in hospitals,[357] we expect that repealing this requirement would save hospitals $81,569,162 and 445,535 hours annually. As indicated in Table 51, we expect that over 10 years, repealing this requirement would save more than $815 million and 4.46 million hours.

While the proposed elimination of the transfer protocol staff training requirement would result in significant reduction in burden as discussed previously, one concern is that its elimination could harm patients, who would benefit from having staff trained in the proper procedures for transfers. Hospitals, however, are still required to have policies and procedures in place for patient transfer. Given the importance of ensuring that patients can be transferred to the appropriate level of care in a timely manner, we expect that they already have employees trained in these procedures. As such, we expect that repealing this requirement would not impose new burden on patients.

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**TABLE 50: Annual Transfer Protocol Staff Training Elimination Savings**

| Provider Type | Number of Providers (a) | Share of all Hospital and CAH Certified Beds (b) | Total Yearly Cost if All Hospital and CAH Medical Staff were Trained (c) | Total Hospital and CAH Medical Staff (d) | Share of Medical Staff Receiving Training (e) | Total Number of Staff Members (f = b × d) | Financial Savings (g = b × c × e) | Hourly Savings (h = e × f) |
|---|---|---|---|---|---|---|---|---|
| Hospital | 4,861 | 0.789 | $85,475,399 | 466,872 | 1.21 | 368,211 | $81,569,162 | 445,535 |

[356] Centers for Medicare and Medicaid Services. Provider of Services File—Hospital & Non-Hospital Facilities, Q1 2024. *https://data.cms.gov/provider-characteristics/hospitals-and-other-facilities/provider-of-services-file-hospital-non-hospital-facilities/data* (Accessed March 21, 2025).

[357] Nursing Solutions Incorporated, *2024 NSI National Health Care Retention & RN Staffing Report*. 2024.

**TABLE 51: Transfer Protocol Staff Training Elimination 10-Year Savings**

| Year | Total Financial Savings | Total Hourly Savings |
|---|---|---|
| 1 | $81,569,162 | 445,535 |
| 2 | $81,569,162 | 445,535 |
| 3 | $81,569,162 | 445,535 |
| 4 | $81,569,162 | 445,535 |
| 5 | $81,569,162 | 445,535 |
| 6 | $81,569,162 | 445,535 |
| 7 | $81,569,162 | 445,535 |
| 8 | $81,569,162 | 445,535 |
| 9 | $81,569,162 | 445,535 |
| 10 | $81,569,162 | 445,535 |
| 10-Year Total Savings | $815,691,619 | 4,455,354 |

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10. Proposal To Amend Status and Location Requirements (§ 485.610(c) and (e))

We are proposing to modify the current distance eligibility requirement at § 485.610(c) and § 485.610(e)(2). This requirement states that critical access hospitals (CAHs) must be located more than a 35-mile drive on primary roads (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital or another CAH. This proposed change would codify CMS' 2016 sub-regulatory guidance, which stated that the distance eligibility requirement is determined based on proximity to an acute care hospital or another CAH. The guidance specifically states that psychiatric hospitals, long-term care hospitals, and rehabilitation hospitals are not considered acute care hospitals for purposes of the location requirements. We are also proposing to modify the distance requirement related to CAHs to indicate that a CAH, as described in section 241 of CAA 2026, is not subject to the distance requirements.

The changes we are proposing in this rule would codify current sub-regulatory guidance for CAHs as well as existing federal law and would have several benefits. First, these proposed changes would ensure continue accessed to acute care for individuals living in rural communities. There are currently 52 CAHs that are currently co-located or within a 35-mile drive on primary roads (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) of a psychiatric, rehabilitation, or long-term care hospital and they could be at risk of losing their CAH designation under the current regulatory standards. The loss of their CAH designation under current regulatory standards could result in their closure due to financial pressures, negatively impacting access to care. Second, the proposed change could result in new CAHs opening since it would allow more facilities to satisfy the distance requirements. In addition, four CAHs would be impacted by the changes in section 241 of CAA 2026. Third, if CAHs were forced to close or new CAHs could not open, then individuals would be forced to travel longer distances to obtain necessary medical care, resulting in additional transportation costs. Beyond transportation costs, in urgent and life-threatening situations, the delay in care could result in long-term harm that would impose ongoing physical or financial costs for these individuals, or even death. Quicker access to care could also result in significant financial savings for patients, as well as payors including Medicare and Medicaid, by helping them avoid delays in receiving care that may result in the need for additional care or more intensive treatment. While we cannot quantify the financial benefits of our proposed changes, we seek comments on sources of information that we can use to estimate their health and financial savings.

While the proposed changes for CAHs have many benefits, they could also impose new costs on the federal government. CAHs receive additional financial support from Medicare since they qualify for cost-based reimbursement, instead of the Medicare Prospective Payment System. These proposed changes could eliminate the potential for the 52 facilities to lose their CAH status, resulting in a continued stream of higher transfers from Medicare to these facilities. In addition, the changes we are proposing could lead other rural hospitals to seek CAH status, resulting in more Medicare transfers. While we are unable to estimate the level of costs that Medicare would incur since we do not know how many of the current CAHs would lose their status in the absence of these changes and the number of new facilities that may seek CAH status due to these proposed changes, we seek comments on the ways to quantify these financial effects.

11. COVID–19 and Seasonal Influenza Reporting for REHs (§ 485.526(e)) and COVID–19 Vaccination of REH Staff (§ 485.526(g))

We are proposing to repeal the requirement (§ 485.526(e)) that REHs electronically report information about COVID–19 and seasonal influenza in a standardized format specified by the Secretary. We are also proposing to repeal the requirement (§ 485.526(g)) that REHs must develop and implement policies and procedures to ensure that all staff are fully vaccinated for COVID–19. The COVID–19 and seasonal influenza reporting requirement ended on April 30, 2024, while the requirement that REHs must develop and implement policies and procedures to ensure that all staff are fully vaccinated for COVID–19 ended on November 4, 2024. As such, we do not expect that REHs would see a reduction in costs from repealing this regulatory requirement.

12. Adoption of the 2024 Edition of the Life Safety Code (National Fire Protection Association (NFPA) 101) and the 2024 Edition of the Health Care Facilities Code (National Fire Protection Association (NFPA) 99)

For most providers, we expect that the proposed changes related to the adoption of the 2024 Edition of the Life Safety Code (NFPA 101), the 2024 Edition of the Health Care Facilities Code (NFPA 99), the 2022 edition of the Standard for Emergency and Standby Power Systems (NFPA 110), the 2022 edition of the Standard for the Installation of Sprinkler Systems (NFPA 13), and the 2023 edition of the Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems (NFPA 25). NPFA editions would lead to unquantifiable but important benefits by promoting consistency across facilities, reinforcing fire emergency readiness and protecting the well-being of all occupants. These benefits would be further enhanced by our proposal that CMS may issue categorical waivers to provide hospitals, CAHs, REHs, ASCs, ICFs/IID, hospice inpatient care facilities, PACE centers, RNHCIs, and ESRD facilities with flexibility in complying with specific provisions of newer editions of the LSC or HCFC. We identified several specific updates to the NPFA editions that we expect would have a positive impact on patient care and reduce or increase provider costs. For each of these updates, we seek comments on ways to quantify the benefits and the costs for the proposed NPFA edition updates, as well as any additional benefits and costs that may result from the proposed changes. We also note that for both the costs and benefits, the potential impact is likely to vary depending on the NFPA edition that States and/or local authorities are currently requiring providers to meet and we seek comments on public sources of data that would allow us to identify the current NFPA edition that local and state governments are requiring providers to meet.

a. Benefits

First, updates to the 2024 edition of the LSC (NFPA 101) allow facilities to use coded announcements to staff instead of activating fire alarm notification appliances such as loud horns and strobe lights that can startle residents and patients. For residents and patients, allowing coded announcements can reduce fear and confusion that emerge from alarm notification systems that can only signal something is wrong without providing context. In contrast, the coded announcements support a patient-centered environment while maintaining resident and patient health and safety. Given the large number of patients and residents in healthcare, we expect that this change would have large intangible benefits to facility residents and patients. We seek comments on peer reviewed research that quantifies the financial or health benefits of the reduction in fear and confusion for residents and patients.

Second, updates in the 2021 edition of the LSC (NFPA 101) that remain in the 2024 edition of the LSC modified requirements related to doors and door frames located in barriers that are not required to have a fire-resistance rating under the life safety plans. Specifically, for these doors, facilities would no longer be required to comply with NFPA 80, Standard for Fire Doors and Other Opening Protectives. Providers would benefit from this update by alleviating the need for an annual inspection and rating of the door assembly. While we do not have information on the number of doors across all the provider types that the proposed update to the LSC would impact, industry estimates suggest that a single door can take 20 to 30 minutes to inspect.[358] With inspections required on an annual basis and the potential for multiple doors within a single facility to be impacted by this change, updating this requirement would likely lead to significant time and cost savings for providers. We seek comments from providers of different sizes on the estimated savings they will accrue from this requirement change both on a per door basis, as well as a facility basis.

Third, updates to the 2021 edition of the LSC (NFPA 101) increased the maximum size of receptacles for soiled linen and trash not located in hazard areas from 32 to 64 gallons. In addition, a 2018 update to the LSC removed the restriction that limits the capacity of containers within any 64-square-foot area. Allowing these changes would improve flexibility for environmental services staff and potentially increase staff efficiency since a larger container capacity would allow them to collect double the trash or soiled linens before emptying receptacles. Although we do not quantify how much these changes could increase efficiency, given the large amounts of trash and soiled linen that healthcare facilities generate daily, we expect that it could have a significant financial and staff resources impact and seek comments from providers on expected savings from this change.

Fourth, updates to the 2024 edition of the LSC (NFPA 101) include a new definition of ''gross floor area'' that no longer requires the inclusion of stairs and shafts within the boundary of smoke compartments or suites to be included in the area calculation. This change in suite size calculation provides more flexibility for providers and utilizing this edition would allow them to utilize most up-to-date best practices regarding the extent of smoke detection, the use of quick-response sprinklers, and direct supervision requirements.

Fifth, updates to the 2024 edition of the LSC (NPFA 101) include changes to the alternative care sites (ACS) requirements that would permit the use of an ACS for healthcare during an urgent need to provide additional capability for communities. Specifically, this change applies to new and existing healthcare organizations and allows an ACS to temporarily convert to an HCO with an approved fire emergency plan and comply with alternate construction, design, protection, operational, and occupancy classification requirements. Updating provider requirements to the 2024 edition of the LSC would benefit both providers and patients by allowing HCOs to address urgent surges in demand and ensure that affected communities have safe, code-compliant capacity during times of public health emergencies or other crises.

Finally, as part of the updates to the LSC, we are proposing to remove the requirement that hospitals, CAHS, RNHCIs, LTC facilities, and hospice inpatient care facilities have outside windows and doors in every patient sleeping area. While we cannot quantify the savings from this proposed change, we expect that removing this requirement would provide providers with more flexibility regarding construction of new facilities and renovation of existing facilities to best meet patient needs.

b. Costs

While we expect that requiring facilities to meet the standards in the 2024 NFPA edition would have positive benefits for patient health and safety and reduce overall burden for providers, we also expect that it could lead to increases in provider costs.

First, a new section has been added to the 2024 Edition of the HCFC (NFPA 99) that includes requirements and prescriptive intervals for routine inspection, maintenance, and testing of

[358] Midsummer Fire Protection. Fire Door Inspections: What to Expect. *https://midsummerfirepro.co.uk/fire-door-inspections-expect/#:~:text=How%20Long%20Does%20a%20Fire,leaving%20no%20potential%20risks%20unaddressed.* (Updated 27 September 2024).

electrical system components. Specifically, it codifies the requirement that routine inspection, maintenance, and testing ''must'' occur at regular intervals rather than saying that it ''should'' occur at regular intervals. While many providers are likely to already be conducting these tasks at regular intervals, it is likely that some providers are not. Depending on the number of providers who are not conducting these tasks at regular intervals, the financial cost of this change could vary greatly. We seek comments from providers on the additional burden, if any, they expect to incur from this new requirement.

Second, updates to the 2024 edition of the LSC (NFPA 101) require facilities to have CO detection and warning equipment. For new healthcare occupancies (HCOs) and residential board and care occupancies (RBOCs), the 2024 edition of the LSC added new requirements for CO detection requirements for cooking facilities open to the corridor, to ceilings of rooms containing fuel-burning appliances or fireplaces, and within 36 inches of the first air vent from fuel-burning heating, ventilation and air-conditioning (HVAC) systems. It also added requirements for CO detection where new residential board and care facilities have attached garages, s, fuel-burning appliances, or fuel burning fireplaces. Given uncertainty about the number of new HCOs and RBCOs that would emerge in coming years and would be affected by this proposed requirement, we seek comments on ways to estimate the burden.

Third, a new requirement was added that establishes minimum fire safety requirements for the design, construction, maintenance, and operation of heliports. These changes would apply mainly to new heliports or major modifications to accommodate new VTOL (Vertical Takeoff and Landing) aircraft or larger existing heliports. While we do not expect many providers to be building new heliports or engaging in major renovations or modifications to accommodate larger aircraft or new VTOL aircraft, the updated standards could lead to additional burden when this occurs. We seek comments from providers with heliports, or those providers that are considering constructing heliports, on the expected burden from these new requirements.

In addition to the above costs across multiple provider types, we detail expected costs for provisions that would specifically affect ICFs/IID, ASCs, and dialysis facilities.

i. Intermediate Care Facilities for Individuals With Intellectual Disabilities (ICFs/IID) (§ 483.470)

We anticipate the proposed requirement at § 483.470(j)(1)(i) which updates the LSC (NFPA 101) reference year to 2024 would result in an economic impact cost. The reason being the 2024 edition of the LSC (NFPA 101) revised the portable fire extinguisher requirement in existing large Residential Boarding Care Occupancy (RBCOs) or ICFs/IID to be provided throughout the facility rather than only near hazardous areas.

To determine the cost of this proposed update to existing ICFs/IID, we estimate the number of additional portable fire extinguishers ICFs/IID would have to purchase and install to be in compliance. To estimate the number of additional portable fire extinguishers ICFs-IID would have to place throughout the facility rather than only near hazardous areas we must make assumptions as CMS data does not provide details on specific hazard areas or the layout of each ICF/IID.

In the absence of data, we estimate one portable first extinguisher would be purchased per 14 bedrooms per ICF/IID provider. We base this estimation on the following calculation. According to the current LSC (NFPA 101), Standard for Portable Fire Extinguishers, RBCOs must place a portable fire extinguisher with a minimum travel distance of 75 feet. If we assume one bedroom is approximately 10 feet wide and 7 bedrooms organized in a linear fashion create a hallway, then we can anticipate an ICF/IID would place a fire extinguisher at the end of the hallway. If we add a hallway north, south and east, then the portable fire extinguisher would remain in the middle with a 28-bedroom radius. Depending on the facility layout of the ICF/IID, the number of portable fire extinguishers can vary from 1 portable fire extinguisher to every 7 bedrooms to 1 portable fire extinguisher to every 28 bedrooms. To estimate the best total cost to all ICFs/IID we assume a ratio of 14 bedrooms per portable fire extinguisher. According to 2026 CMS data there were 400 existing large (16 residents or more) ICFs/IID with a total of 25,192 bedrooms.[359] This means 1,799 (25,192 bedrooms ÷ 14 bedrooms per fire extinguisher) additional portable fire extinguishers would need to be purchased. ABC portable fire extinguishers range between $50–$110. Assuming an average cost of $80 per portable fire extinguisher, we estimate a cost of $143,920 (1799 fire extinguishers × $80/fire extinguisher). We assume that these fire extinguishers would need to be replaced every 2 years.

As portable fire extinguishers may be subject to tampering by residents, we assume an ICF/IID would place portable fire extinguishers in locked fire extinguisher cabinets. The cost per lockable fire extinguisher cabinet ranges between $95–$240. We take the midpoint of these estimates and assume that the locked fire extinguisher cabinets would have a one-time cost of $168 per cabinet for a total one-time cost of $302,232 ($168 cabinet × 1799). Fire extinguisher cabinets would also require installation, and the cost of installation would vary depending on whether it is surface mounted or needs to be recessed into the wall. We assume it would take one (1) hour for a general contractor at a labor cost of $56 per hour for a one-time cost of cost of $100,744 (1799 cabinets × $56/cabinet). As indicated in Table 52, we estimate that total costs over 10 years would be $1,122,576 for all 400 ICFs/IID, with an average per provider cost of $2,806 ($1,122,576 ÷ 400 facilities). Average annual costs are estimated to be $112,258 for all providers and $281 per provider.

[359] QCOR. CASPER (07/28/2026) available at *https://qcor.cms.gov/active_nh.jsp?which=2&report=active_nh.jsp.*

**TABLE 52: 10-Year ICFs/IID Life Safety Update Costs**

| Year | Financial Costs |
|---|---|
| 1 | $546,896 |
| 2 | $0 |
| 3 | $143,920 |
| 4 | $0 |
| 5 | $143,920 |
| 6 | $0 |
| 7 | $143,920 |
| 8 | $0 |
| 9 | $143,920 |
| 10 | $0 |
| Total 10-Year Cost | $1,122,576 |

ii. Ambulatory Surgical Centers (ASCs) (§ 416.44)

The 2024 edition of the LSC requires ASCs occupying a space in a high-rise building that was (1) constructed prior to the effective date of CMS adoption of the 2012 LSC on July 5, 2016, and (2) is currently not sprinklered to ensure the building and their facility are sprinklered throughout or relocate to a compliant building within 12 years of the 2024 LSC adoption by CMS. While we expect that all high-rise buildings constructed after July 5, 2016 are fully sprinklered and all ASCs within those buildings would be compliant with the regulation, we seek comments on the number of ASCs that occupy an existing (constructed before July 2016) high-rise building that is currently not sprinklered to develop burden estimates.

iii. End-Stage Renal Disease (ESRD) Providers/Dialysis Facilities (§ 494.60)

The 2024 edition of the LSC requires dialysis facilities, occupying a space in a high-rise building that was (1) constructed prior to the effective date of CMS adoption of the 2012 LSC on July 5, 2016, and (2) is currently not sprinklered to ensure the building and their facility are sprinklered throughout or relocate to a compliant building within 12 years of the 2024 LSC adoption by the authority having jurisdiction (CMS). While we expect that all high-rise buildings constructed after July 5, 2016 are fully sprinklered and all ESRD facilities within those buildings would be compliant with the regulation, we seek comments on the number of ESRD facilities that occupy an existing (constructed before July 2016) high-rise building that is currently not sprinklered to develop burden estimates.

13. Medicaid Institutional Payment Transparency Reporting Requirements (§§ 438.72 and 442.43)

We are proposing regulatory changes at §§ 438.72 and 442.43 to rescind requirements for States to report annually, at the facility level, on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff, and the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff. These proposals are expected to benefit the States and providers by reducing administrative burden. In addition, they are expected to benefit the Federal Government because these Medicaid costs are split between States and the Federal Government.

The proposed rescission of these requirements would reduce the information collection requirements for the States and providers. The burden associated with these information collection requirements was included in the Collection of Information (COI) section of the 2024 Minimum Staffing final rule. New burden reduction estimates associated with these recissions are included in the COI. The proposed quantitative benefits are wholly associated with the removal of the burden associated with the information collection requirements documented in the COI section of the 2024 Minimum Staffing final rule related to the requirements for States to report annually, at the facility level, on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff, and the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff. For ease of reference, and for projection purposes, we are including the Federal government, States, and provider share of those savings here in Table 53, projected from 2027 through 2036 (in 2025 dollars). For the Federal Government, we estimate total savings of $687,600 as a result of the proposed regulations over 10 years. For the States, we estimate total savings of $687,600 as a result of the proposed regulations over 10 years. For providers, we estimate $304,159,413 in savings over 10 years. Because savings are projected over 10 years, the total estimated savings exceed the amounts shown in the COI section of the 2024 Minimum Staffing final rule. Savings displayed in Table 53 are inclusive of both one-time and ongoing costs. The other potential benefits associated with the rescission of these requirements cannot be monetarily quantified at this time.

**TABLE 53: Projected Benefits to the Federal Government, States, and Providers of Proposed Regulatory Changes at §§ 438.72 and 442.43 (in 2025 dollars)**

| Year | Federal Savings | State Savings | Provider Savings | Total Savings |
|---|---|---|---|---|
| 2027 | $336,690 | $336,690 | $41,958,507 | $42,631,887 |
| 2028 | $38,990 | $38,990 | $29,133,434 | $29,211,414 |
| 2029 | $38,990 | $38,990 | $29,133,434 | $29,211,414 |
| 2030 | $38,990 | $38,990 | $29,133,434 | $29,211,414 |
| 2031 | $38,990 | $38,990 | $29,133,434 | $29,211,414 |
| 2032 | $38,990 | $38,990 | $29,133,434 | $29,211,414 |
| 2033 | $38,990 | $38,990 | $29,133,434 | $29,211,414 |
| 2034 | $38,990 | $38,990 | $29,133,434 | $29,211,414 |
| 2035 | $38,990 | $38,990 | $29,133,434 | $29,211,414 |
| 2036 | $38,990 | $38,990 | $29,133,434 | $29,211,414 |
| Total 10-Year Savings | $687,600 | $687,600 | $304,159,413 | $305,534,613 |

As we discussed in the COI section, we believe the recission of three of the four reporting requirements will result in financial and administrative burden reductions for the Federal government, States, and providers. We do not believe that the proposed changes would impose any new or revised collection of information requirements or burden including those associated with the creation or revision of State plan or other State-owned policy documents. Further, as we discussed in the 2024 Minimum Staffing proposed rule, the Medicaid institutional payment transparency reporting requirement sought to address access to care that is being affected by direct care and support staff workforce shortages. The proposal was intended to support the sufficiency of the direct care and support staff workforce through public reporting of the direct payments to these workers. We believe that promoting public transparency is important for holding States accountable for ensuring that Medicaid payments are sufficient to enlist enough workers so that quality LTSS care is available to the beneficiaries who want and require such care. However, those benefits were difficult to quantify and were not estimated in the 2024 Minimum Staffing proposed rule or the 2024 Minimum Staffing final rule and as such, are not included in the burden reduction estimates in this proposed rule.

14. Summary of Regulatory Impact Analysis

Table 54, Table 55, and Table 56 provide an estimate of the total annual and 10-year financial and hourly impact that would be achieved through the changes proposed in this rule. In Table 57, we also provide a summary estimate that aggregates the annual and 10-year financial and hourly impacts for providers from all the proposed provisions. These estimates exclude the annual savings of approximately $112 million and more than 3.20 million hours gained by reducing Medicaid institutional payment transparency reporting requirements and other collection of information requirements, as well as new information collection costs related to birth tissue as summarized in Tables24, 25and 26. Overall, we estimate that these proposed changes would save providers more than $2.08 billion and more than 20.5 million hours over 10 years.

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**TABLE 54: Regulatory Impact Analysis Financial and Hourly Savings Part I**

| Year | Transfer Notices for Emergent Care | | Covid-19 Staff Education in LTC Facilities | | Covid-19 Staff Vaccination in LTC Facilities | Covid-19 Staff Education in ICFs/IID | | Covid-19 Staff Vaccination in ICFs/IID | Total Savings | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Financial Savings ($ Million) | Hourly Savings |
| 1 | $1.00 | 10,264 | $60.61 | 886,350 | $4.28 | $4.72 | 69,042 | $0.33 | $70.94 | 965,656 |
| 2 | $1.00 | 10,264 | $60.61 | 886,350 | $4.28 | $4.72 | 69,042 | $0.33 | $70.94 | 965,656 |
| 3 | $1.00 | 10,264 | $60.61 | 886,350 | $4.28 | $4.72 | 69,042 | $0.33 | $70.94 | 965,656 |
| 4 | $1.00 | 10,264 | $60.61 | 886,350 | $4.28 | $4.72 | 69,042 | $0.33 | $70.94 | 965,656 |
| 5 | $1.00 | 10,264 | $60.61 | 886,350 | $4.28 | $4.72 | 69,042 | $0.33 | $70.94 | 965,656 |
| 6 | $1.00 | 10,264 | $60.61 | 886,350 | $4.28 | $4.72 | 69,042 | $0.33 | $70.94 | 965,656 |
| 7 | $1.00 | 10,264 | $60.61 | 886,350 | $4.28 | $4.72 | 69,042 | $0.33 | $70.94 | 965,656 |
| 8 | $1.00 | 10,264 | $60.61 | 886,350 | $4.28 | $4.72 | 69,042 | $0.33 | $70.94 | 965,656 |
| 9 | $1.00 | 10,264 | $60.61 | 886,350 | $4.28 | $4.72 | 69,042 | $0.33 | $70.94 | 965,656 |
| 10 | $1.00 | 10,264 | $60.61 | 886,350 | $4.28 | $4.72 | 69,042 | $0.33 | $70.94 | 965,656 |
| 10-Year Total Savings | $10.01 | 102,640 | $606.09 | 8,863,500 | $42.75 | $47.21 | 690,420 | $3.33 | $709.39 | 9,656,560 |

## TABLE 55: Regulatory Impact Analysis Financial and Hourly Savings Part II

| Year | OB QAPI Project | | OB Staff Training | | Birth Tissue Collection - Staff Training | | Birth Tissue Collection - Informed Consent | | Birth Tissue - Safe Handling | | Total Savings | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million | Hourly Savings |
| 1 | $17.74 | 93,870 | $22.65 | 198,388 | -$47.72 | -462,974 | -$69.12 | -394,155 | -$4.15 | -23,606 | -$80.60 | -588,477 |
| 2 | $17.74 | 93,870 | $89.96 | 787,980 | -$8.28 | -80,351 | -$69.12 | -394,155 | -$4.15 | -23,606 | $26.15 | 383,738 |
| 3 | $17.74 | 93,870 | $36.78 | 322,203 | -$8.14 | -80,351 | -$69.12 | -394,155 | -$4.15 | -23,606 | -$26.89 | -82,039 |
| 4 | $17.74 | 93,870 | $78.79 | 690,166 | -$8.14 | -80,351 | -$69.12 | -394,155 | -$4.15 | -23,606 | $15.12 | 285,924 |
| 5 | $17.74 | 93,870 | $45.60 | 399,475 | -$8.14 | -80,351 | -$69.12 | -394,155 | -$4.15 | -23,606 | -$18.07 | -4,767 |
| 6 | $17.74 | 93,870 | $71.82 | 629,121 | -$8.14 | -80,351 | -$69.12 | -394,155 | -$4.15 | -23,606 | $8.15 | 224,879 |
| 7 | $17.74 | 93,870 | $51.11 | 447,701 | -$8.14 | -80,351 | -$69.12 | -394,155 | -$4.15 | -23,606 | -$12.56 | 43,459 |
| 8 | $17.74 | 93,870 | $67.47 | 591,023 | -$8.14 | -80,351 | -$69.12 | -394,155 | -$4.15 | -23,606 | $3.80 | 186,781 |
| 9 | $17.74 | 93,870 | $54.55 | 477,798 | -$8.14 | -80,351 | -$69.12 | -394,155 | -$4.15 | -23,606 | -$9.13 | 73,556 |
| 10 | $17.74 | 93,870 | $64.76 | 567,246 | -$8.14 | -80,351 | -$69.12 | -394,155 | -$4.15 | -23,606 | $1.09 | 163,004 |
| 10-Year Total Savings | $177.41 | 938,700 | $583.48 | 5,111,101 | -$121.16 | -1,186,133 | -$691.20 | -3,941,550 | -$41.47 | -236,060 | -$92.94 | 686,058 |

## TABLE 56: Regulatory Impact Analysis Financial and Hourly Savings, Part III

| Emergency Services Training | | Transfer Protocol Training | | Life Safety Code Updates in ICFs-IID | Total Savings | |
|---|---|---|---|---|---|---|
| Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Hourly Savings | Financial Savings ($ Million) | Financial Savings ($ Million) | Hourly Savings |
| $65.12 | 570,471 | $81.57 | 445,535 | -$0.55 | $146.15 | 1,016,006 |
| $65.12 | 570,471 | $81.57 | 445,535 | $0.00 | $146.69 | 1,016,006 |
| $65.12 | 570,471 | $81.57 | 445,535 | -$0.14 | $146.55 | 1,016,006 |
| $65.12 | 570,471 | $81.57 | 445,535 | $0.00 | $146.69 | 1,016,006 |
| $65.12 | 570,471 | $81.57 | 445,535 | -$0.14 | $146.55 | 1,016,006 |
| $65.12 | 570,471 | $81.57 | 445,535 | $0.00 | $146.69 | 1,016,006 |
| $65.12 | 570,471 | $81.57 | 445,535 | -$0.14 | $146.55 | 1,016,006 |
| $65.12 | 570,471 | $81.57 | 445,535 | $0.00 | $146.69 | 1,016,006 |
| $65.12 | 570,471 | $81.57 | 445,535 | -$0.14 | $146.55 | 1,016,006 |
| $65.12 | 570,471 | $81.57 | 445,535 | $0.00 | $146.69 | 1,016,006 |
| $651.25 | 5,704,712 | $815.69 | 4,455,354 | -$1.12 | $1,465.82 | 10,160,066 |

**TABLE 57: Provider Regulatory Impact Analysis Summary Table for All Provisions**

| Year | Financial Savings ($ Million) | Hourly Savings |
|---|---|---|
| 1 | $136.48 | 1,393,185 |
| 2 | $243.78 | 2,365,400 |
| 3 | $190.60 | 1,899,623 |
| 4 | $232.75 | 2,267,586 |
| 5 | $199.42 | 1,976,895 |
| 6 | $225.78 | 2,206,541 |
| 7 | $204.93 | 2,025,121 |
| 8 | $221.43 | 2,168,443 |
| 9 | $208.36 | 2,055,218 |
| 10 | $218.72 | 2,144,666 |
| 10-Year Total Savings | $2,082.26 | 20,502,684 |

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*D. Alternatives Considered*

When developing these burden reduction policies, we considered a variety of alternative policies that may also achieve our goal of reducing regulatory burden by removing obsolete, duplicative, and unnecessary requirements to free up resources for direct patient care.

1. Ongoing and PHE Acute Infectious Disease Data Reporting for LTC Facilities

We considered proposing to revise, rather than remove, the ongoing illness data reporting requirement for LTC facilities. Specifically, in the 2025 deregulatory RFI, interested parties asked us to examine the burden of this requirement. Some adjustments we considered were requiring fewer elements to be reported on an ongoing basis, allowing for yes/no answers, or adjusting the frequency of data reporting from weekly to monthly. These approaches would have led to only a marginal reduction in provider burden. For example, if we were to reduce the number of reported elements required by 50 percent and assuming each element takes the same amount of time for LTC facility staff to enter, then based on our estimate in Table 3, LTC facilities would save only $313 million over 10 years rather than the estimated $626 million that they would save for its total elimination. We believe that these alternatives would have continued to impose administrative burden without directly contributing to patient health and safety. Therefore, we believe removing this requirement altogether would have the greatest benefit for facilities.

When reviewing PHE data reporting, we considered changing the requirement to apply only to declared PHEs related to communicable diseases as opposed to our proposed policy that would allow the Secretary to require data reporting for a declared PHE related to any infectious disease. A communicable disease would be one that has a primary mode of disease spread from person to person, whereas an infectious disease, as the term is used in this proposed rule, would be one that cannot be transmitted directly from one person to another and one that can be transmitted from person to person. The terms ''communicable'' and ''infectious'' are often used interchangeably; however, there is a difference. While all communicable diseases are infectious, not all infectious diseases are communicable. Some noncommunicable infectious diseases that could lead to a Secretary-declared PHE include legionnaires' disease, dengue fever, rabies, and certain foodborne illnesses like Salmonella or E. Coli. Noncommunicable disease outbreaks can strain healthcare facilities in the same ways communicable diseases can. Ultimately, we believe that the potential for reduced reporting burden that is associated with limiting the PHE data reporting requirement to just communicable diseases does not outweigh the risks associated with limiting the Secretary's regulatory authority, thus reducing the availability of data essential for a coordinated response to broad scale health emergencies.

2. OB–QAPI Requirements for Hospitals and CAHs

We considered several approaches for revising the hospital and CAH OB-specific QAPI requirements. One option was to exempt rural hospitals and CAHs from these requirements to avoid imposing disproportionate operational and administrative burdens on facilities with limited staffing and financial resources, while retaining the requirement for non-rural hospitals. As discussed in section II.A.1 of this proposed rule, commenters responding to the 2025 deregulatory RFI indicated that the OB-specific requirements could be overly burdensome and may contribute to financial strain or decisions to reduce or discontinue labor and delivery services in rural areas. We ultimately did not adopt this approach because retaining the requirements for non-rural hospitals would continue to be duplicative of the long standing QAPI requirements. Existing hospital and CAH CoPs already apply broadly to all facility services, including inpatient and outpatient obstetric care, and require hospitals and CAHs to maintain comprehensive, ongoing, and data-driven quality assessment and performance improvement programs.

3. OB Services Staff Training for Hospitals and CAHs

We propose to remove the OB services staff training requirement for hospitals and CAHs. We considered maintaining the OB services staff training requirements while reducing the frequency of required training or limiting applicability to staff with primarily obstetric responsibilities. We did not propose this approach because it would continue to impose prescriptive federal training requirements by requiring hospitals and CAHs to define specific staff roles, training intervals, and competencies, increasing administrative complexity for hospitals and oversight burden for CMS. While it would marginally reduce provider burden, it would not fully address commenters concerns regarding redundancy with existing hospital requirements, accreditation standards, and professional certification and continuing education requirements.

4. Patient's Rights for Birth Tissue Collection in Hospitals and CAHs

We considered relying on existing patient rights CoPs that provide patients or their representatives the right to make informed decisions regarding their care, including being involved in care planning and treatment, as well as existing medical record CoPs that require the medical record to contain properly executed informed consent forms for procedures and treatments. Ultimately, however, we decided against this approach given variation in hospital and CAH practices around informed consent and patient knowledge about how to request retention or release of birth tissue, which may have significant cultural, religious, personal or familial significance to patients and their families. We also did not utilize this approach given concerns from investigations about the commercialization of birth tissues, often without families' awareness.

5. 2024 Edition of the Life Safety Code (NFPA 101) and the 2024 Edition of the Health Care Facilities Code (NFPA 99)

We propose to adopt both the 2024 edition of the NFPA 101 and the NFPA 99. We considered waiting to publish a proposed rule until the release of the 2027 editions of both the NFPA 101 and the NFPA 99 so that we could propose to adopt those editions. We determined that waiting until the 2027 editions are issued to begin the rulemaking process was not in the best interest of regulated providers or healthcare consumers because the 2024 edition of the NFPA 101 and the NFPA 99 offer meaningful improvements to occupant safety and meaningful flexibilities and advances for healthcare facilities in their daily operations and long-term renovation and construction planning. We concluded that continuing to require facilities to comply with the 2012 editions of the NFPA 101 and the NFPA 99 for a longer period of time would not be in the best interest of providers and patients.

We welcome comments on this alternative approach that we considered and other suggestions for additional reforms that CMS should consider.

6. Outside Window and Door Requirements

We propose to repeal the outdoor window and door requirements for hospitals, CAHs, RNHCIs, LTC facilities, and hospice inpatient care facilities. We considered proposing to revise the current outside window and door requirements by adding new flexibilities for sleeping rooms intended for occupancy for less than 24 hours and for special care units, while retaining the existing window and door requirements, which already deem windows in atrium walls to be considered outside windows. For sleeping rooms intended for occupancy for less than 24 hours, we considered removing the requirement that these spaces must have an outside window or door, given the short-term nature of their occupancy, thereby reducing burden on the facilities. For hospitals and CAHs, individual patient sleeping cubicles within special care units (for example, neonatal intensive care units (NICUs), intensive care units (ICUs), cardiac care units (CCUs)) would no longer be required to have an outside window or outside door in each cubicle, provided that not less than one outside window or outside door is provided in the suite. These exceptions would allow for greater flexibility in both new construction projects and renovations of existing healthcare facilities, while continuing to provide the benefits of outside windows for the mental well-being of patients.

7. Medicaid Institutional Payment Transparency Reporting

We propose to rescind requirements for States to report annually, at the facility level, on the percentage of Medicaid payments for nursing facility services that is spent on compensation for direct care workers, the percentage of Medicaid payments for nursing facility services that is spent on compensation for support staff, and the percentage of Medicaid payments for ICF/IID services that is spent on compensation for support staff.

We considered whether we could advise States that they could approximate the time that direct care workers spend caring for Medicaid residents in calculating the percentage of Medicaid payments spent on compensation for direct care workers. However, as we discussed in section I, we believe that we could make such an approximation using existing data sources, thereby reducing burden on facilities without necessarily impacting the accuracy of the reporting.

We considered maintaining the reporting requirements based on concerns about imposing additional costs if States, nursing facilities, and ICFs/IID had already begun planning for and implementing operational or system changes to comply with these reporting requirements. Given the June 21, 2028, applicability date for the requirements, we believe that the costs that they may have incurred to date are minimal. We believe that any costs they have incurred to comply with the requirements are substantially less than any remaining initial implementation and ongoing costs they would incur if required to comply with the requirements as finalized. Additionally, we considered maintaining the reporting requirements based on whether Medicaid beneficiaries, direct care workers, and support staff have relied on the institutional payment transparency reporting requirements. As mentioned previously, since the applicability date for the requirements has not yet occurred, beneficiaries, direct care workers, and support staff have not experienced any benefits from the requirements. As such, we do not believe that they have relied on the institutional payment transparency reporting requirements.

*E. Regulatory Review Cost Estimation*

If regulations impose administrative costs on private entities, such as the time needed to read and interpret this proposed rule, we should estimate the cost associated with regulatory review. As estimated in the Collection of Information (Section III.) and the Regulatory Impact Analysis (Section IV.) of this proposed rule, we estimated that the proposed changes would have quantifiable financial effects on 26,292 hospitals, CAHs, LTC facilities, and ICFs-IIDs. It would also have unquantifiable effects on hospices, PACE, REHs, ASCs, and ESRD facilities. We assume that all providers that the rule has a quantifiable effect on financially, would review this rule. We acknowledge that this assumption may

understate or overstate the cost of reviewing this rule. It is possible that more than one individual from each provider may review this rule, or that entities other than providers, such as beneficiary advocacy groups, may review this rule. We welcome any comments on the approach in estimating the number of entities which will review this proposed rule and subsequent final rule.

We also recognize that different types of entities are affected by mutually exclusive sections of this proposed rule, or that some entities may not find it necessary to fully read each section of this proposed rule, and therefore for the purposes of our estimate we assume that each reviewer will read approximately 50 percent of this proposed rule. We seek comments on this assumption.

Using the wage information from the May 2025 BLS data medical and health service managers (Code 11–9111), we estimate that the cost of reviewing this rule is $135.54 per hour, including overhead and fringe benefits *https://www.bls.gov/oes/current/oes_nat.htm.* Assuming an average reading speed of 250 words per minute, we estimate that it would take approximately 155 minutes (77,600 words ÷ 250 words/minute) hours for the staff to review half of this final rule. For each entity that reviews the rule, the estimated cost is $349.70 (2.58 hours × $135.54). Therefore, we estimate that the total cost of reviewing this regulation is $9,194,312 ($349.70 × 26,292).

*F. Accounting Statement*

As required by OMB Circular A–4 (available online at *https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf*), we have prepared an accounting statement in Table 58 showing classification of the costs, benefits, and overall impacts associated with the provisions of this proposed rule. This includes the total benefits and costs as estimated in Table 24, Table 25, Table 26, Table 54, Table 55, and Table 56, as well as the regulatory review costs. There are no transfer costs associated with the proposed changes. This statement provides our best estimate for the Medicare and Medicaid provisions of this proposed rule.

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**TABLE 58: Accounting Statement ($Millions)**

| Category | Estimate | Units | | |
|---|---|---|---|---|
| | | Year Dollar | Discount Rate | Period Covered |
| Unquantified Benefits | Continued patient access for those utilizing care in CAHs affected by co-location requirements.<br>Greater provider flexibility related to LSC edition update. | | | |
| Annualized Monetized Costs ($million/year) for Providers | -318 | 2025 | 7% | 2027-2036 |
| Annualized Monetized Costs ($million/year) for Providers | -319 | 2025 | 3% | 2027-2036 |
| Annualized Monetized Costs ($million/year) for State Governments | -1.08 | 2025 | 7% | 2027-2036 |
| Annualized Monetized Costs ($million/year) for State Governments | -1.07 | 2025 | 3% | 2027-2036 |
| Annualized Monetized Costs ($million/year) for Federal Government | -0.04 | 2025 | 7% | 2027-2036 |
| Annualized Monetized Costs ($million/year) for Federal Government | -0.04 | 2025 | 3% | 2027-2036 |
| Unquantified Costs | Reduced public transparency related to the Medicaid institutional payment transparency proposals | | | |

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*G. Initial Regulatory Flexibility Act (IRFA)*

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. HHS defines a significant impact as a 3 to 5 percent change in revenues that affects 5 percent or more of the affected entities within the industry. For the purpose of the IRFA, we estimate that almost all skilled nursing facilities (NAICS 6231) and ICFs/IID (NAICS 6232) are considered small businesses, as that term is used in the RFA (including small businesses, nonprofit organizations, and small governmental jurisdictions), or by meeting the Small Business Administration's size standards with total revenues of $34.0 million or less in any single year for skilled nursing facilities and $19.0 million or less in any single year for ICFs/IID. Most hospitals and CAHs (NAICS 6221) are also considered small businesses either by the Small Business Administration's size standards with total revenues of

$47.0 million or less in any single year or by the hospital's not-for-profit status. In Table 59, we used the most recent revenue data available from the 2022 SUSB from the Census Bureau to determine the number of small entities and their revenue. Since this is an IRFA, we seek comments on all our estimates and whether there are additional costs or savings we should have included for any provider types affected by this proposed rule.

**TABLE 59: SBA Size Standards for Applicable NAICS Industry Codes**

| NAICS Code | Description | SBA Size Standard/Entity Threshold (Millions $) | Total Small Business Count |
|---|---|---|---|
| **Providers** | | | |
| 6221 | General Medical and Surgical Hospitals | $47 | 1,169 |
| 6231 | Nursing Care Facilities (Skilled Nursing Facilities) | $34 | 9,709 |
| 6232 | Residential Intellectual and Developmental Disability, Mental Health, and Substance Abuse Facilities | $19 | 10,581 |

CMS considered including the 2023 Nonemployer Statistics (NES) data from the Census Bureau to supplement the SUSB data on small providers in particular. However, considering the industries impacted by this proposal and the nature of the healthcare services which most frequently require prior authorization and meeting a variety of regulatory requirements, we do not expect that self-employed providers with no employees would be impacted by the proposed policy. As such, we do not include them in the analysis and in the total count of small provider entities.

The financial impacts of the policies in this proposed rule differ based on the provider type, the services they offer, and the number of employees that work in the provider. Repealing the COVID–19 staff education and vaccination requirements in ICFs/IID and LTC facilities, and the hospital and CAH staff training requirements will reduce cost more for large providers that have many employees than small providers that have fewer employees. Similarly, the new requirements for birth tissues in hospitals and CAHs will also increase costs more for large providers that have many employees than small providers that have few employees. As such, we analyze the impact on small entities separately for three groups: (1) LTC facilities, (2) hospitals and CAHs, and (3) ICFs/IID. We provide separate tables for each group showing the estimated impact on firms, which are legal business entities that may own multiple locations, and establishments, which are a single physical location where business activity occurs. While IRFAs typically show the impact only on firms, we examine the impact on establishments as well since throughout the rule, we calculate the impact on each group, which correlates more directly to establishments than firms. For each group, we provide a summary of the impacts identified in both this proposed rule's regulatory impact analysis and collection of information section.

1. Long-Term Care (LTC) Facilities

To estimate the impact on LTC facilities, we first calculated the average annual collection of information savings per LTC facility using the estimate summarized in Table 25 in section III. of this proposed rule. These savings include non-PHE respiratory illness reporting at $4,252, ombudsmen notices of transfer for emergent care at $111, updates to facility policies regarding staff COVID–19 education at $585, and staff documentation of COVID–19 education at $326 for a total per provider reduction in information collection costs of $5,274.

To these savings, we add the savings from not needing to educate staff on the COVID–19 vaccination and provide the COVID–19 vaccine to unvaccinated staff members who request it. Using the data from Table 29, we estimate that it costs $34.19 per staff member who needs education with an estimated 93.3 percent of staff members needing education. For the purposes of the IRFA, in Tables 33 and 34, respectively, we estimate the average impact on firms and entities in each enterprise size group using the following formulas: (1) Firm Impact = ($34.19/employee × 93.3 percent employees × Employment) ÷ Firms in Enterprise Size Group; and (2) Establishment Impact = ($34.19/employee × 93.3 percent employees × Employment) ÷ Establishments in Enterprise Size Group.

To estimate savings from not providing the COVID–19 vaccine to staff members, we used the same methodology used to estimate its savings in Table 31. Specifically, we assumed that the education would result in a 5-percentage point increase in staff vaccination rates. We also assumed that staff vaccination would cost $45 per staff member. Using these numbers, we estimate the per firm and entity savings by enterprise size using the following formulas: (1) Firm Impact = (Employment × 5 percent × $45/employee) ÷ Firms in Enterprise Size Group; and (2) Establishment Impact = (Employment × 5 percent × $45/employee) ÷ Establishments in Enterprise Size Group.

Finally, to estimate the savings from repealing the three Medicaid institutional payment transparency reporting requirements, we calculate annual savings per facility separately for each provider type. For nursing facilities, Table 24 shows annual savings of $26,553,423 across 13,605 facilities, or approximately $1,952 per facility. For ICFs/IID, Table 24 shows annual savings of $2,580,011 across 5,262 facilities, or approximately $490 per facility. We apply the nursing facility estimate of $1,952 in Tables 60 and 61 and the ICF/IID estimate of $490 in Tables 62 and 63.

In this section of the rule, in certain situations, a provider can be regarded as a firm, while in others, a provider may actually be considered an establishment. However, there is not a definitive method to determine whether a particular provider should be classified as a firm or an establishment. As such, for LTC facilities, we utilize all enterprise size groups in the analysis except for enterprises with less than $100,000 in annual revenue. According to the SUSB data, there are 592 firms in this enterprise size group with a total of 745 employees and average revenue of $41,255. However, not all skilled nursing facilities (NAICS 6231) listed in the SUSB data are Medicare/Medicaid-certified. In particular, the latest CMS data only shows 10 nursing homes that

had, on average, less than 2 residents per day.[360] With the average yearly cost for nursing homes in 2026 estimated at $119,340, we expect that there are no Medicare/Medicaid-certified nursing homes that fall into this smallest category.[361] As shown in Tables 60 through 67, for all other enterprise size groups, the average per firm and establishment savings from the proposed policies are less than 3 percent of revenues. As such, our IRFA suggests that the proposed requirements do not have a significant impact on LTC facilities as measured by a 3 to 5 percent change in revenues.

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[360] Centers for Medicare & Medicaid Services. Provider Information: Nursing Homes including Rehab Services. *https://data.cms.gov/provider-data/dataset/4pq5-n9py* (Accessed May 5, 2026).

[361] American Council on Aging. 2026 Nursing Home Costs by State and Region. *https://www.medicaidplanningassistance.org/nursing-home-costs/* (Accessed May 5, 2026).

**TABLE 60: LTC Facility Impact for Firms by Enterprise Size Group**

| Enterprise Size ($1,000) | Firms | Employment | Receipts ($1,000) | Per Facility Collection of Information Savings | Covid-19 Education Savings per Firm (($34.19/employee × 93.3% employees × Employment)) ÷ Firms) | COVID-19 Vaccination Savings per Firm ((Employment × 5% × $45/employee) ÷ Firms) | Medicaid Institutional Payment Transparency Reporting Savings | Regulatory Review Costs | Total per Firm Savings | Average Per Firm Revenue (Receipts × $1000)/Firms) | Per Firm Savings as % of Average Firm Revenues |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 02: <100 | 592 | 745 | 24,423 | $5,274 | $40 | $3 | $1,952 | $350 | $6,919 | $41,255 | 16.77% |
| 03: 100-499 | 1,096 | 5,564 | 289,015 | $5,274 | $162 | $11 | $1,952 | $350 | $7,049 | $263,700 | 2.67% |
| 04: 500-999 | 566 | 7,319 | 408,649 | $5,274 | $412 | $29 | $1,952 | $350 | $7,318 | $721,995 | 1.01% |
| 05: 1,000-2,499 | 895 | 21,932 | 1,522,162 | $5,274 | $782 | $55 | $1,952 | $350 | $7,713 | $1,700,740 | 0.45% |
| 06: 2,500-4,999 | 1,537 | 71,838 | 5,772,946 | $5,274 | $1,491 | $105 | $1,952 | $350 | $8,472 | $3,755,983 | 0.23% |
| 07: 5,000-7,499 | 1,421 | 98,539 | 8,737,925 | $5,274 | $2,212 | $156 | $1,952 | $350 | $9,244 | $6,149,138 | 0.15% |
| 08: 7,500-9,999 | 1,155 | 106,679 | 9,915,195 | $5,274 | $2,946 | $208 | $1,952 | $350 | $10,030 | $8,584,584 | 0.12% |
| 09: 10,000-14,999 | 1,316 | 154,222 | 15,575,006 | $5,274 | $3,738 | $264 | $1,952 | $350 | $10,878 | $11,835,111 | 0.09% |
| 10: 15,000-19,999 | 605 | 91,881 | 9,881,097 | $5,274 | $4,845 | $342 | $1,952 | $350 | $12,062 | $16,332,392 | 0.07% |
| 11: 20,000-24,999 | 268 | 50,209 | 5,476,742 | $5,274 | $5,976 | $422 | $1,952 | $350 | $13,274 | $20,435,604 | 0.06% |
| 12: 25,000-29,999 | 149 | 29,905 | 3,535,945 | $5,274 | $6,402 | $452 | $1,952 | $350 | $13,730 | $23,731,174 | 0.06% |
| 13: 30,000-34,999 | 109 | 22,235 | 2,591,999 | $5,274 | $6,507 | $459 | $1,952 | $350 | $13,842 | $23,779,807 | 0.06% |
| 14: 35,000-39,999 | 73 | 17,776 | 2,068,507 | $5,274 | $7,768 | $548 | $1,952 | $350 | $15,192 | $28,335,712 | 0.05% |
| 15: 40,000-49,999 | 111 | 29,357 | 3,370,664 | $5,274 | $8,437 | $595 | $1,952 | $350 | $15,908 | $30,366,342 | 0.05% |
| 16: 50,000-74,999 | 130 | 50,972 | 5,199,434 | $5,274 | $12,507 | $882 | $1,952 | $350 | $20,266 | $39,995,646 | 0.05% |
| 17: 75,000-99,999 | 75 | 36,821 | 3,864,295 | $5,274 | $15,661 | $1,105 | $1,952 | $350 | $23,641 | $51,523,933 | 0.05% |
| 18: 100,000+ | 403 | 588,498 | 58,824,731 | $5,274 | $46,582 | $3,286 | $1,952 | $350 | $56,744 | $145,967,074 | 0.04% |

Source: United States Census Bureau. 2022 SUSB Annual Data Tables by Establishment Industry – Data by Enterprise Receipts Size.

**TABLE 61: LTC Facility Impact for Establishments by Enterprise Size Group**

| Establishments | Employment | Receipts ($1,000) | Per Facility Collection of Information Savings | Covid-19 Education Savings per Establishment (($34.19/employee × 93.3% employees × Employment)) ÷ Establishments) | COVID-19 Vaccination Savings per Establishment ((Employment × 5% × $45/employee) ÷ Establishments) | Medicaid Institutional Payment Transparency Reporting | Regulatory Review Costs | Total per Establishment Savings | Average Per Establishment Revenue (Receipts × $1000)/ Establishments) | Per Establishment Savings as % of Average Establishment Revenues |
|---|---|---|---|---|---|---|---|---|---|---|
| 592 | 745 | 24,423 | $5,274 | $40 | $3 | $1,952 | $350 | $6,919 | $41,255 | 16.77% |
| 1,099 | 5,564 | 289,015 | $5,274 | $161 | $11 | $1,952 | $350 | $7,049 | $262,980 | 2.68% |
| 573 | 7,319 | 408,649 | $5,274 | $407 | $29 | $1,952 | $350 | $7,312 | $713,175 | 1.03% |
| 915 | 21,932 | 1,522,162 | $5,274 | $765 | $54 | $1,952 | $350 | $7,695 | $1,663,565 | 0.46% |
| 1,586 | 71,838 | 5,772,946 | $5,274 | $1,445 | $102 | $1,952 | $350 | $8,423 | $3,639,941 | 0.23% |
| 1,450 | 98,539 | 8,737,925 | $5,274 | $2,168 | $153 | $1,952 | $350 | $9,197 | $6,026,155 | 0.15% |
| 1,232 | 106,679 | 9,915,195 | $5,274 | $2,762 | $195 | $1,952 | $350 | $9,833 | $8,048,048 | 0.12% |
| 1,423 | 154,222 | 15,575,006 | $5,274 | $3,457 | $244 | $1,952 | $350 | $10,577 | $10,945,190 | 0.10% |
| 715 | 91,881 | 9,881,097 | $5,274 | $4,099 | $289 | $1,952 | $350 | $11,264 | $13,819,716 | 0.08% |
| 375 | 50,209 | 5,476,742 | $5,274 | $4,271 | $301 | $1,952 | $350 | $11,448 | $14,604,645 | 0.08% |
| 218 | 29,905 | 3,535,945 | $5,274 | $4,376 | $309 | $1,952 | $350 | $11,561 | $16,219,931 | 0.07% |
| 168 | 22,235 | 2,591,999 | $5,274 | $4,222 | $298 | $1,952 | $350 | $11,396 | $15,428,565 | 0.07% |
| 133 | 17,776 | 2,068,507 | $5,274 | $4,263 | $301 | $1,952 | $350 | $11,440 | $15,552,684 | 0.07% |
| 295 | 29,357 | 3,370,664 | $5,274 | $3,174 | $224 | $1,952 | $350 | $10,274 | $11,425,980 | 0.09% |
| 488 | 50,972 | 5,199,434 | $5,274 | $3,332 | $235 | $1,952 | $350 | $10,443 | $10,654,578 | 0.10% |
| 421 | 36,821 | 3,864,295 | $5,274 | $2,790 | $197 | $1,952 | $350 | $9,863 | $9,178,848 | 0.11% |
| 6,294 | 588,498 | 58,824,731 | $5,274 | $2,983 | $210 | $1,952 | $350 | $10,069 | $9,346,160 | 0.11% |

Source: United States Census Bureau. 2022 SUSB Annual Data Tables by Establishment Industry – Data by Enterprise Receipts Size.

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2. Intermediate Care Facilities for Individuals With Intellectual Disabilities (ICFs/IID)

To estimate the impact on ICFs/IID, we first calculated the average annual collection of information savings per ICF/IID using the estimate summarized in Table 26 in section III. of this proposed rule. These savings are for not updating the ICF/IID policies regarding staff COVID–19 education that we estimate at $293 per provider.

To these savings we add the savings from not needing to educate staff on the COVID–19 vaccination and provide the COVID–19 vaccine to unvaccinated staff members who request it. Using the data from Table 33, we estimate that it costs $34.19 per staff member who needs education with an estimated 93.3 percent of staff members needing education. For the purpose of the IRFA, in Table 62 and 63, respectively, we estimate the average impact on firms and entities in each enterprise size group using the following formulas: (1) Firm Impact = ($34.19/employee × 93.3 percent employees × Employment) ÷ Firms in Enterprise Size Group; and (2) Establishment Impact = ($34.19/employee × 93.3 percent employees × Employment) ÷ Establishments in Enterprise Size Group.

To estimate savings from not providing the COVID–19 vaccine to staff members, we used the same methodology used to estimate its savings in Table 35. Specifically, we assumed that the education would result in a 5-percentage point increase in staff vaccination rates. We also assumed that staff vaccination would cost $45 per staff member. Using these numbers, we estimate the per firm and entity savings by enterprise size using the following formulas: (1) Firm Impact = (Employment × 5 percent × $45/employee) ÷ Firms in Enterprise Size Group; and (2). Establishment Impact = (Employment × 5 percent × $45/employee) ÷ Establishments in Enterprise Size Group. Next, we add the new costs related to life safety code updates that we estimate to cost an average of $1,024 per provider. Finally, we add the savings related to repealing the Medicaid institutional payment transparency support staff reporting requirement for ICFs/IID, estimated at approximately $490 per facility based on Table 23. As shown in Tables 62 and 63, the average per firm and establishment savings from the proposed policies are less than 3 percent of revenues. As such, our IRFA suggests that the proposed requirements do not have a significant impact on ICFs/IID as measured by a 3 to 5 percent change in revenues.

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**TABLE 62: ICFs/IID Impact for Firms by Enterprise Size Group**

| Enterprise Size ($1,000) | Firms | Employment | Receipts ($1,000) | Collection of Information Savings | Covid-19 Education Savings per Firm (($34.19/employee ×93.3% employees × Employment)) ÷ Firms) | COVID-19 Vaccination Savings per Firm ((Employment × 5% × $45/employee) ÷ Firms) | Life Safety Code Updates Savings | Medicaid Institutional Payment Transparency Reporting Savings | Regulatory Review Costs | Total per Firm Savings | Average Per Firm Revenue (Receipts × $1000)/ Firms) | Per Firm Savings as % of Average Firm Revenues |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 01: Total | 11,709 | 747,869 | 60,164,782 | $293 | $2,037 | $144 | -$1,024 | $490 | $350 | $1,590 | $5,138,336 | 0.03 |
| 02: <100 | 1,183 | 2,536 | 51,565 | $293 | $68 | $5 | -$1,024 | $490 | $350 | -$518 | $43,588 | -1.19 |
| 03: 100-499 | 2,760 | 12,195 | 780,658 | $293 | $141 | $10 | -$1,024 | $490 | $350 | -$440 | $282,847 | -0.16 |
| 04: 500-999 | 1,639 | 17,165 | 1,172,317 | $293 | $334 | $24 | -$1,024 | $490 | $350 | -$233 | $715,264 | -0.03 |
| 05: 1,000-2,499 | 1,838 | 40,991 | 2,903,727 | $293 | $711 | $50 | -$1,024 | $490 | $350 | $171 | $1,579,830 | 0.01 |
| 06: 2,500-4,999 | 1,256 | 53,792 | 4,166,552 | $293 | $1,366 | $96 | -$1,024 | $490 | $350 | $872 | $3,317,318 | 0.03 |
| 07: 5,000-7,499 | 633 | 43,443 | 3,274,696 | $293 | $2,189 | $154 | -$1,024 | $490 | $350 | $1,753 | $5,173,295 | 0.03 |
| 08: 7,500-9,999 | 435 | 37,330 | 3,037,563 | $293 | $2,737 | $193 | -$1,024 | $490 | $350 | $2,340 | $6,982,903 | 0.03 |
| 09: 10,000-14,999 | 516 | 57,706 | 4,644,757 | $293 | $3,567 | $252 | -$1,024 | $490 | $350 | $3,228 | $9,001,467 | 0.04 |
| 10: 15,000-19,999 | 321 | 48,097 | 3,741,738 | $293 | $4,780 | $337 | -$1,024 | $490 | $350 | $4,526 | $11,656,505 | 0.04 |
| 11: 20,000-24,999 | 204 | 36,607 | 2,864,945 | $293 | $5,724 | $404 | -$1,024 | $490 | $350 | $5,537 | $14,043,848 | 0.04 |
| 12: 25,000-29,999 | 148 | 27,848 | 2,259,327 | $293 | $6,002 | $423 | -$1,024 | $490 | $350 | $5,835 | $15,265,723 | 0.04 |
| 13: 30,000-34,999 | 120 | 27,284 | 2,271,152 | $293 | $7,253 | $512 | -$1,024 | $490 | $350 | $7,173 | $18,926,267 | 0.04 |
| 14: 35,000-39,999 | 79 | 18,183 | 1,392,485 | $293 | $7,342 | $518 | -$1,024 | $490 | $350 | $7,269 | $17,626,392 | 0.04 |
| 15: 40,000-49,999 | 124 | 28,153 | 2,592,477 | $293 | $7,242 | $511 | -$1,024 | $490 | $350 | $7,162 | $20,907,073 | 0.03 |
| 16: 50,000-74,999 | 167 | 54,445 | 4,535,474 | $293 | $10,400 | $734 | -$1,024 | $490 | $350 | $10,542 | $27,158,527 | 0.04 |
| 17: 75,000-99,999 | 78 | 33,243 | 2,914,458 | $293 | $13,595 | $959 | -$1,024 | $490 | $350 | $13,963 | $37,364,846 | 0.04 |
| 18: 100,000+ | 208 | 208,851 | 17,560,891 | $293 | $32,030 | $2,259 | -$1,024 | $490 | $350 | $33,698 | $84,427,361 | 0.04 |

Source: United States Census Bureau. 2022 SUSB Annual Data Tables by Establishment Industry – Data by Enterprise Receipts Size.

**TABLE 63: ICFs/IID Impact for Establishments by Enterprise Size Group**

| Establishments | Employment | Receipts ($1,000) | Collection of Information Savings | Covid-19 Education Savings per Establishment (($34.19/employee × 93.3% employees × Employment)) : Establishments) | COVID-19 Vaccination Savings per Establishment ((Employment × 5% × $45/employee) : Establishments) | Life Safety Code Updates Savings | Medicaid Institutional Payment Transparency Reporting Savings | Regulatory Review Costs | Total per Establishment Savings | Average Per Establishment Revenue (Receipts × $1000)/ Establishments) | Per Establishment Savings as % of Average Establishment Revenues |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 44,474 | 747,869 | 60,164,782 | $293 | $536 | $38 | -$1,024 | $490 | $350 | -$17 | $1,352,808 | 0.00 |
| 1,186 | 2,536 | 51,565 | $293 | $68 | $5 | -$1,024 | $490 | $350 | -$518 | $43,478 | -1.19 |
| 2,785 | 12,195 | 780,658 | $293 | $140 | $10 | -$1,024 | $490 | $350 | -$441 | $280,308 | -0.16 |
| 1,703 | 17,165 | 1,172,317 | $293 | $322 | $23 | -$1,024 | $490 | $350 | -$247 | $688,383 | -0.04 |
| 2,324 | 40,991 | 2,903,727 | $293 | $563 | $40 | -$1,024 | $490 | $350 | $11 | $1,249,452 | 0.00 |
| 2,723 | 53,792 | 4,166,552 | $293 | $630 | $44 | -$1,024 | $490 | $350 | $84 | $1,530,133 | 0.01 |
| 2,288 | 43,443 | 3,274,696 | $293 | $606 | $43 | -$1,024 | $490 | $350 | $57 | $1,431,248 | 0.00 |
| 2,118 | 37,330 | 3,037,563 | $293 | $562 | $40 | -$1,024 | $490 | $350 | $11 | $1,434,166 | 0.00 |
| 3,088 | 57,706 | 4,644,757 | $293 | $596 | $42 | -$1,024 | $490 | $350 | $47 | $1,504,131 | 0.00 |
| 2,688 | 48,097 | 3,741,738 | $293 | $571 | $40 | -$1,024 | $490 | $350 | $20 | $1,392,016 | 0.00 |
| 1,875 | 36,607 | 2,864,945 | $293 | $623 | $44 | -$1,024 | $490 | $350 | $76 | $1,527,971 | 0.00 |
| 1,424 | 27,848 | 2,259,327 | $293 | $624 | $44 | -$1,024 | $490 | $350 | $77 | $1,586,606 | 0.00 |
| 1,245 | 27,284 | 2,271,152 | $293 | $699 | $49 | -$1,024 | $490 | $350 | $157 | $1,824,218 | 0.01 |
| 925 | 18,183 | 1,392,485 | $293 | $627 | $44 | -$1,024 | $490 | $350 | $80 | $1,505,389 | 0.01 |
| 1,834 | 28,153 | 2,592,477 | $293 | $490 | $35 | -$1,024 | $490 | $350 | -$67 | $1,413,564 | 0.00 |
| 2,670 | 54,445 | 4,535,474 | $293 | $650 | $46 | -$1,024 | $490 | $350 | $105 | $1,698,679 | 0.01 |
| 1,635 | 33,243 | 2,914,458 | $293 | $649 | $46 | -$1,024 | $490 | $350 | $103 | $1,782,543 | 0.01 |
| 11,963 | 208,851 | 17,560,891 | $293 | $557 | $39 | -$1,024 | $490 | $350 | $5 | $1,467,934 | 0.00 |

Source: United States Census Bureau. 2022 SUSB Annual Data Tables by Establishment Industry – Data by Enterprise Receipts Size.

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3. Hospitals and Critical Access Hospitals (CAHs)

To estimate the impact on hospitals and CAHs, we first calculated the average annual collection of information savings per hospital and CAH using the estimate summarized in Table 16. In this proposed rule, the collection of information impacts are for hospitals and CAHs that offer obstetrical (OB) services, which are less than half of all hospitals and CAHs.[362] Using these data, we calculate average annual savings of $462 related to QAPI information technology infrastructure updates, $975 in savings related to QAPI data stratification and monitoring, and $613 in new costs related to the development of birth tissue policies and procedures for an average annual savings of $824 per hospital and CAH that offer obstetrical services.

We do not expect hospitals and CAHs in the two lowest enterprise size groups (<$100k and $100k–$499k) to be offering these services since according to the SUSB data there are only 233 employees in these 209 facilities, or an average of 1.11 employee per firm. As such, we do not include these savings for the repeal of requirements related to OB services for firms in these enterprise size groups.

To these impacts, we add the savings from the proposed repeal of the OB-specific QAPI project that we estimate costs an average of $5,670 per hospital and CAH. We also add expected savings from hospitals and CAHs with OB services not needing to provide staff training. As we noted earlier, hospitals and CAHs that offer OB services are a subset of all general medical and surgical hospitals, and we do not expect hospitals and CAHs with revenues under $500k are offering these services. Second, the SUSB data do not distinguish between hospitals and CAHs. This creates uncertainty since as outlined in the regulatory impact analysis, we expect a different share of employees in hospitals and CAHs to receive this training.

We use the following strategy to address these challenges. First, according to the BLS May 2025 National Industry-Specific Occupational Employment and Wage Estimates for hospitals (NAICS 622000) there are 6,712,760 individuals employed in hospitals. As indicated in Table 16, we estimate that there are 1,496,655 employees working in the 3,129 hospitals and CAHs that offer OB services that are receiving this training. This means that approximately 22.3 (1,4496,655 ÷ 6,712,760) percent of all hospital and CAH employees are receiving this training. For each enterprise size group with revenues of at least $500k in Table 64, we assume that 22.3 percent of employees in the enterprise size group received the training and calculated the total number of employees (22.3 percent × employees) in that enterprise size group who received the training. Next, to calculate estimated savings per firm and establishment by enterprise size, we identified the percentage of all employees across all enterprise size groups that came from each enterprise size group using the following formula: enterprise size group employees trained ÷ all employees trained. Afterwards, we multiple this percentage by the average annual savings ($58,348,149) by repealing this training requirement as provided in Table 40 to find the total savings for all firms and establishments in that enterprise size group. Finally, we calculate the savings per firm and

[362] In both sections III. and V. of this proposed rule, we assume that all hospitals and CAHs with OB services will also offer tissue collection and we seek comment in this assumption in the section III. of this proposed rule.

establishment using the following formulas: firm(establishment) savings = total enterprise size group savings ÷ firms(establishments) in enterprise size group.

The next policy we include is staff training on informed consent for birth tissue that would add new costs to hospitals and CAHs with OB services. According to the BLS May 2025 National Industry-Specific Occupational Employment and Wage Estimates for hospitals (NAICS 622000) there are 6,712,760 individuals employed in hospitals. As indicated in Table 41 and Table 42, we expect that including training new team members due to annual turnover, 231,488 staff members would need this training. This means that approximately 3.45 (231,488 ÷ 6,712,760) percent of all hospital and CAH employees would need this training. For each enterprise size group with revenues of at least $500k in Table 64, we assume that 3.45 percent of employees in the enterprise size group received the training and calculated the total number of employees (3.45 percent × employees) in that enterprise size group who received the training. Next, to calculate estimated costs per firm and establishment by enterprise size, we identified the percentage of all employees across all enterprise size groups that came from each enterprise size group using the following formula: enterprise size group employees trained ÷ all employees trained. Afterwards, we multiple this percentage by the average annual cost ($12,116,476) from this training as provided in Table 43 to find the total cost for all firms and establishments in that enterprise size group. Finally, we calculate the cost per firm and establishment using the following formulas: firm(establishment) cost = total enterprise size group cost ÷ firms(establishments) in enterprise size group.

In addition to conducting staff training, hospitals and CAHs that offer OB services would need to obtain informed consent from birthing patients. As indicated in Table 45, we expect that they would need to provide education to 2,149,934 patients annually at a cost of $69,120,378, or $32.15 per patient. Since we do not have data on the number of births that occur at each hospital and CAH, we estimate impact by enterprise size by assuming that the share of births occurring in each enterprise size group is proportional to the total number of employees in each enterprise size group relative to the number of employees across all enterprise size groups. Afterwards, we multiple this percentage by the average annual cost ($69,120,378) to find the total cost for all firms and establishments in that enterprise size group. Finally, we calculate the cost per firm and establishment using the following formulas: firm(establishment) cost = total enterprise size group cost ÷ firms(establishments) in enterprise size group.

The final cost related to birth tissue is for providing education for those patients who choose to retain their birth tissue. As indicated in Table 46, we expect that they would need to provide education to 128,996 patients annually at a cost of $4,147,221, or $32.15 per patient. Since we do not have data on the number of births that occur at each hospital and CAH, we estimate impact by enterprise size by assuming that the share of patients wanting to receive this education from each enterprise size group is proportional to the total number of employees in each enterprise size group relative to the number of employees across all enterprise size groups. Afterwards, we multiple this percentage by the average annual cost ($4,147,221) to find the total cost for all firms and establishments in that enterprise size group. Finally, we calculate the cost per firm and establishment using the following formulas: firm(establishment) cost = total enterprise size group cost ÷ firms(establishments) in enterprise size group.

The next policy is staff training for hospitals and CAHs that provide emergency services. To estimate the impact on firms and establishments by enterprise size group, we again use to the May 2025 National Industry-Specific Occupational Employment and Wage Estimates for hospitals (NAICS 622000) that estimates 6,712,760 individuals employed in hospitals. As indicated in Table 48, we estimate that there are 1,735,766 employees in hospitals and CAHs that offer emergency services that are receiving this training. This means that approximately 25.86 (1,735,766 ÷ 6,712,760) percent of all hospital and CAH employees are receiving this training. For each enterprise size group in Table 64, we assume that 25.86 percent of employees in the enterprise size group received the training and calculated the total number of employees (25.86 percent × employees) in that enterprise size group who received the training. Next, to calculate estimated savings per firm and establishment by enterprise size, we identified the percentage of all employees across all enterprise size groups that came from each enterprise size group using the following formula: enterprise size group employees trained ÷ all employees trained. Afterwards, we multiple this percentage by the average annual savings ($65,124,785) by repealing this training requirement as provided in Table 50 to find the total savings for all firms and establishments in that enterprise size group. Finally, we calculate the savings per firm and establishment using the following formulas: firm(establishment) savings = total enterprise size group savings ÷ firms(establishments) in enterprise size group.

The final policy is transfer protocol training for hospital staff. To estimate the impact on firms and establishments by enterprise size group, we again use to the May 2025 National Industry-Specific Occupational Employment and Wage Estimates for hospitals (NAICS 622000) that estimates 6,712,760 individuals employed in hospitals. As indicated in Table 39, we estimate that including training for new employees due to turnover, 430,928 hospital employees are receiving this training. This means that approximately 6.42 (430,928 ÷ 6,712,760) percent of all hospital employees are receiving this training. For each enterprise size group in Table 63, we assume that 6.42 percent of employees in the enterprise size group received the training and calculated the total number of employees (6.42 percent × employees) in that enterprise size group who received the training. Next, to calculate estimated savings per firm and establishment by enterprise size, we identified the percentage of all employees across all enterprise size groups that came from each enterprise size group using the following formula: enterprise size group employees trained ÷ all employees trained. Afterwards, we multiple this percentage by the average annual savings ($81,569,162) by repealing this training requirement as provided in Table 51 to find the total savings for all firms and establishments in that enterprise size group. Finally, we calculate the savings per firm and establishment using the following formulas: firm(establishment) savings = total enterprise size group savings ÷ firms(establishments) in enterprise size group.

As shown in Tables 65 and 67, the average per firm and establishment savings from all the proposed policies affecting hospitals and CAHs are less than 3 percent of revenues. As such, our IRFA suggests that the proposed requirements do not have a significant impact on hospitals and CAHs as measured by a 3 to 5 percent change in revenues.

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**TABLE 64: Hospital and CAH Impact for Firms by Enterprise Size Group Part I**

| Enterprise Size ($1,000) | Firms | Employment | Receipts ($1,000) | Collection of Information Savings | OB QAPI Project Savings | OB Services Training per Firm Savings | Informed Consent Training per Firm Costs | Informed Consent for Patient per Firm Costs | Safe Handling Education for Patient per Firm Costs |
|---|---|---|---|---|---|---|---|---|---|
| 02: <100 | 59 | 49 | 2,920 | $0 | $0 | $0 | $0 | $0 | $0 |
| 03: 100-499 | 150 | 184 | 40,570 | $0 | $0 | $0 | $0 | $0 | $0 |
| 04: 500-999 | 54 | 173 | 37,628 | $824 | $5,670 | $33 | $7 | $39 | $2 |
| 05: 1,000-2,499 | 28 | 7,087 | 42,616 | $824 | $5,670 | $2,615 | $543 | $3,098 | $186 |
| 06: 2,500-4,999 | 28 | 1,094 | 104,704 | $824 | $5,670 | $404 | $84 | $478 | $29 |
| 07: 5,000-7,499 | 35 | 2,361 | 227,943 | $824 | $5,670 | $697 | $145 | $826 | $50 |
| 08: 7,500-9,999 | 51 | 4,053 | 436,080 | $824 | $5,670 | $821 | $171 | $973 | $58 |
| 09: 10,000-14,999 | 124 | 12,588 | 1,460,447 | $824 | $5,670 | $1,049 | $218 | $1,242 | $75 |
| 10: 15,000-19,999 | 132 | 17,375 | 2,243,098 | $824 | $5,670 | $1,360 | $282 | $1,611 | $97 |
| 11: 20,000-24,999 | 121 | 20,627 | 2,709,157 | $824 | $5,670 | $1,761 | $366 | $2,086 | $125 |
| 12: 25,000-29,999 | 100 | 19,628 | 2,668,690 | $824 | $5,670 | $2,028 | $421 | $2,402 | $144 |
| 13: 30,000-34,999 | 99 | 22,506 | 3,101,656 | $824 | $5,670 | $2,349 | $488 | $2,782 | $167 |
| 14: 35,000-39,999 | 66 | 15,849 | 2,350,764 | $824 | $5,670 | $2,481 | $515 | $2,939 | $176 |
| 15: 40,000-49,999 | 122 | 32,286 | 5,146,495 | $824 | $5,670 | $2,734 | $568 | $3,239 | $194 |
| 16: 50,000-74,999 | 206 | 70,372 | 11,884,595 | $824 | $5,670 | $3,529 | $733 | $4,181 | $251 |
| 17: 75,000-99,999 | 101 | 51,439 | 8,239,981 | $824 | $5,670 | $5,262 | $1,093 | $6,233 | $374 |
| 18: 100,000+ | 1,097 | 5,369,973 | 1,222,121,552 | $824 | $5,670 | $50,576 | $10,502 | $59,911 | $3,595 |

Source: United States Census Bureau. 2022 SUSB Annual Data Tables by Establishment Industry – Data by Enterprise Receipts Size.

**TABLE 65: Hospital and CAH Impact for Firms by Enterprise Size Group Part II**

| Enterprise Size ($1,000) | Firms | Employment | Receipts ($1,000) | Emergency Services per Firm Savings | Transfer Protocol per Firm Savings | Regulatory Review Costs | Average per Firm Savings from All Requirements | Average Revenue per Firm | Firm Savings as % of Revenue |
|---|---|---|---|---|---|---|---|---|---|
| 02: <100 | 59 | 49 | 2,920 | $10 | $12 | $350 | -$328 | $49,492 | -0.66 |
| 03: 100-499 | 150 | 184 | 40,570 | $14 | $18 | $350 | -$318 | $270,467 | -0.12 |
| 04: 500-999 | 54 | 173 | 37,628 | $37 | $46 | $350 | $6,212 | $696,815 | 0.89 |
| 05: 1,000-2,499 | 28 | 7,087 | 42,616 | $2,919 | $3,656 | $350 | $11,507 | $1,522,000 | 0.76 |
| 06: 2,500-4,999 | 28 | 1,094 | 104,704 | $451 | $564 | $350 | $6,972 | $3,739,429 | 0.19 |
| 07: 5,000-7,499 | 35 | 2,361 | 227,943 | $778 | $974 | $350 | $7,573 | $6,512,657 | 0.12 |
| 08: 7,500-9,999 | 51 | 4,053 | 436,080 | $916 | $1,148 | $350 | $7,828 | $8,550,588 | 0.09 |
| 09: 10,000-14,999 | 124 | 12,588 | 1,460,447 | $1,171 | $1,466 | $350 | $8,295 | $11,777,798 | 0.07 |
| 10: 15,000-19,999 | 132 | 17,375 | 2,243,098 | $1,518 | $1,901 | $350 | $8,933 | $16,993,167 | 0.05 |
| 11: 20,000-24,999 | 121 | 20,627 | 2,709,157 | $1,966 | $2,462 | $350 | $9,756 | $22,389,727 | 0.04 |
| 12: 25,000-29,999 | 100 | 19,628 | 2,668,690 | $2,263 | $2,835 | $350 | $10,303 | $26,686,900 | 0.04 |
| 13: 30,000-34,999 | 99 | 22,506 | 3,101,656 | $2,621 | $3,283 | $350 | $10,961 | $31,329,859 | 0.03 |
| 14: 35,000-39,999 | 66 | 15,849 | 2,350,764 | $2,769 | $3,468 | $350 | $11,232 | $35,617,636 | 0.03 |
| 15: 40,000-49,999 | 122 | 32,286 | 5,146,495 | $3,052 | $3,822 | $350 | $11,751 | $42,184,385 | 0.03 |
| 16: 50,000-74,999 | 206 | 70,372 | 11,884,595 | $3,939 | $4,934 | $350 | $13,382 | $57,692,209 | 0.02 |
| 17: 75,000-99,999 | 101 | 51,439 | 8,239,981 | $5,873 | $7,356 | $350 | $16,935 | $81,583,970 | 0.02 |
| 18: 100,000+ | 1,097 | 5,369,973 | 1,222,121,552 | $56,447 | $70,701 | $350 | $109,860 | $1,114,057,933 | 0.01 |

Source: United States Census Bureau. 2022 SUSB Annual Data Tables by Establishment Industry – Data by Enterprise Receipts Size.

**TABLE 66: Hospital and CAH Impact for Establishments by Enterprise Size Group Part I**

| Enterprise Size ($1,000) | Establishments | Employment | Receipts ($1,000) | Collection of Information Savings | OB QAPI Project Savings | OB Services Training per Establishment Savings | Informed Consent Training per Establishment Costs | Informed Consent for Patients per Establishment Costs | Safe Handling Education for Patients per Establishment Costs |
|---|---|---|---|---|---|---|---|---|---|
| 02: <100 | 59 | 49 | 2,920 | $0 | $0 | S0 | $0 | $0 | $0 |
| 03: 100-499 | 150 | 184 | 40,570 | $0 | $0 | S0 | $0 | $0 | $0 |
| 04: 500-999 | 55 | 173 | 37,628 | $824 | S5,670 | $32 | $7 | $38 | $2 |
| 05: 1,000-2,499 | 28 | 7,087 | 42,616 | $824 | S5,670 | $2,615 | $543 | $3,098 | S186 |
| 06: 2,500-4,999 | 28 | 1,094 | 104,704 | $824 | S5,670 | $404 | $84 | $478 | $29 |
| 07: 5,000-7,499 | 37 | 2,361 | 227,943 | $824 | S5,670 | $659 | $137 | $781 | $47 |
| 08: 7,500-9,999 | 53 | 4,053 | 436,080 | $824 | S5,670 | $790 | $164 | $936 | $56 |
| 09: 10,000-14,999 | 127 | 12,588 | 1,460,447 | $824 | S5,670 | $1,024 | $213 | $1,213 | $73 |
| 10: 15,000-19,999 | 141 | 17,375 | 2,243,098 | $824 | S5,670 | $1,273 | $264 | $1,508 | $90 |
| 11: 20,000-24,999 | 123 | 20,627 | 2,709,157 | $824 | S5,670 | $1,733 | $360 | $2,052 | S123 |
| 12: 25,000-29,999 | 102 | 19,628 | 2,668,690 | $824 | S5,670 | $1,988 | $413 | $2,355 | S141 |
| 13: 30,000-34,999 | 101 | 22,506 | 3,101,656 | $824 | S5,670 | $2,302 | $478 | $2,727 | S164 |
| 14: 35,000-39,999 | 67 | 15,849 | 2,350,764 | $824 | S5,670 | $2,444 | $508 | $2,895 | S174 |
| 15: 40,000-49,999 | 132 | 32,286 | 5,146,495 | $824 | S5,670 | $2,527 | $525 | $2,993 | S180 |
| 16: 50,000-74,999 | 228 | 70,372 | 11,884,595 | $824 | S5,670 | $3,189 | $662 | $3,777 | S227 |
| 17: 75,000-99,999 | 111 | 51,439 | 8,239,981 | $824 | S5,670 | $4,788 | $994 | $5,672 | S340 |
| 18: 100,000+ | 4,506 | 5,369,973 | 1,222,121,552 | $824 | S5,670 | $12,313 | $2,557 | $14,585 | $875 |

Source: United States Census Bureau. 2022 SUSB Annual Data Tables by Establishment Industry – Data by Enterprise Receipts Size.

**TABLE 67: Hospital and CAH Impact for Establishments by Enterprise Size Group Part II**

| Enterprise Size ($1,000) | Establishments | Employment | Receipts ($1,000) | Emergency Services per Establishment Savings | Transfer Protocol per Establishment Savings | Regulatory Review Costs | Average per Establishment Savings from All Requirements | Average Revenue per Establishment | Establishment Savings as % of Revenue |
|---|---|---|---|---|---|---|---|---|---|
| 01: Total | 6,048 | 5,647,644 | 1,262,818,896 | | | | | | |
| 02: <100 | 59 | 49 | 2,920 | $10 | $12 | $350 | -$328 | $49,492 | -0.66 |
| 03: 100-499 | 150 | 184 | 40,570 | $14 | $18 | $350 | -$318 | $270,467 | -0.12 |
| 04: 500-999 | 55 | 173 | 37,628 | $36 | $45 | $350 | $6,306 | $684,145 | 0.92 |
| 05: 1,000-2,499 | 28 | 7,087 | 42,616 | $2,919 | $3,656 | $350 | $19,160 | $1,522,000 | 1.26 |
| 06: 2,500-4,999 | 28 | 1,094 | 104,704 | $451 | S564 | $350 | $8,153 | $3,739,429 | 0.22 |
| 07: 5,000-7,499 | 37 | 2,361 | 227,943 | $736 | S922 | $350 | $9,425 | $6,160,622 | 0.15 |
| 08: 7,500-9,999 | 53 | 4,053 | 436,080 | $882 | $1,104 | $350 | $10,077 | $8,227,925 | 0.12 |
| 09: 10,000-14,999 | 127 | 12,588 | 1,460,447 | $1,143 | $1,432 | $350 | $11,241 | $11,499,583 | 0.10 |
| 10: 15,000-19,999 | 141 | 17,375 | 2,243,098 | $1,421 | $1,780 | $350 | $12,481 | $15,908,496 | 0.08 |
| 11: 20,000-24,999 | 123 | 20,627 | 2,709,157 | $1,934 | $2,422 | $350 | $14,768 | $22,025,667 | 0.07 |
| 12: 25,000-29,999 | 102 | 19,628 | 2,668,690 | $2,219 | $2,779 | $350 | $16,040 | $26,163,627 | 0.06 |
| 13: 30,000-34,999 | 101 | 22,506 | 3,101,656 | $2,570 | $3,218 | $350 | $17,603 | $30,709,465 | 0.06 |
| 14: 35,000-39,999 | 67 | 15,849 | 2,350,764 | $2,728 | $3,417 | $350 | $18,309 | $35,086,030 | 0.05 |
| 15: 40,000-49,999 | 132 | 32,286 | 5,146,495 | $2,820 | $3,533 | $350 | $18,722 | $38,988,598 | 0.05 |
| 16: 50,000-74,999 | 228 | 70,372 | 11,884,595 | $3,559 | $4,458 | $350 | $22,016 | $52,125,417 | 0.04 |
| 17: 75,000-99,999 | 111 | 51,439 | 8,239,981 | $5,344 | $6,693 | $350 | $29,975 | $74,234,063 | 0.04 |
| 18: 100,000+ | 4,506 | 5,369,973 | 1,222,121,552 | $13,742 | $17,212 | $350 | $67,429 | $271,220,939 | 0.02 |

Source: United States Census Bureau. 2022 SUSB Annual Data Tables by Establishment Industry – Data by Enterprise Receipts Size.

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Individuals and States are not included in the definition of a small entity. As its measure of significant economic impact on a substantial number of small entities, HHS uses a change in revenue of more than 3 to 5 percent. As indicated in Tables 60 through 67, our IRFA suggests that this rule will not have a significant economic impact as measured on a substantial number of small businesses or other small entities as measured by a change in revenue of 3 to 5 percent.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of an MSA and has fewer than 100 beds. With estimated average savings from all requirements ranging from $22 annually in the smallest hospitals and CAHs to less than $18 thousand annually in hospitals and CAHs with annual revenues between $75 million to less than $100 million, we expect that this proposed rule would have a negligible impact on small rural hospitals. Therefore, the Secretary has certified that this proposed rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

The previous analysis, together with the remainder of this preamble, provides a regulatory flexibility analysis and a regulatory impact analysis.

*H. Unfunded Mandates Reform Act (UMRA)*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1-year of $100 million in 1995 dollars, updated annually for inflation. In 2026, that threshold is approximately $193 million. This proposed rule does not mandate any requirements for State, local, or tribal governments. This proposed rule would not impose a mandate that would result in the expenditure by State, local, and Tribal Government, in the aggregate, of more than $193 million in any one year. Based on the cost estimates discussed in this section, we have assessed the various costs and benefits of the final updates to the conditions of participation. For the private sector facilities, the regulatory impact analysis, together with the remainder of the preamble, constitutes the analysis required under UMRA.

*I. Federalism*

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have examined the provisions in this proposed rule in accordance with E.O. 13132, Federalism, and have determined that they would not have a substantial direct effect on State, local, or tribal governments, preempt State law, or otherwise have a federalism implication.

*J. E.O. 14192, ''Unleashing Prosperity Through Deregulation''*

Executive Order 14192, entitled ''Unleashing Prosperity Through Deregulation'' was issued on January 31, 2025, and requires that ''any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.'' We followed the implementation guidance from OMB–M–25–20 (*https://www.whitehouse.gov/wp-content/uploads/2025/02/M-25-20-*

*Guidance-Implementing-Section-3-of-Executive-Order-14192-Titled-Unleashing-Prosperity-Through-Deregulation.pdf*) when estimating the proposed rule's impact related to the executive order. Specifically, we used a 7 percent discount rate when estimating the costs and cost savings for the purposes of the E.O 14192-The E.O 14192 looks at the long-term impact based on a 20-year window. For most of the policies we are proposing in this rule, the impacts remain the same for all years after year 1 and we assume that they will continue for years 11through 20. However, the costs and cost savings estimates for PHE reporting and OB training are influenced by several key assumptions related to the historical frequency of PHE reporting data and the annual fluctuation in staff who require OB training, respectively.

For PHE reporting, we identified a recurring pattern of significant public health emergencies occurring about once every 5 years. This pattern is central to our 20-year cost savings projection. Instead of assuming a steady annual likelihood, we modeled the projection with no PHE reporting activity in years 5 and 15, while anticipating a 32-week (7.5-month) acute infectious illness event in years 10 and 20. This approach provides a more realistic reflection of the cyclical nature of such emergencies, rather than a uniform annual occurrence.

For the OB staff training, we factored in an annual staff turnover rate of approximately 21 percent in hospitals. This, coupled with new hires, means that the number of staff requiring OB training fluctuates each year.

In summary, both the PHE reporting data and OB training requirements introduce variability to our costs and cost savings calculations.

## VI. Conclusion

Eliminating unnecessary and duplicative regulatory requirements is essential to ensuring that patients will have continued access to care and allowing providers to focus on patients over paperwork. The changes that we are proposing in this rule would have significant impacts on LTC facilities, hospitals, ICFs/IID, and CAHs. As outlined in Table 25, Table 26, Table 54, Table 55, and Table 56, we expect that modifications to the current CoPs would reduce provider burden by approximately $289 million annually and more than $2.89 billion over 10 years. In addition, over 10 years it will return nearly 29.36 million hours of clinician time to providers, allowing them to prioritize patients over paperwork. As shown in Table 24, we also estimate cost savings of $687,600 over 10 years for the Federal Government, $ 687,600 over 10 years for States, and $ 304,159,413 over 10 years and more than 3.3 million hours for providers associated with the Medicaid institutional payment transparency proposals.

Mehmet Oz, Administrator of the Centers for Medicare & Medicaid Services, approved this document on October 15, 2026.

**List of Subjects**

*42 CFR Part 403*

Grant programs-health, Health insurance, Hospitals, Incorporation by reference, Intergovernmental relations, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 416*

Health facilities, Health professions, Incorporation by reference, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 418*

Health facilities, Incorporation by reference, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 438*

Citizenship and naturalization, Civil rights, Grant programs-health, Individuals with disabilities, Medicaid, Reporting and recordkeeping requirements, Sex discrimination.

*42 CFR Part 442*

Administrative practice and procedure, Aged, Grant programs-health, Health facilities, Health professions, Individuals with disabilities, Medicaid, Nursing homes, Reporting and recordkeeping requirements.

*42 CFR Part 460*

Aged, Citizenship and naturalization, Civil rights, Health, Health care, Health records, Incorporation by reference, Individuals with disabilities, Medicaid, Medicare, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination.

*42 CFR Part 482*

Grant programs-health, Hospitals, Incorporation by reference, Medicaid, Medicare, Reporting and recordkeeping requirements.

*42 CFR Part 483*

Grant programs-health, Health facilities, Health professions, Health records, Incorporation by reference, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

*42 CFR Part 485*

Grant programs-health, Health facilities, Incorporation by reference, Medicaid, Privacy, Reporting and recordkeeping requirements.

*42 CFR Part 494*

Diseases, Health Facilities, Incorporation by reference, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

## PART 403—SPECIAL PROGRAMS AND PROJECTS

■ 1. The authority citation for part 403 continues to read as follows:

**Authority:** 42 U.S.C. 1302 and 1395hh.

■ 2. Section 403.744 is amended by:
■ a. Revising paragraph (a)(1);
■ b. Removing paragraph (a)(6); and
■ c. Revising paragraphs (b) and (c).

The revisions read as follows:

**§ 403.744 Condition of participation: Fire safety.**

(a) * * *

(1) Except as otherwise provided in this section—

(i) The RNHCI must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Life Safety Code (NFPA 101).

(ii) Notwithstanding paragraph (a)(1)(i) of this section, corridor doors must be provided with positive latching hardware, excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code. Roller latches and other devices capable of keeping doors closed when a 5 pound-force is applied at the latch edge are prohibited on corridor doors required to have positive latching hardware.

(iii) The RCNHI must use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) if the facility uses the Fire Safety Evaluation System (FSES) to show compliance with the provisions of the 2024 LSC (NFPA 101).

* * * * *

(b) *Exceptions.*

(1) After a recommendation by the State survey agency and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Life Safety Code which would result in unreasonable hardship upon a RNHCI facility, but only if the waiver will not

adversely affect the health and safety of the patients.

(2) The provisions of the Life Safety Code do not apply where CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in a RNHCI facility.

(3) If CMS determines that a specific updated provision of the Life Safety Code (NFPA 101) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (c)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(c) *Incorporation by reference.* The material listed in this paragraph (c) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (c).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1.617.770.3000; website: *www.nfpa.org.*

(i) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(ii) NFPA 101A, Guide on Alternative Approaches to Life Safety, 2025 edition, issued April 22, 2024.

(2) [Reserved]

■ 3. Section 403.745 is amended by:
■ a. Revising paragraphs (a) and (c);
■ b. Redesignating paragraph (d) as paragraph (e);
■ c. Adding new paragraph (d); and
■ d. Revising newly designated paragraph (e).

The revisions and addition read as follows:

**§ 403.745 Condition of participation: Building safety.**

(a) *Standard: Building safety.* Except as otherwise provided in this section the RNHCI must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99) and Tentative Interim Amendments (TIA) 24–1 and 24–2.

* * * * *

(c) *Waiver.* After a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Health Care Facilities Code which would result in unreasonable hardship upon a facility, but only if the waiver does not adversely affect the health and safety of patients.

(d) If CMS determines that a specific updated provision of the Health Care Facilities Care (NFPA 99) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(e) *Incorporation by reference.* The material listed in this paragraph (e) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (e).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1.617.770.3000; website: *http://www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) TIA–24–1 to NFPA 99, issued August 25, 2023.

(iii) TIA–24–2 to NFPA 99, issued August 25, 2023.

(iv) [Reserved]

(2) [Reserved]

## PART 416—AMBULATORY SURGICAL SERVICES

■ 4. The authority citation for part 416 continues to read as follows:

**Authority:** 42 U.S.C. 273, 1302, 1320b–8, and 1395hh.

■ 5. Section 416.44 is amended by revising paragraphs (b), (c), and (f) to read as follows:

**§ 416.44 Condition for coverage—Environment.**

* * * * *

(b) *Standard: Fire Safety.*

(1) Except as otherwise provided in this section, the ASC must meet the provisions applicable to Ambulatory Health Care Occupancies, regardless of the number of patients served, and must proceed in accordance with the 2024 edition of the Life Safety Code (NFPA 101).

(2) After of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Life Safety Code which would result in unreasonable hardship upon an ASC, but only if the waiver will not adversely affect the health and safety of the patients.

(3) The provisions of the Life Safety Code do not apply where CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in an ASC.

(4) If CMS determines that a specific updated provision of the Life Safety Code (NFPA 101) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (f)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(5) An ASC may place alcohol-based hand rub dispensers in its facility if the dispensers are installed in a manner that adequately protects against inappropriate access.

(6) When a sprinkler system is shut down for more than 10 hours, the ASC must:

(i) Evacuate the building or portion of the building affected by the system outage until the system is back in service, or

(ii) Establish a fire watch until the system is back in service.

(c) *Standard: Building safety.* Except as otherwise provided in this section, the ASC must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99) and Tentative Interim Amendments (TIA) 24–1 and 24–2.

(1) Chapters 7, 8, 12, and 13 of the adopted Health Care Facilities Code do not apply to an ASC.

(2) After consideration of a recommendation by the State survey agency or approved accrediting organization, at and the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Health Care Facilities Code which would result in unreasonable hardship upon a facility, but only if the waiver does not adversely affect the health and safety of patients.

(3) If CMS determines that a specific updated provision of the Health Care Facilities Care (NFPA 99) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (f)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

* * * * *

(f) *Incorporation by reference.* The material listed in this paragraph (f) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (f).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1.617.770.3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) TIA–24–1 to NFPA 99, issued August 25, 2023.

(iii) TIA–24–2 to NFPA 99, issued August 25, 2023.

(iv) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(2) [Reserved]

## PART 418—HOSPICE CARE

■ 6. The authority citation for part 418 continues to read as follows:

**Authority:** 42 U.S.C. 1302 and 1395hh.

■ 7. Section 418.110 is amended by revising paragraphs (d), (e), and (q) to read as follows:

### § 418.110 Condition of participation: Hospices that provide inpatient care directly.

* * * * *

(d) *Standard: Fire Safety.*

(1) Except as otherwise provided in this section—

(i) The hospice must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Life Safety Code (NFPA 101).

(ii) Notwithstanding paragraph (d)(1)(i) of this section, corridor doors must be provided with positive latching hardware, excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code. Roller latches and other devices capable of keeping doors closed when a 5 pound-force is applied at the latch edge are prohibited on corridor doors required to have positive latching hardware.

(iii) The hospice must use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) if the facility uses the Fire Safety Evaluation System (FSES) to show compliance with the provisions of the 2024 LSC (NFPA 101).

(2) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Life Safety Code which would result in unreasonable hardship upon a hospice facility, but only if the waiver will not adversely affect the health and safety of the patients.

(3) The provisions of the Life Safety Code do not apply where CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in a hospice.

(4) If CMS determines that a specific updated provision of the Life Safety Code (NFPA 101) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (q)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(5) A hospice may place alcohol-based hand rub dispensers in its facility if the dispensers are installed in a manner that adequately protects against access by vulnerable populations.

(6) When a sprinkler system is shut down for more than 10 hours, the hospice must:

(i) Evacuate the building or portion of the building affected by the system outage until the system is back in service, or

(ii) Establish a fire watch until the system is back in service.

(e) *Standard: Building safety.* Except as otherwise provided in this section, the hospice must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99) and Tentative Interim Amendments (TIA) 24–1 and 24–2.

(1) Chapters 7, 8, 12, and 13 of the adopted Health Care Facilities Code do not apply to a hospice.

(2) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Health Care Facilities Code which would result in unreasonable hardship upon a facility, but only if the waiver does not adversely affect the health and safety of patients.

(3) If CMS determines that a specific updated provision of the Health Care Facilities Care (NFPA 99) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (q)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

* * * * *

(q) *Incorporation by reference.* The material listed in this paragraph (q) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244;

phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (q).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169, phone: 1.617.770.3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued September 14, 2023.

(ii) TIA–24–1 to NFPA 99, issued August 25, 2023.

(iii) TIA–24–2 to NFPA 99, issued August 25, 2023.

(iv) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(v) NFPA 101A, Guide on Alternative Approaches to Life Safety, 2025 edition, issued April 22, 2024.

(2) [Reserved]

## PART 438—MANAGED CARE

■ 8. The authority citation for part 438 continues to read as follows:

**Authority:** 42 U.S.C. 1302.

■ 9. Section 438.72 is amended by revising paragraph (a) to read as follows:

**§ 438.72 Additional requirements for long-term services and supports.**

(a) *Services delivered in Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/IID).* The State must comply with the requirements in § 442.43 for ICF/IID services.

* * * * *

## PART 442—STANDARDS FOR PAYMENT TO NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES

■ 10. The authority citation for part 442 continues to read as follows:

**Authority:** 42 U.S.C. 1302.

■ 11. Section 442.43 is amended by:

■ a. Revising paragraph (a)(1) introductory text;

■ b. Removing paragraph (a)(3);

■ c. Redesignating paragraph (a)(4) as paragraph (a)(3);

■ d. Revising newly redesignated paragraphs (a)(3) introductory text, (a)(3)(i) and (ii);

■ e. Revising paragraphs (b) introductory text, (b)(1), (c)(1), (d) introductory text, and (f).

The revisions read as follows:

**§ 442.43 Payment Transparency Reporting.**

(a) * * *

(1) *Compensation* means, with respect to direct care workers delivering services authorized under this part:

* * * * *

(3) *Excluded costs* means costs reasonably associated with delivering Medicaid-covered ICF/IID services that are not included in the calculation of the percentage of Medicaid payments to providers that is spent on compensation for direct care workers. Such costs are limited to:

(i) Costs of required training for direct care workers (such as costs for qualified trainers and training materials);

(ii) Travel costs for direct care workers (such as mileage reimbursement or public transportation subsidies); and

* * * * *

(b) *Reporting requirements.* The State must report to CMS annually, by facility, the percentage of Medicaid payments (not including excluded costs) for services specified in paragraph (b)(1) of this section, that is spent on compensation for direct care workers, at the time and in the form and manner specified by CMS. For the purposes of this part, Medicaid payment for fee-for-service (FFS) includes base and supplemental payments as defined in section 1903(bb)(2) of the Social Security Act, and for payments from an MCO or PIHP (as these entities are defined in § 438.2 of this chapter) includes the MCO's or PIHP's contractually negotiated rate, State directed payments as defined in § 438.6(c) of this chapter, and any other payments from the MCO or PIHP.

(1) *Services.* Except as provided in paragraphs (b)(2) and (3) of this section, reporting must be based on all Medicaid payments (including but not limited to FFS base and supplemental payments, and payments from an MCO or PIHP, as applicable) made to ICF/IID providers for Medicaid-covered services.

* * * * *

(c) * * *

(1) *Contents.* Reporting must provide information necessary to identify, at the facility level, the percentage of Medicaid payments spent on compensation to direct care workers at each ICF/IID.

* * * * *

(d) *Availability and accessibility requirements.* The State must operate a website consistent with § 435.905(b) of this chapter that provides the results of the reporting requirements specified in paragraphs (b) and (c) of this section. In the case of a State that implements a managed care delivery system under the authority of sections 1915(a), 1915(b), 1932(a), and/or 1115(a) of the Act and that includes ICF/IID services in their MCO or PIHP contracts, the State may meet this requirement by linking to individual MCO's or PIHP's websites. The State must:

* * * * *

(f) *Applicability date.* States must comply with the requirements in this section beginning 4 years after June 21, 2024 and in the case of the State that implements a managed care delivery system under the authority of sections 1915(a), 1915(b), 1932(a) or 1115(a) of the Act and includes ICF/IID services, the first rating period for contracts with the MCO or PIHP beginning on or after 4 years after June 21, 2024.

## PART 460—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

■ 12. The authority citation for part 460 continues to read as follows:

**Authority:** 42 U.S.C. 1302, 1395, 1395eee(f), and 1396u–4(f).

■ 13. Section 460.72 is amended by revising paragraphs (b), (d), and (e) to read as follows:

**§ 460.72 Physical environment.**

* * * * *

(b) *Fire Safety*—

(1) *General rule.* Except as otherwise provided in this section—

(i) A PACE center must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Life Safety Code (NFPA 101).

(ii) Notwithstanding paragraph (b)(1)(i) of this section, corridor doors must be provided with positive latching hardware, excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code. Roller latches and other devices capable of keeping doors closed when a 5 pound-force is applied at the latch edge are prohibited on corridor doors required to have positive latching hardware.

(iii) A PACE center must use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) if the facility uses the Fire Safety Evaluation System (FSES) to may compliance with the provisions of the 2024 LSC (NFPA 101).

(2) *Exceptions.*

(i) The provisions of the Life Safety Code do not apply where CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in a PACE center.

(ii) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Life Safety Code which would result in unreasonable hardship upon a PACE facility, but only if the waiver will not adversely affect the health and safety of the patients.

(iii) If CMS determines that a specific updated provision of the Life Safety Code (NFPA 101) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(3) *Alcohol-Based Dispensers:* A PACE center may install alcohol-based hand rub dispensers in its facility if the dispensers are installed in a manner that adequately protects against inappropriate access.

(4) *Sprinkler System:* When a sprinkler system is shut down for more than 10 hours in a 24-hour period, the PACE must:

(i) Evacuate the building or portion of the building affected by the system outage until the system is back in service, or

(ii) Establish a fire watch until the system is back in service.

* * * * *

(d) *Standard: Building Safety.* Except as otherwise provided in this section, a PACE center must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99) and Tentative Interim Amendments (TIA) 24–1 and 24–2.

(1) Chapters 7, 8, 12, and 13 of the adopted Health Care Facilities Code do not apply to a PACE center.

(2) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Health Care Facilities Code which would result in unreasonable hardship upon the facility, but only if the waiver does not adversely affect the health and safety of patients.

(3) If CMS determines that a specific updated provision of the Health Care Facilities Care (NFPA 99) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(e) *Incorporation by reference.* The material listed in this paragraph (e) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (e).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169, phone: 1.617.770.3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) TIA–24–1 to NFPA 99, issued August 25, 2023.

(iii) TIA–24–2 to NFPA 99, issued August 25, 2023.

(iv) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(v) NFPA 101A, Guide on Alternative Approaches to Life Safety, 2025 edition, issued April 22, 2024.

(2) [Reserved]

## PART 482—CONDITIONS OF PARTICIPATION FOR HOSPITALS

■ 14. The authority citation for part 482 continues to read as follows:

**Authority:** 42 U.S.C. 1302, 1395hh, 1395rr, unless otherwise noted.

■ 15. Section 482.15 is amended by revising paragraphs (e) and (h) to read as follows:

### § 482.15 Condition of participation: Emergency preparedness.

* * * * *

(e) *Emergency and standby power systems.* The hospital must install and maintain emergency and standby power systems, in accordance with the 2024 edition of the Health Care Facilities Code (HCFC) (NFPA 99), the 2024 edition of the Life Safety Code (LSC) (NFPA 101), and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110), based on the emergency plan set forth in paragraph (a) of this section and in the policies and procedures plan set forth in paragraphs (b)(1)(i) and (ii) of this section.

(1) *Emergency power supply location.* The emergency power supply must be located in accordance with the location requirements found in the 2024 edition of the Health Care Facilities Code (HCFC) (NFPA 99), the 2024 edition of the Life Safety Code (LSC) (NFPA 101), and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110), when a new structure is built or when an existing structure or building is renovated.

(2) *Emergency power supply inspection and testing.* The hospital must implement the emergency power supply inspection, testing, and maintenance requirements found in the 2024 edition of HCFC (NFPA 99), the 2024 edition of the LSC (NFPA 101), and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110).

(3) *Emergency power supply fuel.* Hospitals that maintain an onsite fuel source to power the emergency power supply to power the emergency power supply and must have a plan for how it will keep emergency power systems operational during the emergency, unless it evacuates.

* * * * *

(h) *Incorporation by reference.* The material listed in this paragraph (h) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (h).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169, phone: 1.617.770.3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(iii) NFPA 110, Standard for Emergency and Standby Power Systems, 2022 edition, issued March 18, 2021.

(2) [Reserved]

**§ 482.21 [Amended]**

■ 16. Section 482.21 is amended by:
■ a. Removing paragraphs (b)(4) and (e); and
■ b. Redesignating paragraphs (f) and (g) as paragraphs (e) and (f), respectively.

**§ 482.41 [Amended]**

■ 17. Section 482.41 is amended by:
■ a. Revising paragraph (b) heading and paragraphs (b)(1) through (3);
■ b. Removing paragraph (b)(9);
■ c. Redesignating paragraphs (b)(4) through (8) as paragraphs (b)(5) through (9) respectively;
■ d. Adding a new paragraph (b)(4); and
■ e. Revising paragraphs (c) and (e).

The revisions and addition read as follows:

**§ 482.41 Condition of participation: Physical environment.**

* * * * *

(b) *Standard: Fire Safety*

(1) Except as otherwise provided in this section—

(i) The hospital must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Life Safety Code (LSC) (NFPA 101). Outpatient surgical departments must meet the provisions applicable to Ambulatory Health Care Occupancies, regardless of the number of patients served.

(ii) Notwithstanding paragraph (b)(1)(i) of this section, corridor doors a must be provided with positive latching hardware, excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code. Roller latches and other devices capable of keeping doors closed when a 5 pound-force is applied at the latch edge are prohibited on corridor doors required to have positive latching hardware.

(iii) The hospital must use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) if the facility uses the Fire Safety Evaluation System (FSES) to show compliance with the provisions of the 2024 LSC (NFPA 101).

(2) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive, for periods deemed appropriate specific provisions of the Life Safety Code which would result in unreasonable hardship upon a hospital, but only if the waiver will not adversely affect the health and safety of the patients.

(3) The provisions of the Life Safety Code do not apply where CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in hospitals.

(4) If CMS determines that a specific updated provision of the Life Safety Code (NFPA 101) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

* * * * *

(c) *Standard: Building safety.* Except as otherwise provided in this section, the hospital must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99) and Tentative Interim Amendments (TIA) 24–1 and 24–2.

(1) Chapters 7, 8, 12, and 13 of the adopted Health Care Facilities Code do not apply to a hospital

(2) After consideration of a recommendation by the State survey agency or approved accrediting organization, at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Health Care Facilities Code which would result in unreasonable hardship upon a facility, but only if the waiver does not adversely affect the health and safety of patients.

(3) If CMS determines that a specific updated provision of the Health Care Facilities Care (NFPA 99) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

* * * * *

(e) *Incorporation by reference.* The material listed in this paragraph (e) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD, 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (e).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1.617.770.3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) TIA–24–1 to NFPA 99, issued August 25, 2023.

(iii) TIA–24–2 to NFPA 99, issued August 25, 2023.

(iv) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(v) NFPA 101A, Guide on Alternative Approaches to Life Safety, 2025 edition, issued April 22, 2024.

(2) [Reserved]

**§ 482.42 [Amended]**

■ 18. Section 482.43 is amended by revising paragraph (c) to read as follows:

**§ 482.43 Condition of participation: Discharge planning.**

* * * * *

(c) *Standard: Transfer protocols.* The hospital must have written policies and procedures for transferring patients under its care (inclusive of inpatient services) to the appropriate level of care (including to another hospital) as needed to meet the needs of the patient.

* * * * *

**§ 482.55 [Amended]**

■ 19. Section 482.55 is amended by removing paragraph (c)(3).
■ 20. Section 482.59 is amended by revising paragraph (c).

**§ 482.59 Condition of participation: Obstetrical services.**

* * * * *

(c) *Birth tissue collection.* For hospitals that furnish obstetrical services and participate in the collection, storage, donation, banking, transfer, or release to patients of birth tissues the following standards apply. For purposes of this section, birth tissues are defined as human cells, tissues, and cellular and tissue-based products obtained during or immediately following labor and delivery (including cesarean-section delivery), such as umbilical cord blood,

umbilical cord tissue, placenta, amniotic membrane, amniotic fluid, and other tissues or biological materials associated with live childbirth.

(1) *Standard: Informed consent.* The hospital must ensure informed consent is obtained from the patient or patient's representative prior to the collection, storage, donation, transfer, banking, or release to patients of birth tissues, consistent with the hospital's scope of services and role in those activities. This consent must be documented consistent with the requirements for medical records at 482.24(c)(4)(v). The informed consent process must include, as applicable:

(i) A description of the birth tissues to be collected;

(ii) The intended use (including commercial and research uses) of the birth tissues;

(iii) Disclosure of any third-party involvement and any conflicts of interest;

(iv) Information regarding risks, limitations, and infection prevention and quality control considerations;

(v) Notice that patient's or patient's representative's refusal to provide informed consent will not affect access to care or treatment; and

(vi) Any other information required under applicable Federal or State law.

(2) *Standard: Policies and procedures for cultural, religious, or personal uses.* The hospital must have written policies and procedures that permit patients to request retention or release of birth tissues for cultural, religious, or personal reasons, consistent with State law and the hospital's infection prevention and control program requirements under § 482.42.

(i) The policies and procedures must address:

(A) Processes for patient requests for retention or release of birth tissues;

(B) Safe handling, packaging, storage, and release practices;

(C) Circumstances under which retention or release may be limited or denied due to infection prevention and control concerns, biohazard risks, certain clinical conditions, emergency cases, or other applicable legal requirements; and

(D) Staff education regarding the hospital's procedures for responding to patient requests.

(ii) The hospital must provide patients who request retention or release of birth tissues with instructions for safe handling, transport, storage, and disposition of the tissues, as applicable.

## PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

■ 21. The authority citation for part 483 continues to read as follows:

**Authority:** 42 U.S.C. 1302, 1320a–7, 1395i, 1395hh and 1396r.

■ 22. Section 483.15 is amended by revising paragraph (c)(3)(i) to read as follows:

### § 483.15 Admission, transfer, and discharge rights.

* * * * *

(c) * * *

(3) * * *

(i) Notify the resident and the resident's representative(s) of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand. The facility must send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman, except when the resident is transferred on an emergency basis to an acute care facility.

* * * * *

■ 23. Section 483.71 is amended by revising paragraph (b)(1)(ii) to read as follows:

### § 483.71 Facility assessment.

* * * * *

(b) * * *

(1) * * *

(ii) Direct care staff, including but not limited to, RNs, LPNs/LVNs, and NAs.

* * * * *

■ 25. Section 483.73 is amended by revising paragraphs (e) and (g) to read as follows:

### § 483.73 Emergency preparedness.

* * * * *

(e) *Emergency and standby power systems.* The LTC facility must install and maintain emergency and standby power, in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99), the 2024 edition of the Life Safety Code (NFPA 101), and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110), based on the emergency plan set forth in paragraph (a) of this section.

(1) *Emergency power supply location.* The emergency power supply must be located in accordance with the location requirements found in the 2024 edition of the Health Care Facilities Code (HCFC) (NFPA 99), the 2024 edition of the Life Safety Code (LSC) (NFPA 101), and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110), when a new structure is built or when an existing structure or building is renovated.

(2) *Emergency power supply inspection and testing.* The LTC facility must implement the emergency power supply inspection, testing, and maintenance requirements found in the 2024 edition of the HCFC (NFPA 99), the 2024 edition of the LSC (NFPA 101) and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110).

(3) *Emergency power supply fuel.* LTC facilities that maintain an onsite fuel source to power the emergency power supply and must have a plan for how it will keep emergency power systems operational during the emergency, unless it evacuates.

* * * * *

(g) *Incorporation by reference.* The material listed in this paragraph (g) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD, 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (g).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1.617.770.3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(iii) NFPA 110, Standard for Emergency and Standby Power Systems, 2022 edition, issued March 18, 2021.

(2) [Reserved]

■ 25. Section 483.80 is amended by revising paragraphs (d)(3) and (g) to read as follows:

### § 483.80 Infection control.

* * * * *

(d) * * *

(3) *COVID–19 immunizations.* The LTC facility must develop and implement policies and procedures to ensure all the following:

(i) Before offering the COVID–19 immunization, each resident or the resident's representative receives education regarding the benefits and potential side effects of the immunization;

(ii) Each resident is offered a COVID–19 immunization, including all recommended doses and any applicable booster doses, unless the immunization is medically contraindicated or the resident has already been immunized;

(iii) The resident or the resident's representative has the opportunity to refuse immunization; and

(iv) The resident's medical record includes documentation that indicates, at a minimum, the following:

(A) That the resident or resident's representative was provided education regarding the benefits and potential side effects of COVID–19 immunization, including, where a multi-dose series is required, education regarding the number of doses, recommended dosing schedule, and the importance of completing the full immunization series; and

(B) That the resident either received the COVID–19 immunization (including where a multi-dose series is required, each dose administered in accordance with the recommended dosing schedule), or did not receive the COVID–19 immunization due to medical contraindication or refusal.

* * * * *

(g) *Public health emergency (PHE): Reporting of data related to acute infectious diseases*—In the event that the Secretary has declared a national, State, or local PHE for an acute infectious illness, the LTC facilities must electronically report data elements in a standardized format and frequency specified by the Secretary, including but not limited to the following:

(1) Facility census (defined as the total number of residents occupying a bed at this facility for at least 24 hours during the week of data collection).

(2) Confirmed, resident cases of a set of viral and bacterial pathogens and infectious diseases, as specified by the Secretary.

(3) Hospitalized residents with confirmed cases of a set of viral and bacterial pathogens and infectious diseases, as specified by the Secretary.

(4) Relevant confirmed infections for staff.

(5) Supply inventory shortages.

(6) Staffing shortages.

(7) Relevant medical countermeasures and therapeutic inventories, usage, or both.

■ 26. Section 483.90 is amended by:

■ a. Revising paragraphs (a) and (b);

■ b. Removing paragraph (c);

■ c. Redesignating paragraphs (d) through (j) as paragraphs (c) through (i), respectively; and

■ d. Revising newly redesignated paragraphs (d)(1)(i), (e), and (i).

The revisions read as follows:

**§ 483.90 Physical environment.**

* * * * *

(a) *Fire safety.*

(1) Except as otherwise provided in this section—

(i) The LTC facility must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Life Safety Code (NFPA 101).

(ii) Notwithstanding paragraph (a)(1)(i) of this section, corridor doors must be provided with positive latching hardware, excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code. Roller latches and other devices capable of keeping doors closed when a 5 pound-force is applied at the latch edge are prohibited on corridor doors required to have positive latching hardware.

(iii) The LTC facility must use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) if the facility uses the Fire Safety Evaluation System (FSES) to show compliance with the provisions of the 2024 LSC (NFPA 101).

(iv) Notwithstanding paragraph (a)(1)(iii) of this section, an LTC facility may not use the Fire Safety Evaluation System (FSES) to address non-compliance with NFPA 13 and NFPA 25.

(2) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Life Safety Code which would result in unreasonable hardship upon a long-term care facility, but only if the waiver will not adversely affect the health and safety of the residents.

(3) The provisions of the Life Safety Code do not apply in a State where CMS determines, in accordance with applicable provisions of sections 1819(d)(2)(B)(ii) and 1919(d)(2)(B)(ii) of the Act, that a fire and safety code imposed by State law adequately protects patients, residents and personnel in LTC facilities.

(4) A long-term care facility may install alcohol-based hand rub dispensers in its facility if the dispensers are installed in a manner that adequately protects against inappropriate access.

(5) If CMS determines that a specific updated provision of the Life Safety Code (NFPA 101) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (i)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance, provided that CMS has determined that the waiver does not adversely affect the health and safety of residents or personnel. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(6) An LTC facility must do both of the following:

(i) Install an approved, supervised automatic sprinkler system in accordance with NFPA 13, *Standard for the Installation of Sprinkler Systems,* as incorporated by reference, throughout the building.

(ii) Test, inspect, and maintain an approved, supervised automatic sprinkler system in accordance with NFPA 25, *Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems,* as incorporated by reference.

(7) When a sprinkler system is shut down for more than 10 hours, the LTC facility must:

(i) Evacuate the building or portion of the building affected by the system outage until the system is back in service, or

(ii) Establish a fire watch until the system is back in service.

(b) *Standard: Building safety.* Except as otherwise provided in this section, the LTC facility must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99) and Tentative Interim Amendments (TIA) 24–1 and 24–2.

(1) Chapters 7, 8, 12, and 13 of the adopted Health Care Facilities Code do not apply to a LTC facility.

(2) After consideration of a recommendation by the State survey agency, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Health Care Facilities Code which would result in unreasonable hardship upon a facility, but only if the waiver does not adversely affect the health and safety of residents.

(3) If CMS determines that a specific updated provision of the Health Care Facilities Care (NFPA 99) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (i)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance, provided that CMS has determined that the waiver does not adversely affect the health and safety of residents or personnel. A facility that wishes to comply with the

updated provision must formally elect to do so and document their decision in their records.

* * * * *

(d) * * *

(1) * * *

(i) Accommodate no more than four residents. For facilities that receive approval of building construction and reconstruction plans by the State and local authorities after November 28, 2016, each bedroom must accommodate no more than two residents per room.

* * * * *

(e) *Bathroom facilities.* Each resident room must:

(1) Be equipped with or located near toilet and bathing facilities.

(2) For facilities that receive approval of building construction plans by State and local authorities after November 28, 2016, be equipped with its own bathroom with at least a commode and sink.

* * * * *

(i) *Incorporation by reference.* The material listed in this paragraph (i) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD, 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (i).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1.617.770.3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) TIA–24–1 to NFPA 99, issued August 25, 2023.

(iii) TIA–24–2 to NFPA 99, issued August 25, 2023.

(iv) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(v) NFPA 101A, Guide on Alternative Approaches to Life Safety, 2025 edition, issued April 22, 2024.

(vi) NFPA 13, Standard for the Installation of Sprinkler Systems, 2022 edition, issued August 26, 2021.

(vii) NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, 2023 edition, issued August 12, 2022.

(2) [Reserved]

■ 27. Section 483.460 is amended by revising paragraph (a)(4) to read as follows:

**§ 483.460 Condition of participation: Health care services.**

(a) * * *

(4) The intermediate care facility for individuals with intellectual disabilities (ICF/IID) must develop and implement policies and procedures to ensure all of the following:

(i) Before offering the COVID–19 immunizations, each client or the client's representative receives education regarding the benefits and potential side effects of the immunizations;

(ii) Each client is offered a COVID–19 immunization, including all recommended doses and any applicable booster doses, unless the immunization is medically contraindicated or the client has already been immunized;

(iii) The client or the client's representative has the opportunity to refuse any or all of the immunization; and

(iv) The client's medical record includes documentation that indicates, at a minimum, the following:

(A) That the client or client's representative was provided education regarding the benefits and potential side effects of the COVID–19 immunization, including, where a multi-dose series is required, education regarding the number of doses, recommended dosing schedule, and the importance of completing the full immunization series; and

(B) That the client either received the COVID–19 immunizations (including where a multi-dose series is required, each dose administered in accordance with the recommended dosing schedule), or did not receive the COVID–19 immunizations due to medical contraindication or refusal.

* * * * *

■ 28. Section 483.470 is amended by:

■ a. Removing paragraph (b)(2);

■ b. Redesignating paragraphs (b)(3) and (4) as (b)(2) and (3), respectively; and

■ c. Revising paragraphs (j) and (m).

The revisions read as follows:

**§ 483.470 Condition of Participation: Physical Environment**

* * * * *

(j) *Standard: Fire Safety*

(1) General. Except as otherwise provided in this section—

(i) The facility must meet the applicable provisions of either the Health Care Occupancies Chapters or the Residential Board and Care Occupancies Chapter and must proceed in accordance with the 2024 edition of the Life Safety Code (LSC) (NFPA 101).

(ii) Notwithstanding paragraph (j)(1)(i) of this section, corridor doors must be provided with positive latching hardware, excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code. Roller latches and other devices capable of keeping doors closed when a 5 pound-force is applied at the latch edge are prohibited on corridor doors required to have positive latching hardware.

(iii) The ICF/IID must use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) if the facility uses the Fire Safety Evaluation System (FSES) to show compliance with the provisions of the 2024 LSC (NFPA 101).

(iv) Chapters 32.3.2.11.2 and 33.3.2.11.2 of the adopted 2024 edition of the Life Safety Code (NFPA 101) do not apply to a facility.

(2) The State survey agency may apply a single chapter of the LSC to the entire facility or may apply different chapters to different buildings or parts of buildings as permitted by the LSC.

(3) A facility that meets the LSC definition of a residential board and care occupancy must have its evacuation capability evaluated in accordance with the Evacuation Difficulty Index of the Fire Safety Evaluation System for Board and Care facilities (FSES/BC).

(4) The provisions of the Life Safety Code do not apply where CMS determines that a fire and safety code imposed by State law adequately protects clients and personnel in ICFs/IID.

(5) Facilities that meet the Life Safety Code definition of a health care occupancy:

(i) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Life Safety Code which would result in unreasonable hardship upon a residential board and care facility, but only if the waiver will not adversely affect the health and safety of the clients.

(ii) A facility may install alcohol-based hand rub dispensers if the dispensers are installed in a manner that adequately protects against inappropriate access.

(iii) When a sprinkler system is shut down for more than 10 hours, the ICF/IID must:

(A) Evacuate the building or portion of the building affected by the system

outage until the system is back in service, or

(B) Establish a fire watch until the system is back in service.

(iv) Except as otherwise provided in this section, the ICF/IID must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99) and Tentative Interim Amendments (TIA) 24–1 and 24–2.

(A) Chapters 7, 8, 12 and 13 of the adopted Health Care Facilities Code do not apply to an ICF/IID.

(B) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Health Care Facilities Code which would result in unreasonable hardship upon a facility, but only if the waiver does not adversely affect the health and safety of clients.

(C) If CMS determines that a specific updated provision of the Health Care Facilities Care (NFPA 99) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (m)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(6) If CMS determines that a specific updated provision of the Life Safety Code (NFPA 101) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (m)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

* * * * *

(m) *Incorporation by reference.* The material listed in this paragraph (m) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (m).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1–617–770–3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) TIA–24–1 to NFPA 99, issued August 25, 2023.

(iii) TIA–24–2 to NFPA 99, issued August 25, 2023.

(iv) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(v) NFPA 101A, Guide on Alternative Approaches to Life Safety, 2025 edition, issued April 22, 2024.

(2) [Reserved]

## PART 485—CONDITIONS OF PARTICIPATION: SPECIALIZED PROVIDERS

■ 29. The authority citation for part 485 continues to read as follows:

**Authority:** 42 U.S.C. 1302 and 1395hh.

### § 485.516 [Amended]

■ 30. Section 485.516 is amended in paragraph (c)(5) by removing the reference ''§ 485.618(e)'' and adding in its place the reference ''§ 485.618(f)''.

■ 31. Section 485.526 is amended by removing paragraphs (e), (f), and (g).

■ 32. Section 485.542 is amended by revising paragraphs (e) and (g) to read as follows:

### § 485.542 Condition of participation: Emergency preparedness.

* * * * *

(e) *Emergency and standby power systems.* The REH must install and maintain emergency and standby power systems, in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99), the 2024 edition of the Life Safety Code (NFPA 101), and the 2022 edition of the Emergency and Standy Power Systems (NFPA 110), based on the emergency plan set forth in paragraph (a) of this section.

(1) *Emergency power supply location.* The emergency power supply must be located in accordance with the location requirements found in the 2024 edition of the Health Care Facilities Code (HCFC) (NFPA 99), the 2024 edition of the Life Safety Code (LSC) (NFPA 101), and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110), when a new structure is built or when an existing structure or building is renovated.

(2) *Emergency power supply inspection and testing.* The REH must implement an emergency power supply inspection and testing requirements found in the 2024 edition of the HCFC (NFPA 99), the 2024 edition of the LSC (NFPA 101), and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110).

(3) *Emergency power supply fuel.* REHs that maintain an onsite fuel source to power the emergency power supply and must have a plan for how it will keep emergency power systems operational during the emergency, unless it evacuates.

* * * * *

(g) *Incorporation by reference.* The material listed in this paragraph (g) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (g).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1–617–770–3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(iii) NFPA 110, Standard for Emergency and Standby Power Systems, 2022 edition, issued March 18, 2021.

(2) [Reserved]

■ 33. Section 485.544 is amended by revising paragraphs (c) through (e) to read as follows:

### § 485.544 Condition of participation: Physical environment.

* * * * *

(c) *Standard: Fire Safety*

(1) Except as otherwise provided in this section, the REH must meet the provisions applicable to Ambulatory Health Care Occupancies, regardless of the number of patients served, and must proceed in accordance with the 2024 edition of the Life Safety Code (NFPA 101).

(2) After consideration of a recommendation by the State survey

agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive, for periods deemed appropriate, specific provisions of the Life Safety Code, which would result in unreasonable hardship upon an REH, but only if the waiver will not adversely affect the health and safety of the patients.

(3) The provisions of the Life Safety Code do not apply where CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in REHs.

(4) If CMS determines that a specific updated provision of the Life Safety Code (NFPA 101) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(d) *Standard: Building safety.* Except as otherwise provided in this section, the REH must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99) and Tentative Interim Amendments (TIA) 24–1 and 24–2.

(1) Chapters 7, 8, 12, and 13 of the adopted Health Care Facilities Code do not apply to an REH.

(2) After a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Health Care Facilities Code which would result in unreasonable hardship upon a facility, but only if the waiver does not adversely affect the health and safety of patients.

(3) If CMS determines that a specific updated provision of the Health Care Facilities Care (NFPA 99) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(e) *Incorporation by reference.* The material listed in this paragraph (e) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (e).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone; 1–617–770–3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) TIA–24–1 to NFPA 99, issued August 25, 2023.

(iii) TIA–24–2 to NFPA 99, issued August 25, 2023.

(iv) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(v) NFPA 101A, Guide on Alternative Approaches to Life Safety, 2025 edition, issued April 22, 2024.

(2) [Reserved]

■ 34. Section 485.610 is amended by:

■ a. Revising paragraph (c)(1);

■ b. Adding paragraph (c)(3); and

■ c. Revising paragraph (e)(2).

The revisions and addition read as follows:

**§ 485.610 Condition of participation: Status and location.**

* * * * *

(c) * * *

(1) Except for a facility as described in section 241 of the Consolidated Appropriations Act, 2026 (Pub. L. 119–75), the CAH is located more than a 35-mile drive on primary roads (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from an acute care hospital or another CAH, or before January 1, 2006, the CAH is certified by the State as being a necessary provider of health care services to residents in the area. A CAH that is designated as a necessary provider on or before December 31, 2005, will maintain its necessary provider designation after January 1, 2006.

* * * * *

(3) For purposes of paragraphs (c)(1) and (e)(2) of this section, an acute care hospital means a hospital as defined under section 1861(e) of the Act, and does not include a psychiatric hospital as defined under section 1861(f) of the Act, a long-term care hospital as described under § 412.23(e) of this chapter, a rehabilitation hospital as described under § 412.23(b) of this chapter, or a rural emergency hospital as described under § 485.502 of this chapter.

* * * * *

(e) * * *

(2) Except for a facility as described in section 241 of the Consolidated Appropriations Act, 2026 (Pub. L. 119–75), if a CAH or a necessary provider CAH operates an off-campus provider-based location, excluding an RHC as defined in § 405.2401(b) of this chapter, but including a department or remote location, as defined in § 413.65(a)(2) of this chapter, or an off-campus distinct part psychiatric or rehabilitation unit, as defined in § 485.647, that was created or acquired by the CAH on or after January 1, 2008, the CAH can continue to meet the location requirement of paragraph (c) of this section only if the off-campus provider-based location or off-campus distinct part unit is located more than a 35-mile drive on primary roads, as defined in paragraph (c)(2) of this section (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from an acute care hospital or another CAH.

* * * * *

**§ 485.618 [Amended]**

■ 35. Section 485.618 is amended by removing and reserving paragraph (e)(2).

■ 36. Section 485.623 is amended by revising paragraphs (c) through (e) to read as follows:

**§ 485.623 Condition of participation: Physical plant and environment.**

* * * * *

(c) *Standard: Fire Safety.* (1) Except as otherwise provided in this section—

(i) The CAH must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Life Safety Code (NFPA 101).

(ii) Notwithstanding paragraph (c)(1)(i) of this section, corridor doors must be provided with positive latching hardware, excluding corridor doors to auxiliary spaces not classified as hazardous areas as defined by the Life Safety Code. Roller latches and other devices capable of keeping doors closed when a 5 pound-force is applied at the latch edge are prohibited on corridor doors required to have positive latching hardware.

(iii) The CAH must use the 2025 edition of the Guide on Alternative Approaches to Life Safety (NFPA 101A) if the facility uses the Fire Safety Evaluation System (FSES) to show

compliance with the provisions of the 2024 LSC (NFPA 101).

(2) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Life Safety Code which would result in unreasonable hardship upon a CAH, but only if the waiver will not adversely affect the health and safety of the patients.

(3) The provisions of the Life Safety Code do not apply where CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in CAHs.

(4) If CMS determines that a specific updated provision of the Life Safety Code (NFPA 101) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(5) The CAH maintains written evidence of regular inspection and approval by State or local fire control agencies.

(6) A CAH may install alcohol-based hand rub dispensers in its facility if the dispensers are installed in a manner that adequately protects against inappropriate access.

(7) When a sprinkler system is shut down for more than 10 hours, the CAH must:

(i) Evacuate the building or portion of the building affected by the system outage until the system is back in service, or

(ii) Establish a fire watch until the system is back in service.

(d) *Standard: Building safety.* Except as otherwise provided in this section, the CAH must meet the applicable provisions and must proceed in accordance with the 2024 edition of the Health Care Facilities Code (NFPA 99) and Tentative Interim Amendments (TIA) 24–1 and 24–2.

(1) Chapters 7, 8, 12, and 13 of the adopted Health Care Facilities Code do not apply to a CAH.

(2) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Health Care Facilities Code which would result in unreasonable hardship upon a facility, but only if the waiver does not adversely affect the health and safety of patients.

(3) If CMS determines that a specific updated provision of the Health Care Facilities Care (NFPA 99) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (e)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(e) *Incorporation by reference.* The material listed in this paragraph (e) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (e).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1–617–770–3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) TIA–24–1 to NFPA 99, issued August 25, 2023.

(iii) TIA–24–2 to NFPA 99, issued August 25, 2023.

(iv) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(v) NFPA 101A, Guide on Alternative Approaches to Life Safety, 2025 edition, issued April 22, 2024.

(2) [Reserved]

■ 37. Section 485.625 is amended by revising paragraphs (e) and (g) to read as follows:

**§ 485.625 Condition of participation: Emergency preparedness.**

* * * * *

(e) *Emergency and standby power systems.* The CAH must install and maintain emergency and standby power systems, in accordance with the 2024 edition of the HCFC (NFPA 99), the 2024 edition of the LSC (NFPA 101), and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110), based on the emergency plan set forth in paragraph (a) of this section.

(1) *Emergency power supply location.* The emergency power supply must be located in accordance with the location requirements found in the 2024 edition of the Health Care Facilities Code (HCFC) (NFPA 99), the 2024 edition of the Life Safety Code (LSC) (NFPA 101), and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110), when a new structure is built or when an existing structure or building is renovated.

(2) *Emergency power supply inspection and testing.* The CAH must implement the emergency power supply inspection and testing requirements found in the 2024 edition of the HCFC (NFPA 99), the 2024 edition of the LSC (NFPA 101), and the 2022 edition of the Emergency and Standby Power Systems (NFPA 110).

(3) *Emergency power supply fuel.* CAHs that maintain an onsite fuel source to power the emergency power supply and must have a plan for how it will keep emergency power systems operational during the emergency unless it evacuates.

* * * * *

(g) *Incorporation by reference.* The material listed in this paragraph (g) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (g).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1–617–770–3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023.

(ii) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(iii) NFPA 110, Standard for Emergency and Standby Power Systems, 2022 edition, issued March 18, 2021.

(2) [Reserved]

**§ 485.641 [Amended]**

■ 38. Section 485.641 is amended by removing paragraphs (d)(4) and removing and reserving (e)(2).

■ 39. Section 485.649 is amended by revising paragraph (c) to read as follows:

**§ 485.649 Condition of participation: Obstetrical services.**

* * * * *

(c) *Birth tissue collection.* For CAHs that furnish obstetrical services and participate in the collection, storage, donation, banking, transfer, or release to patients of birth tissues the following standards apply. For purposes of this section, birth tissues are defined as human cells, tissues, and cellular and tissue-based products obtained during or immediately following labor and delivery (including cesarean-section delivery), such as umbilical cord blood, umbilical cord tissue, placenta, amniotic membrane, amniotic fluid, and other tissues or biological materials associated with live childbirth.

(1) *Standard: Informed consent.* The CAH must ensure informed consent is obtained from the patient or patient's representative prior to the collection, storage, donation, transfer, banking, or release to patients of birth tissues, consistent with the CAH's scope of services and role in those activities. This consent must be documented consistent with the requirements for clinical records at 485.638(a)(4)(i). The informed consent process must include, as applicable:

(i) A description of the birth tissues to be collected;

(ii) The intended use (including commercial and research uses) of the birth tissues;

(iii) Disclosure of any third-party involvement and any conflicts of interest;

(iv) Information regarding risks, limitations, and infection prevention and quality control considerations;

(v) Notice that a patient's or patient's representative's refusal to provide informed consent will not affect access to care or treatment; and

(vi) Any other information required under applicable Federal or State law.

(2) *Standard: Policies and procedures for cultural, religious, or personal uses.* The CAH must have written policies and procedures that permit patients to request retention or release of birth tissues for cultural, religious, or personal reasons, consistent with State law and the CAH's infection prevention and control program requirements under § 485.640.

(i) The policies and procedures must address:

(A) Processes for patient requests for retention or release of birth tissues;

(B) Safe handling, packaging, storage, and release practices;

(C) Circumstances under which retention or release may be limited or denied due to infection prevention and control concerns, biohazard risks, certain clinical conditions, emergency cases, or other applicable legal requirements; and

(D) Staff education regarding the CAH's procedures for responding to patient requests.

(ii) The CAH must provide patients who request retention or release of birth tissues with instructions for safe handling, transport, storage, and disposition of the tissues, as applicable.

## PART 494—CONDITIONS FOR COVERAGE FOR END-STAGE RENAL DISEASE FACILITIES

■ 40. The authority citation for part 494 continues to read as follows:

**Authority:** 42 U.S.C. 1302 and 1395hh.

■ 41. Section 494.60 is amended by revising paragraphs (d), (e), and (f) to read as follows:

**§ 494.60 Condition: Physical environment.**

* * * * *

(d) *Standard: Fire safety.* (1) Except as provided in paragraph (d)(2) of this section, dialysis facilities that do not provide one or more exits to the outside at grade level from the patient treatment area level must comply with provisions of the 2024 edition of the Life Safety Code (NFPA 101) applicable to Ambulatory Health Care Occupancies, regardless of the number of patients served.

(2) Notwithstanding paragraph (d)(1) of this section, dialysis facilities participating in Medicare as of October 14, 2008 that require sprinkler systems are those housed in multi-story buildings construction Types II(000), III(200), or V(000), as defined in the Life Safety Code, section 21.1.6.1, which were constructed after January 1, 2008, and those housed in high rise buildings over 75 feet in height, which were constructed after January 1, 2008.

(3) The provisions of the Life Safety Code do not apply where CMS determines that a fire and safety code imposed by State law adequately protects patients and personnel in dialysis facilities.

(4) After consideration of a recommendation by the State survey agency or approved accreditation organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Life Safety Code which would result in unreasonable hardship upon a dialysis facility, but only if the waiver will not adversely affect the health and safety of the patients.

(5) No dialysis facility may operate in a building that is adjacent to an industrial high hazard area, as described in sections 20.1.3.7 and 21.1.3.7 of the Health Care Facilities Code (NFPA 99 and the Tentative Interim Amendments TIA 24–1 and TIA 24–2).

(6) If CMS determines that a specific updated provision of the Life Safety Code (NFPA 101) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (f)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(e) *Standard: Building Safety.* (1) Dialysis facilities that do not provide one or more exits to the outside at grade level from the patient treatment area level must meet the applicable provisions of the 2024 edition of the Health Care Facilities Code and its Tentative Interim Amendments TIA 24–1 and TIA 24–2.

(2) Chapters 7, 8, 12, and 13 of the Health Care Facilities Code do not apply to a dialysis facility.

(3) After consideration of a recommendation by the State survey agency or approved accrediting organization, and at the discretion of the Secretary, CMS may waive for periods deemed appropriate specific provisions of the Health Care Facilities Code which would result in unreasonable hardship upon a facility, but only if the waiver does not adversely affect the health and safety of patients.

(4) If CMS determines that a specific updated provision of the Health Care Facilities Care (NFPA 99) provides an equal or superior means of ensuring patient safety as compared to the publications referenced in paragraph (f)(1) of this section, CMS will announce the availability of a voluntary waiver in favor of the updated provision via subregulatory guidance. A facility that wishes to comply with the updated provision must formally elect to do so and document their decision in their records.

(f) *Incorporation by reference.* The material listed in this paragraph (f) is incorporated by reference into this section with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at CMS and at the National Archives

and Records Administration (NARA). Contact CMS at 7500 Security Boulevard, Baltimore, MD 21244; phone: 410–786–6633; email: *HealthandSafetyInquiries@cms.hhs.gov.* 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.* The material may be obtained from the following source in this paragraph (f).

(1) National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169; phone: 1–617–770–3000; website: *www.nfpa.org.*

(i) NFPA 99, Health Care Facilities Code, 2024 edition, issued August 25, 2023 September 14, 2023.

(ii) TIA–24–1 to NFPA 99, issued August 25, 2023.

(iii) TIA–24–2 to NFPA 99, issued August 25, 2023.

(iv) NFPA 101, Life Safety Code, 2024 edition, issued August 25, 2023.

(2) [Reserved]

**Robert F. Kennedy, Jr.,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2026–22812 Filed 11–5–26; 4:15 pm]

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